

## Approaches to the Identification and Control of Customs Value of Goods in the Customs Union Countries

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**Abstract:** This article takes a look at the approaches to the definition of customs value, existing in the world. As a result of the analysis of systems of identification and control of customs value, existing in Russia, as a member of the Customs Union, the author comes to the conclusion that the system of defining customs value is based on the concept of actual value and the foundation of current system of control of customs value (using risk management system) is based on the control indicator which shows the application of the concept of the "normal" value. The author believes that revealed methodological inconsistency leads to the imperfections of the current practice of control of customs value.

**Key words:** Customs value • Customs value control • Actual value • Risk management system

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### INTRODUCTION

Analysis of economic essence of customs value and approaches to the organization of its control allows to tell about not corresponding of systems for determining customs value of goods and its control that exist at present, which leads to numerous litigation.

### MATERIALS AND METHODS

**Analysis of World Systems for Determining Customs Value of Goods:** Currently, the majority of countries participating in foreign trade (the WTO all participating countries), uses a system for determining customs value, based on the Agreement on implementation of article VII of the General Agreement on tariffs and trade (the GATT).

The author will consider briefly the development of theoretical approaches to the definition of customs value, more precisely to the unification of its definition.

Foundation of the unification of customs value became the article VII of GATT 1947 (the 1947-- GATT) «Evaluation of goods for customs purposes», where three basic principles of a modern system for determining customs value of goods were presented:

- Goods are subject to customs payments, based on their actual value expressed in the invoice (the contract) price with the addition of the transaction costs incurred;
- In order to determine the taxable base for calculation of customs payments, "actual value" of the goods must correspond to "ordinary competitive price", i.e., discounts and other reductions (with the exception of discounts for quantity of goods) should be taken into account in its structure;
- The price transactions between related persons can not be taken for the purpose of determining of customs value.

However, article VII of the GATT-- 1947 set only general provisions of customs valuation, at the same time simultaneously laying the possibility for different interpretations and variant reading. So, the first two positions are contradictory to each other. Variant reading and contradiction in the first two statements led to the establishment in 1950, the Brussels system for determining customs value (the Brussels Definition of Value), which was the following.

In order to determine the customs value for each item "normal market price" (normal market price) was introduced. The "normal market price" means a price that could be made for the goods when they are sold on the open market between independent of each other buyer and seller [1].

It should be noted that the Brussels system permitted deviation of actual prices from the "normal value" within 10% of the value specified in the list of "normal values" [2].

Thus, along with the Brussels system there was a list of "normal values", with which the declared customs value of imported goods was compared.

There are also the reasons of moving from the Brussels customs valuation system [3] it was rejected as expensive (as much money was spent on searching for information about "normal value" of the goods). In addition, price changes and the competitive advantages of firms were not included in normal price until after a certain time period, the normal price would be adjusted by Customs authorities. And very often the customs officials were not aware of the price of new and rare products, which made the defining of "normal price" extremely difficult.

Further development of the system of determining of customs value led to the signing of the Agreement on implementation of article VII of the GATT-- 1994 "Evaluation of goods for customs purposes", otherwise referred to as the GATT customs valuation code. His basic position is to use the "transaction value of imported goods" in order to determine the customs value of "actual value".

According to the World Customs Organization in June 2011 year 8 States acceded to the Convention, as opposed to the 153 members of Agreement [4].

**The Analysis of System of Determining and Control of Customs Value of Countries of the Customs Union:** Having described in brief the necessary theoretical basis, let's move on to the analysis of the approaches to the determining and control of the customs value in the countries of the Customs Union.

It is known that the methodology for determining the customs value of the participating countries of the Customs Union is based entirely on the concept of "real prices"-art. VII of the GATT - 1994. So, in the main document regulating the procedure for the determination of the customs value,-the agreement between the Government of the Republic of Belarus, the Government

of the Republic of Kazakhstan and the Government of the Russian Federation from January 25, 2008 year "About determination of the customs value of goods being moved across the customs border of the Customs Union" -is stated that it is based on the principles and general rules laid down in the article VII of the General Agreement on tariffs and trade of 1994 (GATT 1994) and the Agreement on implementation of article VII of the General Agreement on tariffs and Trade of 1994 [5].

Thus, in Russia, as in all the Member countries of the Customs Union, the customs value is determined on the basis of "actual value". The main method of determining customs value is the method of transaction value of imported goods, when the customs value shall be the price actually paid or should be paid. Only if it is not possible to apply this method, the customs value shall be determined in accordance with other methods.

Next point of further study is the system of control of customs value of goods existing currently.

At the control of customs value, as well as with the other types of customs control, the risk management system is used. Its use for the control of customs value is based on a comparison of the declared value of a particular indicator – «an indicator of risk», ITS (index of customs value). So, according to the Federal Customs Service of the Russian Federation [6] for the year 2013 the following number of customs cost control risk profiles was applied:

--all-Russia: 136;  
--Regional: 18;  
--zoned: 29;  
--target: 1276;

Only 13% declarations for goods (580 thousand units) fell to risk cost profiles.

On the basis of the nature of the risk management system, we can say that such cost indicators of risk (price for the physical characteristics of the goods, index of the customs value) is "the normal price of the goods" within the meaning of the Brussels system Thus, in the application of the risk management system under the control of customs value of goods an official compares the stated value of the customs value of the goods and a "normal" amount of customs value (specified in the risk profile). These amounts in the Russian Federation, in contrast to other countries the Customs Union [3], are information for official use only.

Naturally, in order to determine the "normal price", which is an indicator of risk, it is necessary to carry out analytical activities in searching for information that leads to the same consequences, as when using "normal price" of the Brussels system: the rise of costs of such analytical activities and the prices of new and rare products may not be available.

Currently, the FCS of the Russian Federation pays great attention to the analytical component of the control of customs value. When analyzing the received price information, the Customs authorities apply specific techniques for identifying risks, as well as the method of expert evaluation [6]. The FCS of the Russian Federation organized the interaction with the business community to obtain information to conduct control of customs value. It also organized the continuous interaction with some associations.

However, the mere detection of low levels of the declared customs value does not lead to its further adjustment, as it would be when using the Brussels customs valuation system. The Customs authorities need to prove that it is impossible to use the declared information on customs value.

The legislation of the Russian Federation states explicitly that "the discrepancy between the declared by the declarant (customs agent) customs value and available at a customs body price information is not the basis for the adoption by the Customs authorities the decision on the adjustment of customs value of goods" [7], that is, the deviation of the price of the goods from" the control level "does not in itself constitute grounds for a decision on the adjustment of customs value.

In addition, use of the Customs risk-management system in itself in accordance with the current legislation would not result in the adjustment of customs value, extra charging and recovery of customs duties. After all the grounds for the adjustments are not deviation of the customs value declared by the declarant from the price information, available at the customs body. But the following reasons [8, 9]:

- technical errors;
- wrong method of determining customs value;
- inaccurate information;
- found inconsistency of declared goods information in the Declaration to actual data, established by the customs body;
- found inconsistency of declared customs value and its components presented in their confirmation documents;
- identification of technical errors.

A customs body monitors, detects low cost and cannot change (edit) it only on the ground that the claimed cost is below available at a customs body information. The customs body has to carry out a series of test activities to verify the validity and accuracy of the declared information. Such verification activities may not lead to a change in the customs value.

There are cases of application of different schemes of evasion of customs duties, where the verification activities lead to the proof of the validity of the transaction, that is, if there is no irrefutable proof of inauthenticity of the contract, declared low cost must be accepted by a customs body.

However, we believe that a comparison of the declared customs value with price information available at the customs body (that is, the application of the Brussels customs valuation system) really is the only way to assess the reliability of the declared data on customs value.

It is known that the objective of the control of customs value is- fair declaration of the customs value. Let's look at which of the systems the probability of false statements of data on customs value is less. It is obvious that when applying the Brussels system to determine the customs value the probability of a false declaration of customs value is minimum, as the Customs authorities have the right to correct customs value declared by a participant of foreign economic activity. And in the application of the system of "actual value" probability of declaring of unreliable data on customs value rises greatly, as the basis of the customs value is declared by a participant of foreign economic activity information on the value of transactions, specified in the contract. That is the reason of many ways to substitute contracts in other countries.

Analyzing the measures to improve the control of customs value, it can be concluded that the FCS of the Russian Federation aims to develop the analytical component of the control of customs value. So FCS highlights the following areas for improvement in the control of customs value using the risk management system [6]:

- Detailing of information about the product through the use of 4-th digit code additional customs information for the purposes of improving the detection of risks based on individual characteristics of the goods;
- Improvement of information and analytical systems of customs bodies, providing Customs risk-management systems at the control of the customs value;

- Development of information exchange with customs services of foreign states in order to obtain reliable information about the value of the goods for export to Russia.

This confirms the further application of the Brussels approach to the control of the customs value - declared customs value is compared with the existing price information.

However, the foregoing provisions on customs valuation system (based on the concept of "actual value") suggest that even with enormous effort on the part of the FCS of the Russian Federation, based on the development of the analytical component (search for price information) laid down the methodological inconsistency would not result in efficient control of customs value. This is confirmed by the practice of judicial decisions without the benefit of customs authorities.

### CONCLUSION

So, the use of risk management systems at the control of customs value is based on a comparison of the declared value of the rate specified in the risk profile (such an indicator could be called the "normal value") and the entire system of customs valuation is based on the actual value of the transaction".

Thus, in the activity of the Customs authorities of the Russian Federation for control of customs value, there is the application not of the Agreement of implementation of the art. VII of the GATT -1994, but of the Brussels system of customs valuation, that is, one may speak of a methodological fallacy of current practice of custom value control in the Russian Federation, namely: customs valuation system is based on the Agreement of implementation of the art. VII of the GATT 1994 and the system of customs value control (using Customs risk-management system)-the Brussels concept of "normal price".

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