



EUROSPED Zrt.

**General Terms and Conditions
for customs agents services**

Guide to Customs Law

Purpose of the Guide

The purpose of this Guide to Customs Law is to provide information to Clients on matters relevant to the following key groups of issues concerning the customs clearance procedure, based on professional criteria, enabling Clients to communicate the required information to the Agent during customs clearance:

1. customs valuation
2. determining the VAT base of imported goods
3. origin issues
4. customs union and/or Community status
5. tariff classification of goods
6. decisions concerning binding information

1. Customs valuation

In general, customs value means the value on the basis of which customs dues are determined by the Customs Authority on the customs clearance of non-Union goods. It is of essential importance to determine the customs value in accordance with the law. If it is ascertained by a subsequent inspection that the customs value was incorrectly determined, an administrative penalty is imposed and/or criminal or infringement proceedings may be started by the Customs Authority.

The provisions of the following legislation must be taken into consideration on customs valuation:

- Articles 69 to 76 of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code ('UCC'), and
- Commission Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code ('Implementing Regulation')
- 1994 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on Customs Valuation);

Provisions of the UCC relevant to customs value:

Article 69

Scope

The customs value of goods, for the purposes of applying the Common Customs Tariff and non-tariff measures laid down by Union provisions governing specific fields relating to trade in goods, shall be determined in accordance with Articles 70 and 74.

*Article 70***Method of customs valuation based on the transaction value**

(1) The primary basis for the customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the customs territory of the Union, adjusted, where necessary.

(2) The price actually paid or payable shall be the total payment made or to be made by the buyer to the seller or by the buyer to a third party for the benefit of the seller for the imported goods and include all payments made or to be made as a condition of sale of the imported goods.

(3) The transaction value shall apply provided that all of the following conditions are fulfilled:

(a) there are no restrictions as to the disposal or use of the goods by the buyer, other than any of the following:

(i) restrictions imposed or required by a law or by the public authorities in the Union;

(ii) limitations of the geographical area in which the goods may be resold;

(iii) restrictions which do not substantially affect the customs value of the goods;

(b) the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;

(c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made;

(d) the buyer and seller are not related or the relationship did not influence the price.

*Article 71***Elements of the transaction value**

In determining the customs value under Article 70, the price actually paid or payable for the imported goods shall be supplemented by:

(a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:

(i) commissions and brokerage, except buying commissions;

(ii) the cost of containers which are treated as being one, for customs purposes, with the goods in question; and

(iii) the cost of packing, whether for labour or materials;

(b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with

the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

- (i) materials, components, parts and similar items incorporated into the imported goods;
 - (ii) tools, dies, moulds and similar items used in the production of the imported goods;
 - (iii) materials consumed in the production of the imported goods; and
 - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Union and necessary for the production of the imported goods;
- (c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
- (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller; and
- (e) the following costs up to the place where goods are brought into the customs territory of the Union:
- (i) the cost of transport and insurance of the imported goods; and
 - (ii) loading and handling charges associated with the transport of the imported goods.
- (2) Additions to the price actually paid or payable, pursuant to paragraph 1, shall be made only on the basis of objective and quantifiable data.
- (3) No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

Article 72

Elements not to be included in the customs value

In determining the customs value under Article 70, none of the following shall be included:

- (a) the cost of transport of the imported goods after their entry into the customs territory of the Union;
 - (b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after the entry into the customs territory of the Union of the imported goods such as industrial plants, machinery or equipment;
 - (c) charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of the imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and, where required, the buyer can demonstrate that the following conditions are fulfilled:
 - (i) such goods are actually sold at the price declared as the price actually paid or payable; and
 - (ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;
-

-
- (d) charges for the right to reproduce the imported goods in the Union;
 - (e) buying commissions;
 - (f) import duties or other charges payable in the Union by reason of the import or sale of the goods;
 - (g) notwithstanding point (c) of Article 71(1), payments made by the buyer for the right to distribute or resell the imported goods, if such payments are not a condition of the sale for export to the Union of the goods.

Article 73

Simplification

The customs authorities may, upon application, authorise that the following amounts be determined on the basis of specific criteria, where they are not quantifiable on the date on which the customs declaration is accepted:

- (a) amounts which are to be included in the customs value in accordance with Article 70(2); and
- (b) the amounts referred to in Articles 71 and 72.

Article 74

Secondary method of customs valuation

(1) Where the customs value of goods cannot be determined under Article 70, it shall be determined by proceeding sequentially from points (a) to (d) of paragraph 2, until the first point under which the customs value of goods can be determined.

The order of application of points (c) and (d) of paragraph 2 shall be reversed if the declarant so requests.

(2) The customs value, pursuant to paragraph 1, shall be:

- (a) the transaction value of identical goods sold for export to the customs territory of the Union and exported at or about the same time as the goods being valued;
 - (b) the transaction value of similar goods sold for export to the customs territory of the Union and exported at or about the same time as the goods being valued;
 - (c) the value based on the unit price at which the imported goods, or identical or similar imported goods, are sold within the customs territory of the Union in the greatest aggregate quantity to persons not related to the sellers; or
 - (d) the computed value, consisting of the sum of:
 - (i) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
-

(ii) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of export for export to the Union;

(iii) the cost or value of the elements referred to in point (e) of Article 71(1).

(3) Where the customs value cannot be determined under paragraph 1, it shall be determined on the basis of data available in the customs territory of the Union, using reasonable means consistent with the principles and general provisions of all of the following:

(a) the agreement on implementation of Article VII of the General Agreement on Tariffs and Trade;

(b) Article VII of the General Agreement on Tariffs and Trade;

(c) this Chapter.

Article 75

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the conditions for granting the authorisation referred to in Article 73.

Article 76

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for:

(a) determining the customs value in accordance with Articles 70(1) and (2) and Articles 71 and 72, including those for adjusting the price actually paid or payable;

(b) the application of the conditions referred to in Article 70(3);

(c) determining the customs value referred to in Article 74.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Provisions of the Implementing Regulation relevant to customs value:

Article 127

General provisions

(Article 70(3)(d) of the Code)

(1) For the purposes of this Chapter, two persons shall be deemed to be related if one of the following conditions is fulfilled:

(a) they are officers or directors of the other person's business;

-
- (b) they are legally recognised partners in business;
 - (c) they are employer and employee;
 - (d) a third party directly or indirectly owns or controls or holds 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 control a third person directly or indirectly;
 - (h) they are members of the same family.
- (2) Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within the criteria referred to in paragraph (1).
- (3) For the purposes of paragraph 1(e),(f) and (g) one person is deemed to control another when the former is legally or operationally in a position to exercise direction over the latter.

Article 128

Transaction value

(Article 70(1) of the Code)

- (1) The transaction value of the goods sold for export to the customs territory of the Union shall be determined at the time of acceptance of the customs declaration on the basis of the sale occurring immediately before the goods were brought into that customs territory.
- (2) Where the goods are sold for export to the customs territory of the Union not before they were brought into that customs territory but while in temporary storage or while placed under a special procedure other than internal transit, end-use or outward processing, the transaction value will be determined on the basis of that sale.

Article 129

Price actually paid or payable

(Article 70(1) and (2) of the Code)

- (1) The price actually paid or payable within the meaning of Article 70(1) and (2) of the Code shall include all payments made or to be made as a condition of sale of the imported goods by the buyer to any of the following persons:
 - (a) the seller;
 - (b) a third party for the benefit of the seller;
 - (c) a third party related to the seller;
-

(d) a third party where the payment to that party is made in order to satisfy an obligation of the seller.

Payments may be made by way of letters of credit or negotiable instruments, and payments may be made directly or indirectly.

(2) Activities, including marketing activities, undertaken by the buyer or an undertaking related to the buyer on his or its own account, other than those for which an adjustment is provided in Article 71 of the Code, shall not be considered an indirect payment to the seller.

Article 130

Discounts

(Article 70(1) and (2) of the Code)

(1) For the purposes of determining the customs value under Article 70(1) of the Code, discounts shall be taken into account if, at the time of acceptance of the customs declaration, the sales contract provides for their application and their amount.

(2) Discounts for early payment shall be taken into account with regard to goods for which the price has not actually been paid at the time of acceptance of the customs declaration.

(3) Discounts arising from amendments to the contract subsequent to the time of acceptance of the customs declaration shall not be taken into account.

Article 131

Partial delivery

(Article 70(1) of the Code)

(1) Where goods declared for a customs procedure are part of a larger quantity of the same goods purchased in one transaction, the price actually paid or payable shall, for the purposes of Article 70(1) of the Code, be calculated pro rata on the basis of the price for the total quantity purchased.

(2) Apportioning the price actually paid or payable shall also apply in the case of the loss of part of a consignment or when the goods have been damaged before the goods are released for free circulation.

Article 132

Price adjustments for defective goods

(Article 70(1) of the Code)

An adjustment made by the seller, to the benefit of the buyer, of the price actually paid or payable for the goods may be taken into consideration for the determination of the customs value in accordance with Article 70(1) of the Code, if the following conditions are fulfilled:

-
- (a) the goods were defective at the time of acceptance of the customs declaration for release for free circulation;
 - (b) the seller made the adjustment to compensate for the defect in order to fulfil either of the following:
 - (i) a contractual obligation entered into before the acceptance of the customs declaration;
 - (ii) a statutory obligation applicable to the goods;
 - (c) the adjustment is made within a period of 1 year following the date of acceptance of the customs declaration.

Article 133

Valuation of conditions and considerations

(Article 70(3)(b) of the Code)

Where the sale or price of imported goods is subject to a condition or consideration the value of which can be determined with respect to the goods being valued, such value shall be regarded as part of the price actually paid or payable, unless those conditions or considerations relate to either of the following:

- (a) an activity to which Article 129(2) of this Regulation applies;
- (b) an element of the customs value under Article 71 of the Code.

Article 134

Transactions between related persons

(Article 70(3)(d) of the Code)

- (1) Where the buyer and the seller are related, and in order to determine whether such relationship did not influence the price, the circumstances surrounding the sale shall be examined as may be necessary, and the declarant shall be given an opportunity to supply further detailed information as may be necessary about those circumstances.
 - (2) However, the goods shall be valued in accordance with Article 70(1) of the Code where the declarant demonstrates that the declared transaction value closely approximates to one of the following test values, determined at or about the same time:
 - (a) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to the customs territory of the Union;
 - (b) the customs value of identical or similar goods, determined in accordance with Article 74(2)(c) of the Code;
 - (c) the customs value of identical or similar goods, determined in accordance with Article 74(2)(d) of the Code.
-

(3) When establishing the value of identical or similar goods referred to in paragraph 2, account shall be taken of the following elements:

- (a) demonstrated differences in commercial levels;
 - (b) quantity levels;
 - (c) the elements listed in Article 71(1) of the Code;
 - (d) costs incurred by the seller in sales in which he and the buyer are not related, where such costs are not incurred by the seller in sales between related persons.
- (4) The test values listed in paragraph 2 are to be used at the request of the declarant. They shall not substitute for the declared transaction value.

Article 135

Goods and services used for the production of the imported goods

(Article 71(1)(b) of the Code)

(1) Where a buyer supplies any of the goods or services listed in Article 71(1)(b) of the Code to the seller, the value of those goods and services shall be deemed to be equal to their purchasing price. The purchasing price shall include all the payments which the buyer of the goods or services listed in Article 71(1)(b) is required to make to acquire the goods or services.

Where those goods or services were produced by the buyer or a person related to him, their value shall be the cost of producing them.

(2) Where the value of the goods and services listed in Article 71(1)(b) of the Code cannot be determined in accordance with paragraph 1, it shall be determined on the basis of other objective and quantifiable data.

(3) Where the goods listed in Article 71(1)(b) of the Code have been used by the buyer before they were supplied, their value shall be adjusted to take account of any depreciation.

(4) The value of the services referred to in Article 71(1)(b) of the Code, shall include the costs of unsuccessful development activities insofar as those were incurred in respect of projects or orders relating to the imported goods.

(5) For the purposes of Article 71(1)(b)(iv) of the Code, the costs of research and preliminary design sketches shall not be included in the customs value.

(6) The value of the goods and services supplied, as established in accordance with paragraphs 1 to 5 shall be apportioned pro rata over the imported goods.

Article 136

Royalties and licence fees

(Article 71(1)(c) of the Code)

-
- (1) Royalties and licence fees are related to the imported goods where in particular, the rights transferred under the licence or royalties agreement are embodied in the goods. The method of calculation of the amount of the royalty or licence fee is not the decisive factor.
- (2) Where the method of calculation of the amount of royalties or licence fees derives from the price of the imported goods, it shall in the absence of evidence to the contrary be assumed that the payment of those royalties or licence fees is related to the goods to be valued.
- (3) If royalties or licence fees relate partly to the goods being valued and partly to other ingredients or component parts added to the goods after their importation, or to post-importation activities or services, an appropriate adjustment shall be made.
- (4) Royalties and licence fees are considered to be paid as a condition of sale for the imported goods when any of the following conditions is met:
- (a) the seller or a person related to the seller requires the buyer to make this payment;
 - (b) the payment by the buyer is made to satisfy an obligation of the seller, in accordance with contractual obligations;
 - (c) the goods cannot be sold to, or purchased by, the buyer without payment of the royalties or license fees to a licensor.
- (5) The country in which the recipient of the royalties or licence fees payment is established is not a material consideration.

Article 137

Place where goods are brought into the customs territory of the Union

(Article 71(1)(e) of the Code)

- (1) For the purposes of Article 71(1)(e) of the Code, the place where goods are brought into the customs territory of the Union shall be:
- (a) for goods carried by sea, the port where the goods arrive first in the customs territory of the Union;
 - (b) for goods carried by sea into one of the French overseas departments which are part of the customs territory of the Union, and carried directly to another part of the customs territory of the Union, or vice versa, the port where the goods arrive first in the customs territory of the Union, provided that they were unloaded or transhipped there;
 - (c) for goods carried by sea and then, without transshipment, by inland waterway, the first port where unloading can take place;
 - (d) for goods carried by rail, inland waterway, or road, the place where the customs office of entry is situated;
 - (e) for goods carried by other modes of transport, the place where the frontier of the customs territory of the Union is crossed.
-

(2) For the purposes of Article 71(1)(e) of the Code, where the goods are brought into the customs territory of the Union and then carried to a destination in another part of that territory through territories outside of the customs territory of the Union, the place where the goods are brought into the customs territory of the Union shall be the place where goods were first brought into that customs territory, provided that the goods are carried directly through those territories by a usual route to the place of destination.

(3) Paragraph 2 shall also apply where the goods have been unloaded, transhipped or temporarily immobilised in territories outside of the customs territory of the Union for reasons relating solely to their transport.

(4) Where the conditions laid down in paragraphs 1(b), 2 and 3 are not fulfilled, the place where goods are brought into the customs territory of the Union shall be the following:

(a) for goods carried by sea, the port of unloading;

(b) for goods carried by other means of transport the place specified in points (c), (d) or (e) of paragraph 1 situated in that part of the customs territory of the Union to which the goods are consigned.

Article 138

Transport costs

(Article 71(1)(e) of the Code)

(1) Where goods are carried by the same means of transport to a point beyond the place where they are brought into the customs territory of the Union, transport costs shall be assessed in proportion to the distance to the place where the goods are brought into the customs territory of the Union in accordance with Article 137 of this Regulation, unless evidence is produced to the customs authorities to show the costs that would have been incurred under a standard schedule of freight rates for the carriage of the goods to the place where goods are brought into the customs territory of the Union.

(2) Air transport costs, including air express delivery costs, to be included in the customs value of goods shall be determined in accordance with Annex 23-01.

(3) Where transport is free of charge or provided by the buyer, the transport costs to be included in the customs value of the goods shall be calculated in accordance with the schedule of freight rates normally applied for the same modes of transport.

Article 139

Charges levied on postal consignments

(Article 70(1) of the Code)

Postal charges levied up to the place of destination in respect of goods sent by post shall be included in the customs value of these goods, with the exception of any supplementary postal charge levied in the customs territory of the Union.

Article 140

Non-acceptance of declared transaction values

(Article 70(1) of the Code)

(1) Where the customs authorities have reasonable doubts that the declared transaction value represents the total amount paid or payable as referred to in Article 70(1) of the Code, they may ask the declarant to supply additional information.

(2) If their doubts are not dispelled, the customs authorities may decide that the value of the goods cannot be determined in accordance with Article 70(1) of the Code.

Article 141

Customs value of identical or similar goods

(Article 74(2)(a) and (b) of the Code)

(1) When determining the customs value of imported goods in accordance with Article 74(2)(a) or (b) of the Code, the transaction value of identical or similar goods in a sale at the same commercial level and in substantially the same quantities as the goods being valued shall be used.

Where no such sale is found, the customs value shall be determined having regard to the transaction value of identical or similar goods sold at a different commercial level or in different quantities. This transaction value should be adjusted to take account of differences attributable to commercial level and/or quantity.

(2) An adjustment shall be made to take account of significant differences in costs and charges between the imported goods and the identical or similar goods in question due to differences in distances and modes of transport.

(3) Where more than one transaction value of identical or similar goods is found, the lowest of those values shall be used to determine the customs value of the imported goods.

(4) 'Identical goods' and 'similar goods', as the case may be, do not include goods which incorporate or reflect engineering, development, artwork, design work, plans or sketches for which no adjustment has been made under Article 71(1)(b)(iv) of the Code because such work was undertaken in the Union.

(5) A transaction value for goods produced by a different person is to be taken into account only when no transaction value can be found for identical or similar goods produced by the person who produced the goods being valued.

*Article 142***Deductive method**

(Article 74(2)(c) of the Code)

(1) The unit price used to determine the customs value under Article 74(2)(c) of the Code shall be the price at which the imported goods or imported identical or similar goods are sold in the Union, in the condition as imported, at or about the time of importation of the goods being valued.

(2) In the absence of a unit price as referred to in paragraph 1, the unit price used shall be the price at which the imported goods or imported identical or similar goods are sold in the conditions as imported in the customs territory of the Union at the earliest time after the importation of the goods to be valued and in any case within 90 days of that importation.

(3) In the absence of a unit price as referred either to paragraphs 1 and 2, at the request of the declarant the unit price at which the imported goods are sold in the customs territory of the Union after further working or processing shall be used, due allowance being made for the value added by such working or processing.

(4) The following sales shall not be taken into account for the purposes of determining the customs value under Article 74(2)(c) of the Code:

(a) sales of goods at a commercial level other than the first after importation;

(b) sales to related persons;

(c) sales to persons who directly or indirectly supply, free of charge or at reduced cost, the goods or services listed in Article 71(1)(b) of the Code for use in connection with the production and sale for export of the imported goods;

(d) sales in quantities which are not sufficient to allow the unit price to be determined.

(5) When determining the customs value, the following shall be deducted from the unit price determined in accordance with paragraphs (1) to (4):

(a) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses (including the direct and indirect costs of marketing the goods in question) in connection with sales in the customs territory of the Union of imported goods of the same class or kind which are goods that fall within a group or range of goods produced by a particular industrial sector;

(b) usual costs of transport and insurance and associated costs incurred within the customs territory of the Union;

(c) import duties and other charges payable in the customs territory of the Union by reason of the import or sale of the goods;

(6) The customs value of certain perishable goods as referred to in Annex 23-02 imported on consignment may be directly determined in accordance with Article 74(2)(c) of the Code. For this purpose the unit prices shall be notified to the Commission by the Member States and

disseminated by the Commission via TARIC in accordance with Article 6 of Council Regulation (EEC) No 2658/87 (1).

Such unit prices may be used to determine the customs value of the imported goods for periods of 14 days. Each period shall start on a Friday.

The unit prices shall be calculated and notified as follows:

(a) after the deductions provided for in paragraph 5 unit price per 100 kg net for each category of goods shall be notified by the Member States to the Commission. Member States may fix standard amounts for the costs referred to point (b) of paragraph 5, which shall be made known to the Commission;

(b) the reference period for determining unit prices shall be the preceding period of 14 days which ends on the Thursday preceding the week during which new unit prices are to be established;

(c) Member States shall notify the unit prices in euro to the Commission not later than 12.00 on the Monday of the week in which they are to be disseminated by the Commission. Where that day is not a working day, notification shall be made on the working day immediately preceding that day. Unit prices shall only apply if this notification is disseminated by the Commission.

Article 143

Computed Value method

(Article 74(2)(d) of the Code)

(1) In applying Article 74(2)(d) of the Code, the customs authorities may not require or compel any person not established in the customs territory of the Union to produce for examination, or to allow access to, any account or other record for the purposes of determining the customs value.

(2) The cost or value of materials and fabrication referred to in Article 74(2)(d)(i) of the Code shall include the cost of elements specified in Article 71(1)(a) (ii) and (iii) of the Code. It shall also include the apportioned cost of any product or service specified in Article 71(1)(b) of the Code which has been supplied directly or indirectly by the buyer for use in connection with the production of the goods being valued. The value of elements specified in Article 71(1)(b)(iv) of the Code which are undertaken in the Union shall be included only to the extent that those elements are charged to the producer.

(3) The cost of production includes all expenditure incurred in creating, adding to or substantially enhancing economic goods. It also includes the costs specified in Article 71(1)(b)(ii) and (iii) of the Code.

(4) The general expenses referred to in Article 74(2)(d)(ii) of the Code, cover the direct and indirect costs of producing and selling the goods for export which are not included under Article 74(2)(d)(i) of the Code.

*Article 144***Fall-back method**

(Article 74(3) of the Code)

(1) When determining the customs value under Article 74(3) of the Code, reasonable flexibility may be used in the application of the methods provided for in Articles 70 and 74(2) of the Code. The value so determined shall, to the greatest extent possible, be based on previously determined customs values.

(2) Where no customs value can be determined under paragraph 1, other appropriate methods shall be used. In this case the customs value shall not be determined on the basis of any of the following:

- (a) the selling price within the customs territory of the Union of goods produced in the customs territory of the Union;
- (b) a system whereby the higher of two alternative values is used for customs valuation;
- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production, other than computed values which have been determined for identical or similar goods under Article 74(2)(d) of the Code;
- (e) prices for export to a third country;
- (f) minimum customs values;
- (g) arbitrary or fictitious values.

*Article 145***Supporting documents regarding customs value**

(Article 163(1) of the Code)

The invoice which relates to the declared transaction value is required as a supporting document.

*Article 146***Currency conversion for customs valuation purposes**

(Article 53(1)(a) of the Code)

(1) In accordance with Article 53(1)(a) of the Code, the following rates of exchange shall be used for currency conversion for customs valuation purposes:

- (a) the rate of exchange published by the European Central Bank, for the Member States whose currency is the euro;
-

(b) the rate of exchange published by the competent national authority or, where the national authority has designated a private bank for the purposes of publishing the rate of exchange, the rate published by that private bank, for the Member States whose currency is not the euro.

(2) The rate of exchange to be used in accordance with paragraph (1) shall be the rate of exchange published on the second last Wednesday of each month.

Where no rate of exchange has been published on that day, the most recently published rate shall apply.

(3) The rate of exchange shall apply for a month, beginning on the first day of the following month.

(4) Where a rate of exchange has not been published as referred to in paragraphs 1 and 2, the rate to be used for the application of Article 53(1)(a) of the Code shall be determined by the Member State concerned. This rate must reflect the value of the currency of the Member State concerned as closely as possible.

2. Determining the VAT base of imported goods

Of similar importance to the customs value is the determination of the VAT base, which shall be carried out in accordance with the following provisions of Act CXXVII of 2007 on value-added tax:

Section 74 (1) Where goods are imported, the tax base shall be the customs value of the imported goods, determined in accordance with the customs legislation in effect at the time of tax payment.

(2) Notwithstanding paragraph (1), where a user of a work service, as an importer, imports goods that were temporarily exported from the Community in order to carry out work, without selling such goods prior to the import, the tax base shall be

(a) the fee paid or payable in return for the work service concerned, or

(b) the increment in value, as a result of the work concerned, of the imported goods, expressed in monetary terms, where the fee according to point (a) cannot be ascertained at the latest by the actual date of import or if its monetary value is lower than the increase in the value of goods as a result of the work concerned.

Section 75 (1) Where goods are imported, the tax base of imported goods shall include the following, provided that they are otherwise not included in the value determined according to Section 74:

(a) taxes, customs duties, duties, contributions, levies and other mandatory payments that are incurred outside the importing Community Member State on the one hand and that have been imposed in connection with the import of the goods, other than the tax provided for in this law;

(b) incidental expenses incurred within the importing Community Member State up to the first place of destination, including in particular: commission or other intermediary expenses and packaging, transportation and insurance costs.

(2) In the event that, at the time of tax payment, there is a place of destination within the Community other than the first place of destination referred to in point (1)(b) above, the incidental expenses incurred up to such additional place of destination shall also be added to the tax base.

(3) For the purposes of this Section, the first place of destination shall be the place so specified in the waybill or other document accompanying the imported goods. In the absence of such clear indication, or where the first place of destination cannot be clearly defined, the first place of destination shall be the place where the goods are first unloaded or transferred within the importing Community Member State.

Section 76 For imported goods, the tax base shall not include:

(a) discounts granted until the payment of tax taking into account the payment of the purchase price earlier than the original due date of payment; and

(b) discounts granted until the payment of tax taking into account the quantity of products purchased earlier.

Section 3 Origin issues

Determining the origin of goods during export and import customs procedures is significant for the following reasons:

Export customs procedures

3.1 In export customs procedures, the exporter may request a proof of the preferential customs status of goods with a view to enabling that a preferential tariff be applied to the goods during their import to the importing country.

3.2 The CLIENT shall acknowledge that EUR1/EURMED movement certificates, invoice declarations, origin declarations, origin marking declarations and the regularity of the issue of the supplier's declaration issued as the proof of preferential origin may be examined by the customs authorities. In the event the falsity of data it is ascertained by such subsequent review, the exporter or the supplier shall pay, for each proof of origin, a customs administration penalty of one percent of the sale price or, in the absence of the latter, of the value of goods as determined by the customs authority, or HUF 50,000, whichever is higher, up to HUF 1 million. In the case of a long-term supplier's declaration, the customs administration penalty imposed shall amount to between HUF 500,000 and HUF 1million for each supplier's declaration. In the absence of the above, the customs administration penalty imposed shall amount to one percent of the value of the goods or HUF 100,000, whichever is higher, up to HUF 1 million for organisations and HUF 100,000 for natural persons.

Import customs procedures

3.3 In import customs procedures, the importer may request the application of a preferential tariff if it submits an origin certificate or a proof of customs union status (EUR1/EURMED, FORM A, invoice declaration, origin declaration, origin marking declaration, A.TR) according to the relevant Community legislation or preferential or free trade agreement.

3.4 The CLIENT shall acknowledge that EUR1/EURMED movement certificates, FORM A origin declarations, invoice declarations, origin declarations, origin marking declarations and A.TR movement certificates may be examined by the customs authorities. In the event the falsity of data it is ascertained by such subsequent review and/or the authenticity of the proof of origin cannot be confirmed, the difference between the customs dues calculated in application of the general tariff and the preferential tariff shall be paid and a customs administration penalty may be imposed.

The preferential agreements in effect are published on the website of the National Tax and Customs Administration:

http://nav.gov.hu/nav/vam/vaminformaciok/szarmazas/szarmazas_2014.html

Section 4 Issues related to customs union and/or Community status

Regarding the certification of customs union and/or Union status, the CLIENT shall act in accordance with the relevant customs union agreements (e.g. Turkey, San Marino, Andorra) and the applicable Union legislation.

Supporting documents:

- T2L: form providing evidence of Community status of the goods.
- T2LF: form establishing the Community status of goods consigned to, or from, a part of the customs territory of the Community where the provisions of Directive 77/388/EEC do not apply.
- T2LSM: form establishing the status of goods destined for San Marino in application of Article 2 of Decision 4/92 of the EEC-San Marino Cooperation Committee of 22 December 1992.
- A.TR Movement Certificate: form establishing the Community/Turkish status of goods under the Customs Union Agreement between the EU and Turkey.

The customs union agreements in effect are published on the website of the National Tax and Customs Administration:

http://nav.gov.hu/nav/vam/vaminformaciok/szarmazas/szarmazas_2014.html

Section 5 Tariff classification of goods

The tariff classification of goods is an essential condition of the regular application of customs and other Union and national measures. Incorrect classification may result in the underpayment or overpayment of customs duties or the imposition of a customs administration penalty.

The import and export duties applied by the European Union are based on the Common Customs Tariff.

The Common Customs Tariff includes the following elements:

- (a) the Combined Nomenclature of goods as laid down by Council Regulation (EEC) No 2658/87;
 - (b) any other nomenclature which is wholly or partly based on the Combined Nomenclature or which provides for further subdivisions to it, and which is established by Community provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;
 - (c) the conventional or normal autonomous import duties applicable to goods covered by the Combined Nomenclature;
-

-
- (d) the preferential tariff measures contained in agreements which the Union has concluded with certain countries or territories outside the customs territory of the Union or groups of such countries or territories;
- (e) preferential tariff measures adopted unilaterally by the Union in respect of certain countries or territories outside the customs territory of the Union or groups of such countries or territories;
- (f) autonomous measures providing for a reduction in, or exemption from, customs duty on certain goods;
- (g) favourable tariff treatment specified for certain goods, by reason of their nature or end-use, in the framework of measures referred to under points (c) to (f) or (h);
- (h) other tariff measures provided for by agricultural or commercial or other Union legislation.

The practical applicability of the Common Customs Tariff is ensured via TARIC:

- DG TAXUD: http://ec.europa.eu/taxation_customs/dds2/taric/taric_consultation.jsp
- NAV: <http://kkk.nav.gov.hu/eles/1/taricweb/>

The tariff classification of goods is facilitated by the following:

- Explanatory Notes to the Harmonized Commodity Description and Coding System,
- the Classification Opinions of the Harmonized System Committee of the Customs Cooperation Council.

http://nav.gov.hu/nav/vam/vaminformaciok/aruosztalyozsa/tarifalis_vonatkozasu/4010_2015_tajakoztat20150911.html

Section 6 Decisions concerning binding information

Operators may request the customs authority to provide binding information concerning the following:

the classification of goods: binding tariff information (KTF/BTI)

the determination of origin: binding origin information (KTF/BOI)

The information, issued in the form of a decision, shall be binding for both the customs authority and operators, i.e. their application in customs procedures is binding within the term of their validity. In the customs procedure, the identification number of the relevant decision shall be specified in the declaration.

The CLIENT shall acknowledge that if it has received a KTF/BTI and/or KTF/BOI decision for the goods subject to customs clearance, a copy of such decision(s) shall be handed over to the Agent prior to customs clearance. The Client shall bear all consequences for its failure to comply with the above obligation.
