



**INFORMATION ON IMPLEMENTATION AND ADMINISTRATION
OF THE AGREEMENT ON CUSTOMS VALUATION**

CHECK-LIST OF ISSUES

RUSSIAN FEDERATION

The following submission, dated 22 May 2019, is being circulated at the request of the delegation of the Russian Federation.

1. Questions concerning Article 1:

(a) Sales between related persons:

(i) Are sales between related persons subject to special provisions?

Paragraphs 1(4), 4 and 5 of Article 39 of the Customs Code of the Eurasian Economic Union contain provisions concerning sales between related persons.

(ii) Is the fact of intercompany prices prima facie considered as grounds for regarding the respective prices as being influenced?

In accordance with paragraph 4 of Article 39 of the Customs Code of the Eurasian Economic Union "The fact that the buyer and the seller are related shall not in itself be grounds for regarding the transaction value as unacceptable for determining the customs value of imported goods. In this case the circumstances surrounding the sale shall be examined. If the above relationship did not influence the price actually paid or payable, the transaction value shall be regarded as acceptable for determining the customs value of imported goods."

In accordance with paragraphs 4-8 of Article 39 of the Customs Code of the Eurasian Economic Union in order to determinate whether the price has been influenced by the relationship between the buyer and the seller, any of the mechanism set out in Article 1 of the WTO Agreement can be applied.

(iii) What is the provision for giving the communication of the aforementioned grounds in writing if the importer so requests? (Article 1.2(a))

In accordance with paragraph 5 of Article 39 of the Customs Code of the Eurasian Economic Union if the buyer and the seller are related persons and the customs authority, based on information provided by the declarant or obtained by the customs authority otherwise, have found any evidence that the relationship between the buyer and the seller influenced the price paid or payable, then the customs authority shall communicate such evidence to the declarant in writing or in an electronic form.

(iv) How has Article 1.2 (b) been implemented?

Provisions of Article 1.2 (b) are implemented in paragraphs 5 and 7 of Article 39 of the Customs Code of the Eurasian Economic Union.

(b) Price of lost or damaged goods:

Are there any special provisions or practical arrangements concerning the valuation of lost or damaged goods?

The customs value of such goods are stipulated by decision No. 145 of 25 June 2013 "The Regulation on Specifics of Application of Methods on Determination of Customs Value of the Goods Imported into the Common Customs Territory of the Customs Union, which Became Useless, Spoiled or Damaged due to Accident or Force Majeure", approved by the Collegium of the Eurasian Economic Commission.

2. How has the provision of Article 4 to allow the importer an option to reverse the order of application of Article 5 and 6 been implemented?

The aforementioned reverse order of application of Article 5 and 6 is implemented in paragraph 15 of Article 38 and paragraph 1 of Article 43 of the Customs Code of the Eurasian Economic Union.

3. How has Article 5.2 been implemented?

The provisions of Article 5.2 are implemented in paragraph 4 of Article 43 of the Customs Code of the Eurasian Economic Union.

4. How has Article 6.2 been implemented?

The provisions of Article 6.2 are implemented in paragraph 6 of Article 44 of the Customs Code of the Eurasian Economic Union.

5. Questions concerning Article 7:

(a) What provisions have been made for making value determinations pursuant to Article 7?

Provisions of Article 45 of the Customs Code of the Eurasian Economic Union.

(b) What is the provision for informing the importer of the customs value determined under Article 7?

According to paragraph 6 of Article 45 of the Customs Code of the Eurasian Economic Union if the customs authority determines the customs value of imported goods under this Article based on the information available, it shall advise the declarant in writing or in an electronic form of the sources of such information and the calculations made on the basis thereof.

(c) Are the prohibitions founded in Article 7.2 delineated?

The prohibitions contained in Article 7.2 are set out in paragraph 5 of Article 45 of the Customs Code of the Eurasian Economic Union.

6. How have the options found in Article 8.2 been handled? In the case of f.o.b. application, are ex-factory prices also accepted?

The provisions of Article 8.2 are implemented in subparagraphs 4-6 of paragraph 1 of Article 40 of the Customs Code of the Eurasian Economic Union.

7. Where is the rate of exchange published, as required by Article 9.1?

In accordance with Article 33 of the Federal Law of the Russian Federation No. 289-FZ of 3 August 2018 "On customs regulation in the Russian Federation and amendments in certain legislative acts of the Russian Federation" in cases when for the purposes of calculation of customs duties, taxes, safeguard, anti-dumping and countervailing duties, interest and penalties, in particular for the assessment of the customs value of goods it is necessary to translate a foreign currency into the currency of the Russian Federation such calculation shall be done at the official exchange rate of the foreign currency to the rouble of the Russian Federation established by the Central Bank of the Russian Federation and effective as of the date of registration of the customs declaration by the customs body.

The exchange rates of foreign currencies are published in the "Vestnik of the Central Bank of Russia" and in the Internet (www.cbr.ru).

8. What steps have been taken to ensure confidentiality, as required by Article 10?

Respective requirements of Article 10 are stipulated in Article 356 of the Customs Code of the Eurasian Economic Union.

Article 13 of the Federal Law No. 98-FZ of 29 July 2004 "On Commercial Secrecy" provides for the obligation of government authorities and bodies to ensure the protection of confidential information presented to them by legal persons or individual interpreters.

9. Questions concerning Article 11:**(a) What rights of appeal are open to the importer or any other person?**

In accordance with Article 358 of the Customs Code of the Eurasian Economic Union any person shall have the right to appeal against decisions, actions (inaction) of the customs authorities or their officials in the manner and within the timescale established by the legislation of the Member State, decisions, actions (inaction) of a customs authority or officials of the customs authority of which are appealed against.

In accordance with Article 285 of the Federal Law of the Russian Federation No. 289-FZ of 3 August 2018 "On customs regulation in the Russian Federation and amendments in certain legislative acts of the Russian Federation" any person has the right to take appeal from a decision, action (omission) of a customs body and of its official, if such decision, action (omission) in this person's opinion has violated his rights, freedoms or lawful interests, created obstacles for the realisation thereof or illegally vested any duty in him.

Taking appeal from a decision, action (omission); persons who may act as the applicants filing a complaint and other related provisions are set out in chapter 51 of Section VII of the Federal Law of the Russian Federation No. 289-FZ of 3 August 2018 "On customs regulation in the Russian Federation and amendments in certain legislative acts of the Russian Federation".

(b) How is he to be informed of his right to further appeal?

In accordance with Article 298 of the Federal Law of the Russian Federation No. 289-FZ of 3 August 2018 "On customs regulation in the Russian Federation and amendments in certain legislative acts of the Russian Federation" the Customs Body's Decision on the Complaint shall comprise the information on the procedure for taking appeal from the decision taken on the complaint.

10. Provide information on the publication, as required by Article 12, of:**(a) (i) The relevant national laws:**

Acts of the President of the Russian Federation and of the Government are subject to official publication in the "Rossiyskaya Gazeta" and in the digest "Sobraniye Zakonodatelstva

Rossijskoj Federatsii" or on the web-site "official Internet portal of legal information." (<http://www.pravo.gov.ru/>) within ten days after their signing.

Federal constitutional laws, Federal laws and acts of a chamber of the Federal Assembly are subject to official publication in the "Parliamentary Gazette", "Rossiyskaya Gazeta" and in the digest "Sobraniye Zakonodatelstva Rossijskoj Federatsii" or on the web-site "official Internet portal of legal information." (<http://www.pravo.gov.ru/>) .

Federal constitutional laws, federal laws shall be officially published within seven days after their signing by the President of the Russian Federation.

Acts of the chambers of the Federal Assembly shall be published not later than ten days after their enactment date.

(ii) The regulations concerning the application of the Agreement:

The Eurasian Economic Commission and the Federal Customs Service of Russia publish customs legal acts of the Russian Federation and those of the Eurasian Economic Union, on its official printed publications and on the official website in the Internet (<http://www.eurasiancommission.org> and www.customs.ru).

(iii) The judicial decision and administrative rulings of general application relating to the Agreement:

The judicial decisions and administrative rulings of general application are published in the official publications at web-sites of the court which issued such decision.

(iv) General or specific laws being referred to in the rules of implementation or application.

Regarding to publication of EAEU Agreements, Decisions of Eurasian Economic Commission and other EAEU measures, all the information about the activities and decisions of EAEU bodies is available on the website: <http://www.eurasiancommission.org>.

(b) Is the publication of further rules anticipated? Which topics would they cover?

In accordance with Article 3 of the Customs Code of the Eurasian Economic Union the information on treaties and acts on customs regulation shall be provided by the Commission and the customs authorities by means of its publishing on the official website of the Union and the official website of the customs authorities respectively, as well as by bringing the information to the public notice via television and radio, using information technologies, as well as in other public ways of disseminating information.

In accordance with paragraph 17 of Article 38 of the Customs Code of the Eurasian Economic Union the Eurasian Economic Commission shall adopt acts aimed at ensuring uniform application of the provisions stipulated in this Chapter in applying the methods for determining the customs value of imported goods based on the relevant provisions of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, including interpretative notes thereto, and the documents on the customs value of goods, adopted by the Committee on Customs Valuation of the World Trade Organization and the Technical Committee on Customs Valuation of the World Customs Organization.

11. Questions concerning Article 13:

(a) How is obligation of Article 13 (last sentence) being dealt with in the respective legislation?

The provisions of Article 13 are implemented in paragraph 16 of Article 38 of the Customs Code of the Eurasian Economic Union.

(b) Have additional explanations been laid down?

The procedure for a deferred determination of the customs value of goods which includes, among others, the cases requiring a deferred determination of the customs value of goods, the features of applying the method involving the transaction value of imported goods when a deferred determination of the customs value of goods is used, the features for declaring the information on the preliminary amount of the customs value of goods and the time limits for declaring the exact amount of the customs value of goods, the features of controlling the customs value of goods are set out in the decision No. 103 of 19 June 2018 "On adoption the procedure for a deferred determination of the customs value of goods", approved by the Collegium of the Eurasian Economic Commission.

12. Questions concerning Article 16:**(a) Does the respective national legislation contain a provision requiring customs authorities to give an explanation in writing as to how the customs value was determined?**

Such provisions are set out in paragraph 15 of Article 38, paragraph 9 of Article 43, paragraph 7 of Article 44, paragraph 6 of Article 45 of the Customs Code of the Eurasian Economic Union.

In addition, in accordance with Article 359 of the Customs Code of the Eurasian Economic Union customs authorities shall consult persons on application of treaties and acts on customs regulation and other matters within the competence of the customs authorities, on a free basis.

(b) Are there any further regulations concerning an above-mentioned request?

In accordance with Article 24 of the Federal Law of the Russian Federation No. 289-FZ of 3 August 2018 "On customs regulation in the Russian Federation and amendments in certain legislative acts of the Russian Federation" the federal executive body carrying out the functions of state policy elaboration and normative legal regulation in the sphere of customs affairs shall establish a procedure for holding consultations between the customs body and the declarant for the purposes of substantiated selection of the value base for assessment of the customs value of the goods imported into the Russian Federation.

13. How have the Interpretive Notes of the Agreement been included?

The Interpretive Notes of the Agreement are included in:

- Provisions of Chapter V of the Customs Code of the Eurasian Economic Union;
- The Rules of Application of Methods on Determination of Customs Value of Goods According to the Transaction Value of Imported Goods (Method 1), approved by Decision of the Collegium of the Eurasian Economic Commission No. 283 of 20 December 2012;
- The Rules of Application of Methods on Determination of Customs Value of Goods According to the Transaction Value of Identical Goods (Method 2) and According to the Transaction Value of Similar Goods (Method 3), approved by Decision of the Collegium of the Eurasian Economic Commission No. 202 of 30 October 2012;
- The Rules of Application of Methods on Determination of Customs Value of Goods According to the Deductive Value Method (Method 4), approved by Decision of the Collegium of the Eurasian Economic Commission No. 214 of 13 November 2012;
- The Rules of Application of Methods on Determination of Customs Value of Goods According to the Computed Value Method (Method 5), approved by Decision of the Collegium of the Eurasian Economic Commission No. 273 of 12 December 2012;
- EEC Collegium decision No. 113 of 15 July 2014 "The Regulation on the Use of the Documents Corresponding to Generally Accepted Accounting Principles in Case of Application of Methods on Determination of Customs Value of Goods";
- EEC Collegium decision No. 118 of 22 September 2015 "The Rules on the Treatment of Interest Charges in Determination of the Customs Value of Goods";

- EEC Collegium recommendation No. 20 of 15 November 2016 "Provisions on adding licence and other similar fees for using the objects of intellectual property to the price actually paid or payable for imported goods"; and
- EEC Collegium resolution No. 83 of 22 May 2018 "On calculation of additional accruals when customs value of goods is determined".

14. How have the provisions of Decision on the Treatment of Interest Charges in the Customs Value of Imported Goods implemented?

The provisions of Decision on the Treatment of Interest Charges in the Customs Value of Imported Goods are implemented in decision No. 118 of 22 September 2015 "The Rules on the Treatment of Interest Charges in Determination of the Customs Value of Goods", approved by the Collegium of the Eurasian Economic Union.

15. For those countries applying paragraph 2 of the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment, how have the provisions of this paragraph been implemented?

Paragraph 2 of Decision No. 4.1 "On the Valuation of Carrier Media Bearing Software, for Data Processing Equipment" of the Technical Committee on Customs Valuation is reflected in the FCC Letter No. 15-14/8524 of 17 March 2006 "On the Customs Clearance of the Information Transmitted through the Internet". It provides that the customs valuation for imports of data or software for computers should be based on the value of the carrier media.
