

D e c i s i o n

30 October 2012

No. 202

Moscow

On 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)

In accordance with paragraph 3 Article 1 of the Agreement "On the Determination of Customs Value of Goods, Transferring Across Customs Border of the Customs Union" of 25 January 2008 the Collegium of the Eurasian Economic Commission has decided:

1. To approve the Rules of application of the rules on determination of customs value of goods according to the transaction value of identical goods (method 2) and according to the

APPROVED
by Decision of the Collegium of
the Eurasian Economic Commission
202 of 30 October 2012

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)

I. General provisions

1. These rules shall be used in the application of the methods on determination of customs value of goods established by Articles 6 and 7 of the Agreement "On the Determination of Customs Value of Goods, Transferring Across the Customs Border of the Customs Union" of 25 January 2008 (hereinafter the Agreement).

2. These rules are based on the provisions of the Agreement, the Agreement on Implementation of Article()Tj Eople Ation of Article of range Across

grounds for recognition of goods as non-identical, in other respects these goods meet the requirements of this paragraph and the first paragraph of this provision;

similar goods - goods that are not identical in all respects, but have similar characteristics and consist of similar components, made of the same materials, allowing them to perform the same functions as estimated (imported) goods, to be commercially interchangeable. In determining whether the goods are similar, such factors as quality, reputation and existence of a trademark shall be considered;

goods shall not be regarded as identical or similar, if they are not made in the same country as estimated (imported) goods, or if engineering, development, artwork, design work, and plans and sketches, and other similar work were carried out in relation to these goods in the customs territory of the Customs Union. The term "produced" in relation to goods also means

In this case, a significant factor in determining the identity of the goods is the presence of the famous fashion brand, which affects the reputation of the product on the market. Name of a famous fashion designer provides for a different level of prices and other market unlike the dresses of the second lot, produced under the not so famous fashion brand. In this regard, dresses from the first lot and dresses from the second lot cannot be considered identical or similar.

Example 5. Rubber tires, identical in type (winter tires), size, speed rating, load index, made by two different manufacturers in the same country are imported into the customs territory of the Customs Union. However, each manufacturer has its own trademark. However, the tires produced by these manufacturers are made in accordance with the same standard, have the same quality, the same reputation in the market and are used for the production of cars in the customs territory of the Customs Union.

Due to the fact that these rubber tires are manufactured under different trademarks, they are not identical in all respects and cannot be considered as identical. However, the rubber tires have the same characteristics and the same reputation in the market, which gives them the ability to perform the same functions and to be commercially interchangeable. Thus, given the fact that rubber tires are manufactured in accordance with the same standard, of the same material and enjoy the same reputation in the market and are commercially interchangeable, they can be considered similar.

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Car assembly operations in this case do not meet the criteria for sufficient processing. In this regard, the country of origin of the car, assembled in Turkey, is Germany and a country of manufacture is Turkey. Thus, whereas these vehicles are produced in different countries (one in Turkey and one in Germany), they are neither identical nor similar.

III. Conditions of application of method 2 and method 3

goods and for identical or similar goods are similar should be considered, i.e. market conditions of these goods should be considered.

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After identifying a transaction conforming to one of these conditions, appropriate value adjustments should be made in respect of a quantity factor, or only commercial level factors, or both the quantity and commercial level factors.

The expression "and (or)" for purposes of these Rules allows flexibility to use the sales and make the necessary adjustments if any of these conditions are fulfilled.

15. The existence of differences in commercial levels of sales and (or) in the quantities of goods does not require adjustment. Adjustment is necessary, if the differences affect the price of goods as such. If the price difference is due to differences in commercial levels of sales and (or) in the quantities of goods, the adjustment is made in order to bring prices of compared goods to a comparable form.

Adjustment of the transaction value of identical or similar goods is carried out on the basis of reliable data that clearly establishes the reasonableness and accuracy of the adjustments regardless whether it leads to an increase or decrease in the value. Thus, the adjustment of the transaction value of identical or similar goods in relation to the differences in commercial levels of sales may be carried out only in presence of a valid price list containing prices referring to different levels of commercial sales.

Example. Evaluated (imported) goods are supplied in quantities of 10 units, and identical or similar goods, the customs value of which has been determined according to method 1 and accepted by the customs body were supplied in quantities of 500 units. Under the terms of the purchase and sale contract of these products and documentary proven that the seller offers discounts for quantity (for example, a price list was attached to the contract).

In this case, the necessary transaction value adjustment can be carried out using the specified price list from which the selling price of goods in quantities of 10 units should be chosen. There is no need to search for sales of identical or similar goods in quantity of 10 units, if the current price list is compiled in such a way that the same price is fixed in relation to determining the range of products, such as 1 to 100 units.

16. The transaction value adjustment of identical or similar goods is also carried out in case of a significant difference in the costs referred to in subparagraphs 4 – 6 of paragraph 1 of Article 5 of the Agreement, as follows:

- a) carriage (transportation) costs of goods to the airport, seaport or other place of arrival of the goods into the customs territory of the Customs Union;
- b) loading unloading and handling charges of goods and conduct other operations associated with carriage (transportation) of goods to the airport, seaport or other place of arrival of the goods into the customs territory of the Customs Union;
- c) the cost of insurance in connection with these transactions.

Example. The export country has a large territory and estimated goods are imported into the customs territory of the Customs Union from the border region of the country, and identical or similar goods are imported from the region, which has a long distance from the border of the export country.

In this case, the carriage (transportation) costs of estimated (imported) goods and identical or similar goods are quite different.

In some seaports, through which the goods are exported or imported, higher seaport charges are collected for services related to the use of infrastructure, safety and order of navigation in the seaports than in others. Costs for loading, unloading and handling of goods at seaports, paying mooring, parking at the dock on the roads and etc. can be different.

Depending on the type of transport estimated (imported) and identi