bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions for transaction value of identical or similar merchandise is not appropriate.

§ 152.105 Deductive value.

(a) Merchandise concerned. For the purposes of deductive value, “merchandise concerned” means the merchandise being appraised, identical merchandise, or similar merchandise.

(b) Merchandise of the same class or kind. For the purposes of deductive value, “merchandise of the same class or kind” includes merchandise imported from the same country as well as other countries as the merchandise being appraised.

(c) Prices. The deductive value of the merchandise being appraised is whichever of the following prices (as adjusted under paragraph (d) of this section) is appropriate depending upon when and in what condition the merchandise concerned is sold in the United States:

(1) If the merchandise concerned is sold in the condition as imported at or about the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise concerned is sold in the greatest aggregate quantity at or about such date.

(2) If the merchandise concerned is sold in the condition as imported but not sold at or about the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise concerned is sold in the greatest aggregate quantity after the date of importation of the merchandise being appraised but before the close of the 90th day after the date of such importation.

(3) If the merchandise concerned was not sold in the condition as imported and is sold before the close of the 90th day after the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise being appraised, after further processing, is sold in the greatest aggregate quantity before the 180th day after the date of such importation. This provision will apply to appraisement of merchandise only if the importer so elects at the time of filing the entry summary.

(d) Deductions from price. The price determined under paragraph (c) of this section will be reduced by an amount equal to:

(1) Any commission usually paid or agreed to be paid, or the addition usually made for profit and general expenses, in connection with sales in the United States of imported merchandise that is of the same class or kind, regardless of the country of exportation, as the merchandise concerned;

(2) The actual costs and associated costs of transportation and insurance incurred with respect to international shipments of the merchandise concerned from the country of exportation to the United States;

(3) The usual costs and associated costs of transportation and insurance incurred with respect to shipments of the merchandise concerned from the place of importation to the place of delivery in the United States, if those costs are not included as a general expense under paragraph (d)(1) of this section;

(4) The customs duties and other Federal taxes currently payable on the merchandise concerned by reason of its importation, and any Federal excise tax on, or measured by the value of, the merchandise for which vendors in the United States ordinarily are liable; and

(5) But only in the case of price determined under paragraph (c)(3) of this section, the value added by the processing of the merchandise after importation to the extent that the value is based on sufficient information relating to the cost of that processing.

(e) Profit and general expenses; special rules. (1) The deduction made for profit and general expenses (taken as a whole) will be based upon the importer’s profit and general expenses, unless the profit and general expenses are inconsistent with those reflected in sales in the United States of imported merchandise of the same class or kind from all countries, in which case the deduction will be based on the usual profit and general expenses reflected in those
sales, as determined from sufficient information. Any State or local tax imposed on the importer with respect to the sale of imported merchandise will be treated as a general expense.

(2) In determining deductions for commissions and usual profit and general expenses, sales in the United States of the narrowest group or range of imported merchandise of the same class or kind, including the merchandise being appraised, for which sufficient information can be provided, will be examined.

(f) Packing costs. The price determined under paragraph (c) of this section will be increased, but only to the extent that the costs are not otherwise included, by an amount equal to the packing costs incurred by the importer or the buyer with respect to the merchandise concerned.

(g) Assists. For purposes of determining deductive value, any sale to a person who supplies any assist for use in connection with the production or sale for export of the merchandise concerned will be disregarded.

(h) Unit price in greatest aggregate quantity. The unit price will be established after a sufficient number of units have been sold to an unrelated person. The unit price to be used when the units have been sold in different quantities will be that at which the total volume sold is greater than the total volume sold at any other unit price.

(1) Interpretative note 1. Merchandise is sold to an unrelated person from a price list which grants favorable unit prices for purchases made in larger quantities:

<table>
<thead>
<tr>
<th>Sale quantity</th>
<th>Unit price</th>
<th>Number of sales</th>
<th>Total quantity sold</th>
<th>Total quantity sold at each price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1–10 units</td>
<td>$100</td>
<td>10 sales of 5 units</td>
<td>5 sales of 11 units</td>
<td>1 sale of 30 units</td>
</tr>
<tr>
<td>11–25 units</td>
<td>95</td>
<td>5 sales of 3 units</td>
<td>5 sales of 11 units</td>
<td>1 sale of 30 units</td>
</tr>
<tr>
<td>Over 25 units</td>
<td>90</td>
<td>1 sale of 30 units</td>
<td>1 sale of 50 units</td>
<td></td>
</tr>
</tbody>
</table>

The greatest number of units sold at a price is 65; therefore, the unit price in the greatest aggregate quantity is $90.

(2) Interpretative note 2. Two sales to unrelated persons occur: in the first sale, 500 units are sold at a price of $95 each; in the second sale, 400 units are sold at a price of $90 each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is $95.

(3) Interpretative note 3. Various quantities are sold to unrelated persons at various prices:

(i) Sales

<table>
<thead>
<tr>
<th>Sale quantity</th>
<th>Unit price</th>
</tr>
</thead>
<tbody>
<tr>
<td>40 units</td>
<td>$100</td>
</tr>
<tr>
<td>30 units</td>
<td>90</td>
</tr>
<tr>
<td>15 units</td>
<td>100</td>
</tr>
<tr>
<td>50 units</td>
<td>95</td>
</tr>
<tr>
<td>25 units</td>
<td>105</td>
</tr>
<tr>
<td>35 units</td>
<td>90</td>
</tr>
<tr>
<td>5 units</td>
<td>100</td>
</tr>
</tbody>
</table>

(ii) Totals

<table>
<thead>
<tr>
<th>Total quantity sold</th>
<th>Unit price</th>
</tr>
</thead>
<tbody>
<tr>
<td>65</td>
<td>$90</td>
</tr>
<tr>
<td>50</td>
<td>95</td>
</tr>
<tr>
<td>60</td>
<td>100</td>
</tr>
<tr>
<td>25</td>
<td>105</td>
</tr>
</tbody>
</table>

In this example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is $90.

(1) Further processing—(1) Quantified data. If merchandise has undergone further processing after its importation into the United States and the importer elects the method specified in paragraph (c)(3) of this section, deductions made for the value added by that processing will be based on objective and quantifiable data relating to the cost of the work performed. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis for the deduction. That deduction also will reflect amounts for spoilage, waste, or scrap derived from the further processing.

(2) Loss of identity. If the imported merchandise loses its identity as a result of further processing, the method specified in paragraph (c)(3) of this section will not be applicable unless the value added by the processing can be determined accurately without unreasonable difficulty for either importers or Customs. If the imported merchandise maintains its identity but forms a
minor element of the merchandise sold in the United States, the use of para-
paragraph (c)(3) of this section will be unjustified. The port director shall review
each case involving these issues on its merits.

Example. A foreign shipper sells merchan-
dise to a related U.S. importer. The foreign
shipper does not sell to any unrelated per-
son. The transaction between the foreign
shipper and the U.S. importer is determined
to have been affected by the relationship.
There is no identical or similar merchandise
from the same country of production. The
U.S. importer further processes the product
and resells the finished product to an unre-
lated buyer in the U.S. within 180 days of the
date of importation. No assists from the un-
related U.S. buyer are involved, and the type
of processing involved can be accurately
costed.

How should the merchandise be appraised?
The merchandise should be appraised under
deductive value with allowances for profit
and general expenses, freight and insurance,
duties and taxes, and the cost of processing.

§ 152.106 Computed value.

(a) Elements. The computed value of
imported merchandise is the sum of:

(1) The cost or value of the materials
and the fabrication and other proc-
essing of any kind employed in the pro-
duction of the imported merchandise;

(2) An amount for profit and general
expenses equal to that usually re-
flected in sales of merchandise of the
same class or kind as the imported
merchandise that are made by the pro-
ducers in the country of exportation
for export to the United States;

(3) Any assist, if its value is not in-
cluded under paragraph (a) (1) or (2) of
this section; and

(4) The packing costs.

(b) Special rules. (1) The cost or value
of materials under paragraph (a)(1) of
this section will not include the
amount of any internal tax imposed by the
country of exportation that is di-
rectly applicable to the materials or
their disposition if the tax is remitted
or refunded upon the exportation of the
merchandise in the production of which
the materials were used.

(2) The amount for profit and general
expenses under paragraph (a)(2) of this
section will be based upon the pro-
ducer’s profit and general expenses, un-
less the producer’s profit and general
expenses are inconsistent with those
usually reflected in sales of merchan-
dise of the same class or kind, or as the
imported merchandise that are made
by producers in the country of export-
ation for export to the United States.
In that case, the amount under para-
graph (a)(2) of this section will be based
on the usual profit and general ex-
penses of such producers in those sales,
as determined from “sufficient infor-
mation”. See §152.102(j).

(c) Profit and general expenses. The
amount for profit and general expenses
will be taken as a whole. If the pro-
ducer’s profit figure is low and general
expenses high, those figures taken to-
gether nevertheless may be consistent
with those usually reflected in sales of
imported merchandise of the same
class or kind.

(1) Interpretative note 1. A product is
introduced into the United States, and
the producer accepts either no profit or
a low profit to offset the high general
expenses required to introduce the
product into this market. If the pro-
ducer can demonstrate that there is a
low profit on sales of the imported
merchandise because of peculiar com-
mercial circumstances, the actual prof-
it figures will be accepted provided the
producer has valid commercial reasons
to justify them and his pricing policy
reflects the usual pricing policies in
the industry.

(2) Interpretative note 2. Producers
have been forced to lower prices tempo-
arily because of an unforeseeable drop
in demand, or they sell merchandise to
complement a range of merchandise
being produced in the United States
and accept a low profit to maintain
competitiveness. If the producer’s own
figures for profit and general expenses
are not consistent with those usually
reflected in sales of merchandise of the
same class or kind, or as the merchandise
being valued which are made in the
country of exportation for export to
the United States, the amount for prof-
it and general expenses will be based
upon reliable and quantifiable informa-
tion other than that supplied by or on
behalf of the producer of the merchan-
dise.

(d) Assists and packing costs. Com-
puted value also will include an