

GENERAL AGREEMENT ON

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TARIFFS AND TRADE

Special Distribution

Committee on Customs Valuation

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Legislation of Brazil

Supplement

The following communication, dated 28 April 1987, has been received from the Permanent Delegation of Brazil.

In addition to document VAL/27, of 10 November 1986, I enclose herewith non-official translations of the legal texts referred therein, which establish rules for the application of the Customs Valuation Code in Brazil.

*English only

NON-OFFICIAL TRANSLATION

INSTRUÇÃO NORMATIVA (NORMATIVE ACT) - SRF NR 84 - July 17, 1986.

It establishes rules for the application of
the Agreement on Customs Valuation.

THE SECRETÁRIO DA RECEITA FEDERAL (Secretary of the National Income Department), in the exercise of the competence granted by Decree nr 92.930 of July 16, 1986; article 3, which has promulgated the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (GATT) - Agreement on Customs Valuation -, and considering that:

a) such an Agreement shall enter into force in Brazil on July 23, 1986;

b) the minimum value and the reference price, referred to in articles 94 and 95 of the Customs Regulations, approved by Decree nr 91.030/85, shall continue to be applied by virtue of the reservation made by Brazil in accordance with article I, §3, of the Additional Protocol to the Agreement on Customs Valuation, DECIDES:

1. The basis for calculating the Import Tax (calculation basis) is the customs value of the imported good, determined according to the rules of the Agreement on Customs Valuation.

1.1 - The rules of the Agreement on Customs Valuation shall be applied to the import clearances beginning on July 23, 1986 (article 90 of the Customs Regulations).

1.2 - The minimum value and the reference price, referred to in articles 94 and 95 of the Customs Regulations shall prevail as the calculation basis whenever they are lower than the value obtained according to the rules of the Agreement on Customs Valuation.

2. The examination and delivery of goods to the importer will not mean, in all cases, acceptance of the customs value declared in the dispatch, which may be questioned by the customs administration within a period of five years.

2.1 - All the data and information which will underlie the determination of the customs value should remain at the disposal of the customs administration for a period of five years.

3. The rules of the Agreement on Customs Valuation shall be applied exclusively to clearances for consumption.

3.1 - In the case of clearances which are not for consumption, the price at which the goods or similar goods are usually offered in the wholesale market of the country of exportation shall be declared as the calculation basis for the Import Tax, adding the following elements:

a) charges actually paid for placing the goods on board the vehicle which will transport them to Brazil;;

b) freight up to the port or airport of unloading or to the arrival frontier point in the Country; and

c) insurance related to the transport.

4. The "Coordenadores dos Sistemas de Controle Aduaneiro, de Tributação e de Informações Econômico-Fiscais" (Co-ordinators of the Customs Control System, of the Assessment System and of the Fiscal-Economic Information System) will complement this Act with a "Norma de Execução Conjunta" (Joint ACT).

NON-OFFICIAL TRANSLATION

INSTRUÇÃO NORMATIVA (NORMATIVE ACT) SRF NR 85 - JULY 17, 1986

It issues temporary rules for the application of the Customs Valuation Code.

THE SECRETÁRIO DA RECEITA FEDERAL (Secretary of the National Income), in the exercise of his competence and considering that:

a) the Agreement on Customs Valuation, promulgated by Decree nr 92.930 of July 16, 1986, shall enter into force in Brazil on July 23, 1986;

b) such promulgation occurred only on July 17, 1986, the date of publication of the afore-mentioned Decree in the Diário Oficial da União (Federal Official Journal);

c) the complexity of the Agreement and the need for the importers to adapt themselves to its rules will require a longer time for its perfect knowledge and application, DECIDES:

1. For the customs clearances from 07.23.86 up to 09.30.86, importers shall continue to declare the calculation basis of the Import Ta. according to the rules in effect prior to the Agreement on Customs Valuation.

2. Where necessary, the calculation basis shall be corrected by means of a Complementary Declaration of Importation registered up to 10.31.86.

NON-OFFICIAL TRANSLATION

NORMA DE EXECUÇÃO CONJUNTA (JOINT ACT) - CCA/CST/CIEF NR 25
JULY 21, 1986

It issues complementary instructions for the determination of the customs value under the Agreement on Customs Valuation.

THE COORDENADORES DO SISTEMA DE CONTROLE ADUANEIRO, DE TRIBUTAÇÃO E DE INFORMAÇÕES ECONÔMICO-FISCAIS (Co-ordinators of the Customs Control System, of the Assessment System and of the Fiscal-Economic Information System), in the exercise of the competence granted by Instrução Normativa (Normative Act) SRF nr 084, of July 17, 1986, item 4, and considering the Instrução Normativa SRF nr 085, of the same date, decide:

To issue complementary instructions for the determination of the customs value of the imported goods according to the rules of the Agreement on Customs Valuation, promulgated by Decree nr 92.930, of July 16, 1986, dealt with in Annexes I to VI of this Act.

INSTRUCTIONS FOR THE DETERMINATION OF THE CUSTOMS VALUE

ANNEX I

GENERAL INFORMATION

1. The rules of the Agreement on Customs Valuation shall be applied to the customs clearances beginning on July 23, 1986 (article 90 of the Customs Regulations).

2. For the goods subject to minimum values or to the reference prices referred to in articles 94 and 95 of the Customs Regulations, these prices shall prevail whenever the value obtained through the rules of the Agreement on Customs Valuation is lower.

3. The customs value shall be determined by applying one of the following methods, provided for in the Agreement on Customs

Valuation: First Method:

The transaction value of the imported goods (article 1 of the Agreement).

Second Method:

The transaction value of imported goods identical to the goods being valued (article 2 of the Agreement).

Third Method:

The transaction value of imported goods similar to the goods being valued (article 3 of the Agreement).

Fourth Method:

The resale value of the imported goods (article 5 of the Agreement).

Fifth Method:

The computed value of the imported goods (article 6 of the Agreement).

Sixth Method:

The value based on reasonable means, consistent with the principles and general provisions of the Agreement on Customs Valuation and of article VII of the GATT (General Agreement on Tariffs and Trade), and on the basis of data available in the Country (article 7 of the Agreement).

3.1 - In determining the customs value, there shall be made where necessary the adjustments referred to in article 8 of the Agreement on Customs Valuation.

4. The methods referred to in the previous item shall be applied in the afore-mentioned order, using the second method only where the customs value cannot be determined under the provisions of the first one, and so on.

4.1 - Due to reservation made by Brazil in accordance with article I, §4, of the Additional Protocol to the Agreement on Customs Valuation, an inversion in the order of application of the fourth and fifth methods, referred to in article 4 of the same Agreement, shall not be allowed.

5. The value according to the sixth method shall be determined by Secretaria da Receita Federal (National Income Department) at the importer's request, where he demonstrates the impossibility of applying the other methods.

6. The calculation basis for the Import Tax includes the following elements:

a) the cost of transport of the imported goods to the port or airport of unloading, or to the arrival frontier point in the Country;

b) loading, unloading and handling charges associated

with the transport of the imported goods to the places referred to in "a" of this paragraph;

the cost of insurance related to the transport.

mination and delivery of the goods to the importer
cases acceptance of the customs value declared
ed by the customs administration within a period of
years.

7.1 - All the data and information which will contribute to the determination of the customs value shall remain at the disposal of the customs administration for a period of five years.

8. The customs clearance shall continue to be carried out, based on the forms so far used and according to established procedures, remaining under the importer's duty to declare the customs value determined under the instructions of this Act.

9. Regardless of the other instructions for filling out the Importation Declaration, the customs value shall be declared in its Annex II, in relation to the goods of each Addition, in the following way:

I) in item 19, the customs value shall be declared, except freight and insurance;

II) in item 20, the amount of the parts stated in items 16, 17 and 19 shall be indicated.

9.1 - In cases that the minimum value or the reference price prevail as the calculation basis for the Import Tax, these shall be declared in chart 8, item 29, observing that:

a) the term "(transcribe from chart 07, item 20)" of the same item 29 is deleted;

b) in chart 09, item 36, instead of "chart 07, item 20", read "chart 08, item 29";

c) regarding the reference price, the tax addition (specific aliquot) to be declared in chart 08, item 31, shall be the difference obtained between the values declared in chart 08, item 29 and in chart 07, item 18.

10. In Annex III of the Importation Declaration the importer should:

a) inform if he is related to the exporter or not (article 15, §4, of the Agreement);

b) indicate the method of valuation used;

c) where necessary, indicate the items of adjustment (article 8 of the Agreement) which are included, in relation to the total of goods subject to the clearance;

d) if the second or third methods are applied, indicate the declaration number by which identical or similar goods were cleared;

e) if the fourth or fifth methods are applied, discriminate the value in all its parts;

f) if the sixth method is applied, indicate the process number by which the value was determined.

11. Except if a legal provision requires otherwise, the customs value shall be used exclusively as the calculation basis for the Import Tax; not holding good for other purposes, including exchange purposes.

12. The rules of the Agreement on Customs Valuation shall be applied exclusively to clearances for consumption.

12.1 - In imports which are not cleared for consumption the price should be declared, at which the goods or similar goods are usually offered for sale in the wholesale market of the country of exportation, to which should be added the costs actually paid to place them on board the vehicle which will transport them to Brazil, and freight up to the port or airport of unloading or to the arrival frontier point in the Country, and insurance related to the transport.

ANNEX II

FIRST METHOD

Transaction value of the Imported Goods

1. The customs value of the imported goods shall be its transaction value, that means, the price actually paid or payable for the goods, adjusted under the provisions of article 8 of the Agreement.

1.1 - The price actually paid or payable for the imported goods is the total payment made or to be made by the importer to or for the benefit of the exporter for the imported goods. This price includes direct or indirect payments made by way of transfer of money,

letter of credit or any other instrument. An example of indirect payment would be the settlement by the importer of a debt owed by the exporter. Note that, in case of a cash discount being given by the exporter to the importer, such discount can be deducted only if there is evidence that it was used before the beginning of the clearance process (Note to article 1 of the Agreement).

Basic Conditions for Applying the First Method

2. The basic conditions for applying the first method are:

I) the sale shall be for exportation to Brazil excluding any other operations like, for example, donations (article 1 of the Agreement);

II) there shall be no relation between importer and exporter. If such relationship exists, it must be proved that the relationship has not influenced the price of the imported goods (article 1, §1, "d", of the Agreement);

III) no restrictions as to the disposal or use of the imported goods, except those that (article 1, §1, "a", of the Agreement):

a) are imposed by law (article 1, §1, "a", (i), of the Agreement). For example, a special license requirement to use or resell a certain chemical product.

b) limit the geographical area in which the goods may be resold (article 1, §1, "a", (ii), of the Agreement). For example, the resale of agricultural machines limited by the exporter to the south region of the Country;

c) do not substantially affect the value of the imported goods (article 1, §1, "a", (iii), of the Agreement). For example, the prohibition of reselling or exhibiting a new model of a certain tractor prior to the official date of its introduction in the market.

IV) the sale or the price not to depend on any condition or consideration imposed by the exporter to the importer for which a value cannot be determined (article 1, §1, "b", of the Agreement);

V) no part of the proceeds of any subsequent resale, disposal or use of the imported goods to accrue directly or indirectly to the exporter, unless the value of this part can be determined and adjusted in accordance with article 8 of the Agreement. If the mentioned value cannot be determined and adjusted according to that article, the customs valuation cannot be made under the first method (article 1, §1, "c", of the Agreement).

2.1 - For the purposes of paragraph II of this item, natural and/or legal persons are deemed to be related when (article 15, §4 of the Agreement):

- a) one of them is an officer or a director of the other's business;
- b) they are legally recognized partners in business;
- c) they are employer and employee;
- d) any person directly or indirectly owns, controls or holds five percent (5%) or more of the outstanding voting stock or shares of both of them;
- e) one of them directly or indirectly controls the other;
- f) both of them are directly or indirectly controlled by a third person;
- g) together they directly or indirectly control a third person; or
- h) they are members of the same family.

2.2 - For the purposes of the previous subitem, a person is deemed to control the other when the former is, legally or operationally, in a position to exercise restraint or direction over the latter. (Note to article 15, §4, "e", of the Agreement).

2.3 - Where the first method is applied in a sale between related companies, the importer may be required to demonstrate that the transaction value closely approximates one of the following occurring at or about the same time of the customs clearance (article 1, §2, "b", of the Agreement):

- a) the transaction value of identical or similar goods, paid by any importer not related to the exporter;
- b) the customs value of identical or similar goods, determined in accordance with the fourth method;
- c) the customs value of identical or similar goods, determined under the fifth method.

2.4 - If the demonstrations referred to in the previous subitem are not possible, the first method cannot be used.

2.5 - The existence of any other restriction apart from the ones indicated in paragraph III of this item will not preclude the

application of the first method.

2.6 - Concerning paragraph IV of this item, if the value of a condition or consideration can be determined, such value should be added to the price actually paid or payable. Where the value is not possible to be determined, the customs valuation cannot be made under the first method. Examples of conditions or considerations for which a value can or cannot be determined, depending on the case, are (Note to article 1, §1, "b", of the Agreement).

a) the exporter establishes the price of the goods subject to valuation on the basis of other purchases that the importer has made or will make;

b) the price of the imported goods depends on the price at which the Brazilian importer sells other goods to the exporter of the goods subject to valuation;

c) the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are raw-material or semi-finished goods, which have been provided by the seller on condition that he will receive a specified quantity of the finished goods.

Addition of Parts Which are Not Included in the Price

Actually Paid or Payable (article 1 and 8 of the Agreement)

3. In determining the customs value under the first method, the following elements shall be added to the price actually paid or payable (direct and indirect payments), whenever they are based on objective and quantifiable data, are supported by the exporter, and are not included in the referred price (articles 1 and 8 of the Agreement):

I. Cost of Commissions and Brokerage Incurred by the Importer, Except Buying Commissions (article 8, §1, "a", (i), of the Agreement)

Such costs refer to values of commissions and brokerage paid or payable, except those ones related to buying commissions. A buying commission is a remuneration paid by the importer to his agent, for the services he renders in representing him abroad in the purchase of the imported goods.

II. Cost of Packing Incurred by the Importer
(article 8, §1, "a", (ii) and (iii) of the Agreement)

Such expenses include the cost of packing supported by the importer and the value of the package supplied by him to the exporter for use in importing the goods. The total cost should be apportioned over the quantity of the goods subject to the clearance.

III. Materials Supplied by the Importer and Incorporated in the Goods (article 8, §1, "b", (i) of the Agreement)

The value of such materials, apportioned as appropriate, refers to materials supplied directly or indirectly by the importer free of charge or at reduced prices for use in connection with the production of the imported goods. It includes components, parts and similar items, incorporated in the imported goods.

IV. Tools, Dies, Moulds and Similar Items, Supplied by the Importer (article 8, §1, "b", (ii) and respective Note of the Agreement)

The value of such goods, apportioned as appropriate, refers to goods supplied directly or indirectly by the importer free of charge or at reduced prices for use in connection with the production of the imported goods.

The value to be apportioned should be determined on the basis of one of the following alternatives:

a) the cost of purchase - where the goods have been obtained by a seller not related to the importer;

b) the cost of production - where the goods have been produced by the importer or by a person related to him.

Where the goods have been previously used by the importer, its value may be depreciated as appropriate.

The apportionment of the value of tools, dies, moulds and similar items, used in the production of the imported goods, may be made in three different ways, at the choice of the importer, as the following example illustrates:

An importer has contracted with a foreign manufacturer the production and importation of 10,000 units of a determined product, providing him, for this purpose, with a die the estimated production capacity of which is 20,000 units.

By the time of importation of the first shipment of 1,000 units, the provided die has already been used in the production of 4,000 units.

In such case, the importer may choose one of the following methods of apportionment:

- a) over the 10,000 contracted units;
- b) over the 4,000 produced units; or
- c) over the 1,000 imported units.

For example, if the importer pays Cz\$ 50,000.00 in the purchase, the apportionment shall be the result of one of the following calculations:

1) Apportionment over the total of contracted units("a" of the example):

$$VA\ 1 = BF \times \frac{Q1}{Q2}$$

$$VA\ 1 = 50,000 \times \frac{10,000}{20,000}$$

$$VA\ 1 = Cz\$ 25,000.00$$

Where:

VA 1 = value of apportionment over the total of contracted units

BF = value of the supplied goods

Q 1 = contracted quantity

Q 2 = total estimated production capacity of the die

2) Apportionment over the units already produced by using the die ("b" of the example):

$$VA\ 2 = VA\ 1 \times \frac{Q3}{Q1}$$

$$VA\ 2 = 25,000 \times \frac{4,000}{10,000}$$

$$VA\ 2 = Cz\$ 10,000.00$$

Where:

VA 2 = value of apportionment over the units already produced

VA 1 = value of apportionment over the total of
contracted units

Q 1 = contracted quantity

Q 3 = quantity already produced

3) Apportionment over the imported units ("c", of the
example):

$$VA 3 = VA 1 \times \frac{Q 4}{Q 1}$$

$$VA 3 = 25,000 \times \frac{1,000}{10,000}$$

$$VA 3 = CZ\$ 2,500.00$$

Where:

VA 3 = value of apportionment over the imported
units

VA 1 = value of apportionment over the total of
contracted units

Q 1 = contracted quantity

Q 4 = imported quantity

V - Materials Supplied by the Importer and Consumed
in the Production of the Goods (article 8, §1, "b"
(iii), of the Agreement)

The value of such materials, apportioned as appropriate,
refers to materials supplied directly or indirectly by the importer,
free of charge or at reduced prices, for use in the production of the
imported goods.

VI - Engineering, Artwork and Sketches Supplied by
the Importer and Undertaken Elsewhere than in Brazil (article 8, §1,
"b", (IV) and respective Note of the Agreement)

The value of engineering, research and development,
artwork and design work, and plans and sketches undertaken elsewhere
than in Brazil and necessary for the production of the imported goods
should be added, where such services are supplied directly or
indirectly by the importer free of charge or at reduced prices.

In case that such services are supplied free of charge, its total value should be added. When they are supplied at a reduced price, the difference between the total value and the reduced value should be added.

VII - Royalties and Licence Fees

(article 8, §1, "c", and respective Note of the Agreement)

These are payments that the importer should make for royalties and licence fees. Such payments may refer, for example, to patents, trade marks and copyrights. In case that payments related to the right to distribute or resell the imported goods are an imposed condition for the sale of the goods, they should be added to the price actually paid or payable. However, payments for the right to reproduce the imported goods in Brazil shall not be considered for the purposes of addition.

VIII - Values which Accrue to the Exporter

(article 1, §1, "c", and article 8, §1, "d", of the Agreement)

Such values refer to any part of the proceeds of resale, disposal or use of the imported goods that accrues directly or indirectly to the exporter.

IX - Freight

(article 8, §2, "a", of the Agreement)

That refers to the cost of transport of the imported goods to the port or airport of unloading or to the arrival frontier point of the goods in the Country, provided that such value is not yet included in the price paid or payable.

X - Costs related to Loading, Unloading and Handling

(article 8, §2, "b", of the Agreement)

These are loading, unloading and handling charges associated with the transport of the imported goods to the port or airport of unloading or to the arrival frontier point in the Country.

XI - Insurance

(article 8, §2, "c", of the Agreement)

That refers to the cost of insurance to the port or airport of unloading or to the arrival frontier point of the goods in the Country, provided that such value is not yet included in the price paid or payable.

3.1 - The values dealt with in paragraphs II, IV and VI may refer both to the cost of purchase and to the cost of lease.

Deductions of Parts Already Included in the Price Actually Paid or Payable (Note to article 1 of the Agreement)

4. In determining the customs value under the first method, the following elements should be deducted from the price actually paid or payable, provided that they are the exporter's responsibility and are already included in such price:

I - Cost of Inland Transport

That refers to the cost of transport of the goods from the port or airport of unloading, or arrival frontier in the Country, up to the place of delivery of the mentioned goods.

II - Charges of Construction, Erection, Assembly, Maintenance or Technical Assistance in the Country

These are charges of construction, erection, assembly, maintenance or technical assistance, incurred in the Country, in relation to the imported goods.

III - Other Payments

These payments refer to duties to be paid on the importation of the goods and other expenses incurred in the Country.

4.1 - Such deductions can be made only where their values are duly authenticated.

Calculation of the Customs Value

5. The customs value of the goods subject to clearance, determined under the first method, may be calculated by using the following formula:

$$VA = PP + A-D$$

Where:

- VA = customs value
- PP = price actually paid or payable
- A = total of additions
- D = total of deductions

ANNEX III

Second and Third Methods

Transaction Value of Identical Goods and Transaction Value of Similar Goods

1. Where the customs value cannot be determined under the first method, it will be the transaction value of identical goods (second method), such as defined in Article 15 of the Agreement, sold for exportation to Brazil and imported at or about the same time of the goods being valued (article 2 of the Agreement).

1.1 - Before passing from the first to the second method, the SRF local department in which the dispatch is processed may be consulted in case that the importer does not provide information on the importation of identical goods.

1.2 - If, in the application of the second method, more than one transaction value is found, the lower of such values shall be applied in determining the customs value of the goods being valued (article 2, §3, of the Agreement).

2. Where the customs value cannot be determined under the second method, it will be the transaction value of similar imported goods (third method), also defined in article 15 of the Agreement, sold for exportation to Brazil and imported at or about the same time as the goods being valued (article 3 of the Agreement).

2.1 - Before passing from the second to the third method, the SRF local department in which the clearance is carried-out should always be consulted.

2.2 - If, in the application of the third method, more than one transaction value of similar goods is found, the lower of

such values shall be used in determining the customs value of the goods subject to the dispatch (article 3, §3, of the Agreement).

3. The identical or similar goods, referred to in this Annex, shall correspond to the goods sold at the same commercial level and in substantially the same quantity as the goods being valued.

3.1 - Where there is not such sale, one must resort to sales of identical or similar goods, according to the second or the third method, as the case may be, provided that such sale occur in any of the following circumstances:

- I) at the same commercial level and in different quantities;
- II) at a different commercial level and in substantially the same quantity;
- III) at a different commercial level and in different quantities.

3.2 - The term "different commercial level" means a sale to wholesalers, retailers or consumers, assuming the practice of different prices at each level.

4. In determining the customs value under the second or the third method, the values of freight and insurance, related to the identical or similar imported goods, shall be excluded and the values corresponding to the goods being valued shall be included.

4.1 - The exclusion should be made before the adjustments referred to in items 5 to 8 of this Annex, and the inclusion, after the mentioned adjustments are made.

ADJUSTMENTS

5. Where the identical or similar goods are sold in a greater quantity, and, for that reason, the price is lower, an addition to the customs value of the mentioned goods should be made. Such addition can be calculated by using the following formula:

$$ACR\ 1 = Q1 \times (P2 - P1)$$

Where:

ACR 1 = addition for quantity

- Q 1 = quantity of identical or similar goods
- P 1 = unit price for quantity of identical or similar goods
- P 2 = unit price for quantity of the goods being valued

6. Where the identical or similar goods are sold at different commercial level and, for that reason, the price is lower, an addition to the customs value of the mentioned goods should be made. Such addition can be calculated by using the following formula:

$$ACR\ 2 = Q\ 1 \times (P\ 4 - P\ 3)$$

Where:

ACR 2 = addition for commercial level

Q 1 = quantity of identical or similar goods

P 3 = unit price for commercial level of identical or similar goods

P 4 = unit price for commercial level of the goods being valued

7. Where the identical or similar goods are sold in a smaller quantity and, for that reason, the price is higher, a deduction from the customs value of the mentioned goods should be made. Such deduction can be calculated by applying the following formula:

$$DED\ 1 = Q\ 1 \times (P\ 1 - P\ 2)$$

Where:

DED 1 = deduction for quantity

Q 1 = quantity of identical or similar goods

P 1 = unit price for quantity of identical or similar goods

P 2 = unit price for quantity of the goods being valued

8. Where the identical or similar goods are sold at a different commercial level and, therefore, the price is higher, a deduction from the customs value of the mentioned goods should be made. Such deduction can be calculated by applying the following formula:

$$DED\ 2 = Q1 \times (P3 - P4)$$

Where:

DED 2 = deduction for commercial level

Q 1 = quantity of identical or similar goods

P 3 = unit price for commercial level of identical or similar goods

P 4 = unit price for commercial level of the goods being valued

CALCULATION OF THE CUSTOMS VALUE

9. Considering item 4 of this Annex, the customs value of the goods being valued determined under the second or third method can be calculated by applying the following formula:

$$VA = \left[\frac{(A + B - C)}{Q\ 1} \times Q\ 2 \right] + F + S$$

Where:

VA = customs value

A = transaction value of identical or similar goods

B = total of additions

C = total of deductions

Q 1 = quantity of identical or similar goods

Q 2 = quantity of the goods being valued

F = freight related to the goods being valued

S = insurance related to the transport of the goods being valued

ANNEX IV

FOURTH METHOD

Resale Value of the Imported Goods

1. Where the customs value of the imported goods cannot be determined under the third method, it will be determined based on the unit price at which the imported goods being valued or identical or similar imported goods are resold in the greatest aggregate quantity, at or about the time of importation of the goods

being valued, to persons not related to the importer, subject to the deductions referred to in item 3 of this Annex (article 5 of the Agreement).

2. In determining the customs value under the fourth method, the following sequence of possible situations (art. 5 of the Agreement) should be observed:

I) the resale value of the imported goods or, in its absence, of identical imported goods or, in its absence, of similar imported goods resold in Brazil:

- a) in the same condition at which they were imported;
- b) in the greatest aggregate quantity;
- c) if identical or similar, at or about the same time, before or after the beginning of the clearance the goods being valued; and
- d) to persons not related to the importer;

II) the resale value of the imported goods or, in its absence, of identical imported goods or, in its absence, of similar imported goods, resold in Brazil:

- a) in the same condition at which they were imported;
- b) at the earliest date after the beginning of the clearance of the goods being valued, but before the expiration of ninety (90) days; and
- c) to persons not related to the importer;

III) the resale value of the imported goods undergoing further processing after the beginning of the clearance, resold in Brazil:

- a) in the greatest aggregate quantity;
- b) to persons not related to the importer; and
- c) deducted the additional cost due to such processing.

2.1 - The situations mentioned in this item shall follow the inscribed order, considering in each one of them primarily the goods being valued, then, the identical imported goods and, at last, the similar imported goods.

2.2 - In the cases envisaged in this item, if, at the moment of the clearance, information concerning the resale value of the goods being valued or of identical or similar imported

goods are not available, an estimated customs value shall be declared. The real customs value shall be determined based on the resale value of such goods at the earliest date after the beginning of the clearance, but before the expiration of ninety (90) days.

2.3 - Where the resale value is available, and within a ninety (90) days period, the Importation Declaration shall be rectified or ratified by presentation of the Complementary Declaration of Importation (DCI).

2.4 - Being elapsed ninety (90) days after the beginning of the clearance and not taking place any of the situations described in this item, the customs value cannot be determined under the fourth method.

DEDUCTIONS

3. According to the fourth method, the resale value of the imported goods or of identical or similar imported goods shall be taken as the basis for determining the customs value, excluding the parts corresponding to freight and insurance concerning the importation and , where necessary, subject to the following deductions (article 5, §1, "a", of the Agreement):

I - Commissions Paid or Payable

These are commissions usually paid in Brazil, in the resale of imported goods of the same class or kind, calculated on the value of the goods, where the resale is made through an agent remunerated by commission.

Such deduction excludes the deduction for profit and general expenses referred to in paragraph II as follows.

II - Profit and General Expenses

These are values usually computed as profit and general expenses in resales in Brazil of imported goods of the same class or kind.

Such deduction excludes the deduction for commissions paid or payable referred to in paragraph I.

III - Cost of Transport in the Country

That refers to the cost related to transport, such as freight or carriage incurred after the unloading or arrival of the

goods in the Country and until the moment of resale, if such cost is included in the mentioned resale price.

IV - Cost of Insurance in the Country

That refers to the cost of insurance premium -- against risks covered after the unloading or arrival of the goods in the Country until the moment of the resale, if such cost is included in the resale price.

V - Cost of Processing in the Country

That refers to the cost of processing the goods, after the beginning of the clearance.

VI - Duties and Taxes in the Country

That refers to duties to be paid on the importation and to other internal duties, included in the resale price of the goods, up to its resale.

Calculation of the Customs Value

4. The customs value of the goods being valued determined under the fourth method, can be calculated by using the following formula:

$$VA = \frac{(A - B \times Q 2)}{Q 1} + F + S$$

Where:

VA = customs value

A = total resale value of the goods

B = total of deductions

Q 1 = quantity of resold goods

Q 2 = quantity of the goods being valued

F = freight related to the goods being valued

S = insurance related to the goods being valued

ANNEX V

FIFTH METHOD

Computed Value

1. Where the customs value cannot be determined under the fourth method, it will be the computed value of the imported goods (article 6 of the Agreement).

1.1 - The computed value dealt with in this item shall consist of the sum of (article 6 of the Agreement and respective Note):

a) the value of materials and the cost of fabrication or other processing necessary to the production of the imported goods;

b) an amount for profit and general expenses equal to that usually computed by producers in the country of exportation in sales to Brazil of goods of the same class or kind as the goods being valued; and

c) the values corresponding to the cost of freight, charges and insurance, related to the transport of the goods up to the place of unloading or arrival of the goods in the Country.

ANNEX VI

SIXTH METHOD

1. Where the customs value of the imported goods cannot be determined under the fifth method, it shall be determined by using reasonable means consistent with the principles and general provisions of the Agreement on Customs Valuation and of article VII of the GATT, and on the basis of data available in the Country (article 7 of the Agreement and respective Note).

1.1 - In the usage of this method, there shall be considered the valuation rules of the preceding methods, applied with reasonable flexibility and, to the greatest extent possible, based on values previously determined.