

**LAW OF MONGOLIA
ON CUSTOMS TARIFF AND DUTIES**

**CHAPTER 1
GENERAL PROVISIONS**

Article 1. Purpose of the Law

1.1. The purpose of the Law is to regulate matters regarding determination of Customs tariff, value, classification and a country of origin of goods as well as levying, collection and payment of Customs duties and other taxes.

Article 2. Legislation on Customs Tariff and Duties

2.1. The legislation of Mongolia on Customs tariffs and duties consists of the General Law on Taxation of Mongolia¹, Customs Law², and this Law as well as other legal acts adopted in line with them.

2.2. If the provisions of any International Treaties of Mongolia differ from those specified in this Law, the former shall prevail.

Article 3. Definitions of Legal Terms

3.1. The terms used in this Law shall mean as follows:

3.1.1. "Customs tariff" shall mean a Customs duty rate;

3.1.2. "Customs duty" shall mean an amount of duties levied on, collected from or paid for goods entering or leaving the Customs territory, in line with the Customs tariff;

3.1.3. "other tax" shall mean an amount of tax imposed on, collected from or paid for goods entering or leaving the Customs territory, in compliance with other Laws;

3.1.4. "Customs value" shall mean a value determined according to the Law for the purposes of levying Customs duties or compiling Customs statistics;

3.1.5. "Harmonized Commodity Description and Coding System" (hereinafter referred to as "Harmonized System") shall mean a nomenclature comprising of Headings, Subheadings and National Subheadings and their related numerical

¹ The General Law on Taxation published in 'State Bulletin' in 2008 (22)

² The Customs Law of Mongolia published in 'State Bulletin' in 2008 (23)

codes, as well as notes to Sections, Chapters and Subheadings, and the General Rules for interpretation of the Harmonized System;

3.1.6. "Taxpayer" shall mean a person declaring goods crossing through the Customs frontier of Mongolia;

3.1.7. "About the same time" shall mean 90 days prior to declaration to Customs of the Customs value of imported goods being valued;

3.1.8. "Levying Customs duties and other taxes" shall mean an assessment of duties in accordance with this Law and other related legislation;

3.1.9. "Collection of Customs duties and other taxes" shall mean an accumulation by Customs into state revenue of taxes levied on in accordance with this Law and other related legislation;

3.1.10. "Payment of Customs duties and other taxes" shall mean a transfer by a taxpayer to relevant tax account of taxes levied on in accordance with this Law and other related legislation;

3.1.11. "Relief goods and aid" shall mean goods referred to in 4.1.11 of the Law on Value Added Tax³.

3.2. The other terms used in this Law in relation to Customs formalities shall mean the same as defined in the Customs Law of Mongolia.

CHAPTER 2

CUSTOMS TARIFF SYSTEM, THE TYPES OF CUSTOMS DUTIES AND THE CUSTOMS TARIFF COUNCIL

Article 4. Customs Tariff System, Adoption and Amendment to Tariffs

4.1. In Mongolia Customs tariffs are imposed and imported goods. In defining the Customs tariffs, the goods descriptions and respective classification codes shall be indicated according to the Harmonized System.

4.2. The Customs tariffs on imported goods consist of the basic tariffs and the most-favoured nation (MFN) tariffs. The basic tariffs rates twofold the MFN tariff rates.

4.3. The Customs tariffs on exported goods and the MFN tariffs for imported goods are adopted by the State Great Hural of Mongolia.

³ The Law on Value Added Tax published in 'State Bulletin' in 2006
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4.4. The MFN tariffs are applied for goods originated from the following countries:

4.4.1. a Member country to a Multilateral Treaty concerning Tariffs and Trade issues to which Mongolia has acceded;

4.4.2. a country with which it is agreed to apply preferential tariff rates according to international treaty other than that referred to in 4.4.1 of this Law;

4.4.3. other country for which it is considered to apply the MFN tariffs.

4.5. A list of countries to which the MFN tariffs are granted is enacted by the Government.

4.6. The basic tariffs are applied for goods originated from that country which is not included in a list referred to in 4.4 of this Law or goods which is originated from that country which is in that list but not accompanied by the certificate of origin.

4.7. Where the certificate of origin of goods originated from the country falling into the list referred to in 4.4 of this Law is lodged with Customs within 45 days after the Customs had permitted the goods to enter the Customs territory the MFN rate is applied. In that case, the excess Customs duty amount paid is refunded by Customs.

4.8. The Customs tariffs may be adopted on a temporary base. The temporary tariffs shall be applied for a period not exceeding 6 months per year.

4.9. The Customs tariffs may be adopted by reference to a specific frontier point.

Article 5. Types of Customs Duties

5.1. The Customs duties shall be of the following types:

5.1.1.ad valorem;

5.1.2.specific;

5.1.3.combination of those referred to in the 5.1.1 and 5.1.2 of this ;

5.1.4. combination of those referred to in the 5.1.1 and 5.1.2 of this , subject to quota either in value or in quantity; or

5.1.5. any of those referred to in the 5.1.1 and 5.1.2 of this , which entails higher Customs duty.

Article 6. Customs Tariff Council

6.1. A non-vacant Customs Tariff Council assigned to make conclusions and make proposals for creation of proper Customs duties and tariff system and adoption of adequate Customs duty rates shall be established and the Government of Mongolia shall approve its composition and charter.

6.2. The Chairman of the Customs Tariff Council specified in 6.1. of this Law shall be a Cabinet Member who is appointed and dismissed by the Cabinet and he/she shall have a vacant secretary.

6.3. In the Customs Tariff Council there shall be a representation of scholars, research workers as well as profit-making or non-profit legal bodys in addition to representation of central government agencies commissioned with Customs, taxation, budget, finance, foreign trade and sectorial issues.

CHAPTER 3 DECLARATION AND VERIFICATION OF CUSTOMS VALUE

Article 7. Determination and Declaration of Customs Value

7.1. Customs value shall, by a declarant, be determined on the basis of documents required for a specific Customs clearance procedure and declared to Customs. A declarant shall not use arbitrary or fictitious value.

7.2. A declarant is obliged to provide the Customs with a Customs valuation method chosen and documentary evidences for support of his determination of Customs value.

7.3. The documentary evidence referred to in 7.2 of this Law shall demonstrate quantifiable and objective data.

Article 8. Verification of Customs Value

8.1. The Customs shall check the Customs valuation method and whether a Customs value determined by a declarant is accurate and well grounded or not and make its own decision.

8.2. Where the documents supplied by declarant are not sufficient for verification of Customs value and decision-making, the Customs may require additional documents and information.

8.3. The Customs may, on the basis of objective data, choose to determine Customs value by a method other than that applied by a declarant where:

8.3.1. the documents used for determination of Customs value occur to be not valid, entries therein show discrepancy or are not complete or figures therein are insufficient; or

8.3.2. a declarant fails to prove the truth and accuracy of Customs value or the Customs considers a Customs value determined by a declarant as groundless.

8.4. The Customs and other taxes shall be assessed and charged to declarant at a value determined by Customs by other methods according to 8.3. of this Law.

8.5. In case where the Customs determined the Customs value, a declarant may get an explanation in writing upon a written request to Customs.

8.6. A declarant may, in contrary, refuse a value determined by Customs in case where he proved his declared value by presenting additional evidences within 45 days after the Customs declaration is validated.

8.7. A declarant may, if he declines a value determined by Customs, appeal in accordance with the Customs law.

8.8. A declarant shall be responsible for bearing any expenses incurred in the course of verification of Customs value.

8.9. Where a Customs procedure is changed the value determined in the declaration by which the goods placed under the previous Customs procedure upon their crossing the national frontier shall not be changed.

CHAPTER 4 DETERMINATION OF CUSTOMS VALUE OF IMPORTED GOODS

Article 9. Customs Valuation Methods of Imported Goods

9.1. In determining the Customs value of imported goods the following methods shall be applied in their sequences:

9.1.1. the transaction value method;

9.1.2. the transaction value method of identical goods;

9.1.3. the transaction value of similar goods;

9.1.4. the deductive method;

9.1.5. the computed method; or

9.1.6. the fall-back or residual method.

9.2. At the request of a declarant the sequence of methods set out in s 9.1.4 and 9.1.5 of this Law may be reversed.

9.3. In applying the methods set forth in 9.1.2, 9.1.3 or 9.1.6 of this Law it may take place a consultation between the Customs and a declarant.

Article 10. Transaction Value Method

10.1. The transaction value method is a principal method for Customs valuation of imported goods.

10.2. The transaction value of imported goods is the actual price directly or indirectly paid or payable to a seller for goods purchased from abroad.

10.3. In determining the Customs value by the transaction value method specified in 10.1. of this Law, the following costs or charges based on quantifiable and objective data on foreign trade, finance or accounting shall be included, provided that they are not included into the transaction value or that they are distinguished from the transaction value:

10.3.1. the following costs associated with transportation of the goods concerned up to the national frontier of Mongolia:

10.3.1.1. the cost of transport, expenses incurred with completion of transportation and exportation documents and charges for use or lease of means of transport or container;

10.3.1.2. loading, unloading, storage, transshipment and handling charges incurred in the course of transportation; or

10.3.1.3. the cost of insurance;

10.3.2. the commissions and brokerage, paid or payable by a buyer in connection with a purchase of the goods concerned, and the cost of containers or packings which are treated as being one with the goods in question;

10.3.3. the value, apportioned as appropriate, of goods, labour or services where supplied by the buyer to the seller or the producer directly or indirectly free of charge or at a reduced cost for use in connection with the production and exportation for Mongolia of the goods concerned;

10.3.4. royalties and licence fees paid or payable by the buyer as a condition of sale of the goods concerned;

10.3.5. the value of any part of the proceeds of any subsequent resale, disposal or use by the buyer of the goods that accrues directly or indirectly to the seller; and

10.4. In determining the Customs value by the transaction value method specified in 10.1. of this Law, the following costs or charges based on quantifiable and objective data on foreign trade, finance or accounting shall be excluded, provided that they are included into the transaction value or that they are distinguished from the transaction value:

10.4.1. charges for construction, erection, assembly, maintenance, technical assistance or training, undertaken after importation on imported goods such as industrial plant, machinery or equipment, etc.;

10.4.2. the cost of transport after importation; or

10.4.3. duties and taxes of the country of importation.

10.5. In case where there are involved different kinds of imported goods in one shipment across the national frontier the costs to be added to or deducted from the transaction value shall be distributed among each kind of goods in correspondence with their weight proportion against net weight of total shipment. Where the cost distribution by weight is impossible the volume or the price factor may be used.

10.6. The cases where buyer's rights with regard to use, disposition or resale of goods are restricted by the legislation of Mongolia or the geographical area in which the imported goods may be resold is limited or the restrictions do not substantially effect the value of the imported goods being valued shall not preclude to the use of the transaction value method.

10.7. The transaction value method is not applied where the following conditions or considerations exist:

10.7.1. buyer's rights with regard to use, disposition or resale of goods are restricted on a ground other than that referred to in 10.6 of this Law;

10.7.2. there exists a transaction restricting buyer's rights related with use, disposition, resale or destruction of goods;

10.7.3. the sale or price is subject to some conditions or considerations for which a value cannot be determined with respect to the goods being valued;

10.7.4. the value of any part of the proceeds of any subsequent resale, disposal or use by the buyer of the goods that accrues to the seller cannot be determined;

10.7.5. a declarant failed to confirm and prove the truth or accuracy of data or calculations used in determination of Customs value by presenting appropriate foreign trade, financial or accounting documents.

10.7.6. the sale is made between related persons referred to in 10.7 of this Law and the transaction value does not closely approximate to the test value referred to in 10.8 of this Law.

10.8. The seller and buyer shall be deemed to be related if:

10.8.1. they work together with the same economic entity or organization;

10.8.2. they are employer and employee;

10.8.3. one of them directly or indirectly owns, controls or holds 5 per cent or more of the other's outstanding voting stock or shares;

10.8.4. one of them directly or indirectly controls the other;

10.8.5. both of them are directly or indirectly controlled by a third person;

10.8.6. together they directly or indirectly control a third person; or

10.8.7. they are members of the same family or relatives;

10.9. Where a value of the sale between related persons specified in 10.8. of this Law, depending on the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported and the differences in value, closely approximates to one of the following test values occurring at or about the same time, the transaction value method shall be used:

10.9.1. the transaction value in sales to unrelated buyers of identical or similar goods imported by the person specified in 10.8. of this Law;

10.9.2. the Customs value of identical or similar goods imported by the person specified in 10.8. of this Law, determined by the transaction value method and accepted by Customs.

10.10. In compare with the test values referred to in 10.8. of this Law, due account shall be taken with regard to commercial levels, quantity levels and the costs referred to in 10.2 and 10.3 of this Law.

Article 11. Transaction Value Method of Identical Goods

11.1. If the Customs value of the imported goods cannot be determined by the transaction value method, it shall be determined by the transaction value method of identical goods imported at the same time as the goods being valued or within a period referred to in 3.1.7 of this Law.

11.2. "The identical goods" shall be the goods which are the same as the goods being valued in the following features:

11.2.1. physical characteristics such as size, form, production or manufacturing methods or technical and other specifications;

11.2.2. quality, trademark and reputation;

11.2.3. country of origin; and

11.2.4. producer.

11.3. In determining the transaction value by the transaction value method of identical goods, the transaction value of the identical goods imported at the same commercial level and in approximately the same quantity shall be used.

11.4. Where the identical goods were imported in different quantity or at a different commercial level than those referred to in 11.3 of this Law, a declarant must, taking into account such differences, make appropriate adjustments and justify their grounds by documentary evidences.

11.5. Minor differences between the identical goods and the goods being valued in their physical characteristics shall not preclude to using the transaction value method of identical goods.

11.6. The transaction value of identical goods shall be the value accepted at Customs and may be adjusted depending on differences in distances of transportation and modes of transport. The adjustments shall be accompanied by supporting documents to justify their rationale and accuracy.

11.7. Where it is necessary to make adjustments to the accepted value referred to in 11.6 of this Law but it is impossible to make such adjustments or there are no documentary evidences to justify the adjustments, the transaction value method of identical goods shall not be used.

11.8. In determining the Customs value by the transaction value method of identical goods, the costs referred to in 10.2 of this Law shall be considered.

11.9. If more than one transaction value of identical goods are found possible, the lowest such value shall be chosen to determine the Customs value.

11.10. In determining the Customs value by the transaction value method of identical goods, the prices for the following goods shall not be used:

11.10.1. goods placed under Customs procedure other than the clearance for home use;

11.10.2. goods imported on governmental or non-governmental loans;

- 11.10.3. goods imported for governmental or non-governmental debt liquidation;
- 11.10.4. relief goods or aid;
- 11.10.5. goods imported by leasing;
- 11.10.6. goods imported by foreign investment;
- 11.10.7. large-scale maintenance equipment;
- 11.10.8. goods intended for international travels, tourism, competition or meetings;
- 11.10.9. samples, tests or probes;
- 11.10.10. exhibits; and
- 11.10.11. advertising materials.

Article 12. Transaction Value Method of Similar Goods

12.1. If the Customs value of the imported goods cannot be determined by the transaction value method of identical goods, it shall be determined by the transaction value method of similar goods imported at the same time as the goods being valued or within a period referred to in 3.1.7 of this Law.

12.2. "The similar goods" shall be the goods which, although not alike in all respects, have like characteristics and like component materials, perform the same functions and are commercially interchangeable with goods being valued.

12.3. In determining whether goods are similar, a quality, trademark, reputation and the country of origin of goods shall be considered.

12.4. In determining the transaction value by the transaction value method of similar goods, the transaction value of the similar goods imported at the same commercial level and in approximately the same quantity shall be used.

12.5. Where the similar goods were imported in different quantity or at a different commercial level than those referred to in 12.4 of this Law, a declarant must, taking into account such differences, make appropriate adjustments and justify their grounds by documentary evidences.

12.6. The transaction value of similar goods shall be the value accepted at Customs and may be adjusted depending on differences in distances of transportation and modes of transport. The adjustments shall be accompanied by supporting documents to justify their rationale and accuracy.

12.7. Where it is necessary to make adjustments to the accepted value referred to in 12.6 of this Law but it is impossible to make such adjustments or there are no documentary evidences to justify the adjustments, the transaction value method of similar goods shall not be used.

12.8. In determining the Customs value by the transaction value method of similar goods, the costs referred to in 10.3 of this Law shall be considered.

12.9. If more than one transaction value of similar goods are found possible, the lowest such value shall be chosen to determine the Customs value.

12.10. In determining the Customs value by the transaction value methods of similar goods, prices for the goods referred to 11.10 of this Law shall not be used.

Article 13. Deductive Method

13.1. Where the Customs value can not be determined by the Customs valuation methods referred to in Articles 10, 11 and 12 of this Law, it shall be determined by the deductive method.

13.2. The deductive method is used only in a case when the imported goods or the identical goods or the similar goods had been introduced into the Customs territory and resold in domestic market in the same condition as imported.

13.3. In determining the Customs value of imported goods by the deductive method, a unit price at which the imported goods or the identical or similar imported goods are sold to unrelated persons in the greatest aggregate quantity, at the time of importation of the goods being valued or within a period referred to in 3.1.7 of this Law shall be taken as a base value, subject to deductions of the following expenses against financial or accounting documents:

13.3.1. either the commissions usually paid or agreed to be paid or additions usually made for profit and expenses in connection with sales in Mongolia of the imported goods of the same class or kind.

13.3.2. the costs of transport and insurance charges incurred in the territory of Mongolia;

13.3.3. the Customs duties and other taxes paid in Mongolia.

13.4. The term "goods of the same class or kind" specified in 13.3.1. of this Law covers the group of goods produced within a particular industry or its sector;

13.5. If there are sales at different prices for the same quantity, the lowest price shall be chosen as a base for Customs valuation.

13.6. In determining the value of imported goods, if there are no case of identical or similar goods resold in the domestic market in the same condition as imported, there may be used, at the request of declarant, the value of identical or similar goods sold after the processing.

13.7. In a case where identical or similar goods lost their identity in the course of processing, the procedure referred to in 13.6 of this Law shall not be applied.

Article 14. Computed Method

14.1. Where the Customs value can not be determined by the Customs valuation methods referred to in Articles 10, 11, 12 and 13 of this Law, it shall be determined by the deductive method.

14.2. In determining the Customs value by the computed method the following costs or expenses shall be included:

14.2.1. direct costs (costs of materials, labour costs, etc.) and extra costs of manufacturing incurred in course of production of the goods being valued;

14.2.2. an amount of profits 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 incurred to producers in the country of exportation for export to Mongolia;

14.2.3. the costs or charges referred to in 10.3.1-10.3.5 of this Law.

Article 15. The Fall-back or Residual Method

15.1. The fall-back or residual method of Customs valuation is applied where it is impossible to determine the Customs value of imported goods by methods referred to in Articles 10-14 of this Law.

15.2. The fall-back method of Customs valuation shall be used in two ways as follows:

15.2.1. the Customs value is determined by way of applying conditions or considerations prescribed for each method referred to in Articles 10-14 of this Law in flexible or lowered manner as given below:

15.2.1.1. when applied transaction value method: where there is no documentary evidence to justify a value or its components presented by declarant, to use reliable similar data available to Customs and other importers and compare with other costs;

15.2.1.2. when applied transaction value method of identical or similar goods: to extend the timeframe up to 90 days or 6 month or one or two years or soften goods requirements;

15.2.1.3. when applied the deductive method: to extend domestic processing timeframe; to soften the base value selection requirements; or where there found no identical or similar goods sold in domestic market, to take into consideration the goods of the same class or kind;

15.2.1.4. when applied the computed method: the prices or values of materials can be same with the prices or values of like goods; or to establish costs of transport up to the national frontier with comparison of the costs for other goods.

15.2.2. the Customs value is determined on the basis of international trade practices and other commercial data valid at that time. In that case the following trade data or sources may be used:

15.2.2.1. the seller's price lists, reference books or catalogues;

15.2.2.2. statistical data and price breakdown tariffs for public use;

15.2.2.3. the exporter's price offers, the world's outstanding commodity exchange news, specialized news releases, contracts concluded by famous importers and the prices covered by them;

15.2.2.4. export price lists disclosed on internet for public use;

15.2.2.5. neighboring countries export price investigation results dealing with goods for export to Mongolia;

15.2.2.6. average price indicators timely established with regard to goods declared to Customs.

15.3. In determining the Customs value by the fall-back method the following prices shall not be based on:

15.3.1. the selling price in domestic market of goods produced in Mongolia;

15.3.2. a system which provides for the acceptance for Customs purposes of the higher of two alternative values;

15.3.3. the price of goods on the domestic market of the country of exportation except the price of imported goods in case of cross-frontier trade;

15.3.4. the cost of production other than computed values which have been determined for identical or similar goods;

15.3.5. the price of goods for export to a country other than Mongolia;

15.3.6. arbitrary or fictitious values; and

15.3.7. the lowest Customs value.

15.4. The customs value determined in compliance with 15.2.2.2, 15.2.2.5. and 15.2.2.6. of this Law shall be posted in the net along with HS code and goods description for public in a quarterly basis.

CHAPTER 5 DETERMINATION OF CUSTOMS VALUE OF GOODS FOR EXPORT

Article 16. Customs Valuation Methods of Goods for Export

16.1. The Customs value of goods for export is determined on the term delivered to the national frontier of Mongolia.

16.2. In determining the Customs value of goods for export the following methods are used in their sequences:

16.2.1. the transaction value method;

16.2.2. the costs calculation method;

16.2.3. the transaction value method of identical or similar goods; and

16.2.4. the market value method.

Article 17. Transaction Value Method

17.1. In determining the Customs value of goods for export by the transaction value method the following costs or charges incurred up to the national frontier of Mongolia shall be included into the transaction value provided that they are not included:

17.1.1. the costs of transport; and

17.1.2. insurance costs, loading, unloading, storage and transshipment costs as well as transport and export documents clearance fees, connected with transportation of goods.

17.2. The transaction value method shall not be applied in the following cases for determination of the Customs value of exported goods:

17.2.1. the transaction is subject to conditions for which a goods value cannot be determined;

17.2.2. the seller and buyer had relationship which substantially influenced the transaction value.

17.3. The fact that the relationship did influenced the price is understood according to 10.7.6 of Article 10 of this Law.

Article 18. Costs Calculation Method

18.1. If the Customs value of goods for export cannot be determined by the method referred to in the Article 17 of this Law the costs calculation method shall be applied.

18.2. In determining the Customs value of goods for export by the costs calculation method, the unit price is determined by way of price calculation based on objective financial and accounting data available to industries, economic entities and organizations which are exporters located in the territory of Mongolia.

18.3. In determining the Customs value of goods for export specified in 18.1 of the Law by the costs calculation method, the following costs or charges directly or indirectly reflected in the unit good concerned shall be included:

18.3.1. the following costs incurred in connection with production of the goods being valued:

18.3.1.1. the price of raw materials, principal and supplementary materials incorporated by producer in the goods concerned;

18.3.1.2. manufacturing costs directly or indirectly incurred in connection with production of goods;

18.3.1.3. part of costs related to management or managerial activities, as apportioned to the goods concerned;

18.3.1.4. part of costs for electricity, heating, water supply, communications or leasing as apportioned to the goods concerned;

18.3.1.5. industry equipment amortization costs, as apportioned to the goods concerned; and

18.3.1.6. taxes as apportioned to the goods concerned.

18.3.2. costs of transport to national frontier of Mongolia, loading, unloading, storage or transshipment costs as well as insurance costs associated therewith; and

18.3.3. profits made from production and exportation of goods concerned.

18.4. The costs, charges, taxes or profits enumerated in 18.3. of this Law shall not be duplicated.

18.5. The costs, charges or profits enumerated in 18.3. of this Law shall have no big differences against average records of economic entities operating in that sector, filed with statistical or tax office. If there found big differences in this regard the Customs value is not determined by the costs calculation method.

Article 19. Transaction Value Method of Identical or Similar Goods

19.1. If the Customs value of goods for export cannot be determined by the methods referred to in Article 17 or 18 of this Law the transaction value method of identical or similar goods shall be applied.

19.2. In determining the Customs value of goods for export by the transaction value method of the identical or similar goods there shall be applied the transaction value of identical or similar goods cleared and exported from Mongolia at or about the same time as the goods being valued.

19.3. The terms "identical goods" and "similar goods" are understood as described in Articles 11 and 12 of this Law.

19.4. In determining the Customs value of goods for export by the transaction value method of identical or similar goods the due account shall be taken in regard to the following:

19.4.1. the value of the identical or similar goods shall be the transaction value recorded with own or other economic entity or organization;

19.4.2. the identical or similar goods shall be exported at the same time as the goods being valued or shall have been exported within 60 days before exportation of the goods being valued.

19.5. Where there found several transaction values of identical or similar goods exported or to be exported within the timeframe specified in 19.4.2. of this Law it shall be chosen that which happened/occurred more times.

Article 20. Market Value Method

20.1. The last Customs valuation method of goods for export is the market value method.

20.2. In determining the Customs value of goods for export by the market value method, it shall be taken into account the international trade practices and the

world market price releases of that time and the following trade data or sources shall be based on:

20.2.1. price lists, reference books or internet news disseminated by exporters for public use;

20.2.2. official reports disseminated among public such as foreign trade statistics or Customs statistics;

20.2.3. the news of the specialized stock-exchanges or the specialized newspapers or periodicals as well as the outstanding or major exporters contracts or prices therein.

CHAPTER 6 CLASSIFICATION OF GOODS

Article 21. Harmonized System

21.1. The Harmonized System is applied for the purposes of implementing both tariff and non-tariff measures and compiling foreign trade statistics.

21.2. The foreign trade goods classification inventory as well as the national sub-headings are adopted by the Customs Headquarters on the basis of the Harmonized Commodity Description and Coding System accepted at the international level.

Article 22. Classification of Goods

22.1. A declarant shall determine the classification codes of goods crossing the national frontier according to the Harmonized System.

22.2. The Customs, in the course of examining Goods declarations or examining goods, shall verify the classification codes determined by the declarant and make its own decision.

22.3. A declarant shall follow the decisions made by the Customs on goods classification. Where a declarant does not agree with the Customs decision he has a right to appeal according to Article 13 of the Customs Law.

Article 23. Pre-Entry Classification

23.1. The Customs may, at the request of a declarant, determine the classification codes of certain goods in advance.

23.2. The rules for Pre-Entry Classification shall be approved by the Customs Headquarters.

Article 24. Request for Pre-Entry Classification

24.1. A declarant shall attach to a request for pre-entry classification sample of goods or test goods, goods description, photos or schemes as well as trade documents or technical specification documents.

24.2. If the documents attached by a declarant to a request for pre-entry classification specified in 24.1. of this Law are not sufficient the Customs shall ask a declarant for additional documents and information within 14 days after receiving the request.

24.3. The additional documents or information referred to in 24.2 of this Law shall be delivered within 30 days and in case of failure the Customs will reject the pre-entry classification request.

Article 25. Alteration, Denunciation or Suspension of a Decision on Pre-entry Classification

25.1. The Customs may suspend or denounce its decision on pre-entry classification.

25.2. The Customs shall denounce its decision on pre-entry classification on the following basis and shall notify a declarant of it in writing:

25.2.1. the foreign trade goods classification inventory or national sub-headings are amended;

25.2.2. otherwise is provided for in a newly concluded international treaty of Mongolia.

25.3. Where the documents or information supplied by a declarant are proved to be or suspicious to be forged after its decision on pre-entry classification the Customs shall suspend its implementation and the decision on suspension shall be effective since the date when the decision on pre-entry classification is taken.

CHAPTER 7 ORIGIN OF IMPORTED GOODS

Article 26. Rules of Origin of Goods

26.1. The Government of Mongolia shall adopt the Rules of Origin of Goods for the purposes of applying the MFN tariff or economic or trade policy.

Article 27. Determination of Country of Origin of Imported Goods

27.1. A country of origin of imported goods is determined according to this Law and the Rules of Origin of Goods.

27.2. A country of origin may be a commonwealth of countries, international Customs or economic union, and for determination of origin of goods, particular part or region of one country.

27.3. At the request of a declarant, a country of origin may be pre-determined by Customs.

Article 28. Country in which Imported Goods are Wholly Produced

28.1. A country in which goods are wholly produced shall be taken as the country of origin of that imported goods.

28.2. The following goods shall be taken to be produced wholly in a given country:

28.2.1. mineral products extracted from its soil, from its territorial water or from its sea-bed;

28.2.2. vegetables or vegetable products harvested or gathered in that country;

28.2.3. live animals born and raised in that country;

28.2.4. products obtained from live animals in that country;

28.2.5. products obtained from hunting or fishing conducted in that country;

28.2.6. products obtained by maritime fishing and other products taken from the sea by a vessel of that country;

28.2.7. products obtained aboard a factory ship of that country solely from the products of the kind covered by 28.2.6 of this Law;

28.2.8. mineral products extracted from marine soil or subsoil outside that country's territorial water;

28.2.9. scrap and waste from manufacturing and processing operations, and used articles, collected in that country and fit only for the recovery of raw materials;

28.2.10. goods produced in that country solely from the products referred to in 28.2.1-28.2.9 of this Law.

Article 29. Substantial Transformation Criterion

29.1. Where two or more countries have taken part in the production of the goods, a country of origin shall be a country where the substantial transformation took place.

29.2. substantial transformation shall be determined on the basis of the following criterion:

29.2.1. after processing or manufacturing, the goods classification codes are changed at the level of heading of the Harmonized System;

29.2.2. production and technological processes of the goods are sufficient to regard a given country as the country of origin of that goods;

29.2.3 the value, or the value added, of materials used in a particular goods constitutes 50% or more of value of the compensating product.

29.3. The following operations shall not fall under the substantial transformation criterion:

29.3.1 operations necessary for handling of goods during transportation or storage;

29.3.2. preparation for sale or shipment of goods;

29.3.3. simple assembling operations;

29.3.4. mixing of goods of different origin.

29.4. In case of 29.3.4. of this Law, the characteristics of the compensating product are not essentially different from characteristics of the goods which have been mixed.

Article 30. Special Cases of Origin Qualification

30.1. The goods forwarded in several shipments as they cannot be sent in one shipment because of production or transportation requirements, unassembled or dismantled goods, and also the goods imported in several shipments because of carriage malfunction shall be deemed to have the same origin.

30.2. The goods qualifying the following conditions shall be deemed to have the same origin:

30.2.1. the reasons for dispatching goods in several shipments as unassembled or dismantled are indicated and notified to Customs in advance with reference to commodity classification codes, values and the countries of origin in each shipment, or there are presented documents supporting the carriage of goods separately because of mistake;

30.2.2. goods in each shipment are sent from the same country and by the same consignor;

30.2.3. goods in each shipment are declared to the same Customs office;

30.2.4. the Customs has allowed good in each shipment to enter the Customs territory within 3 months after acceptance/presentation of goods declaration.

30.3. The period specified in 30.2.4. of this Law may be extended at a request of declarant for up to one month.

30.4. Spare parts, components, tools or instruments for use with a machine, appliance, apparatus or vehicle shall be deemed to have the same origin as the machine, appliance, apparatus or vehicle, provided that they are imported together with relevant machine, appliance, apparatus or vehicle and correspond, in kind and number, to the normal equipment thereof.

30.5. Containers or packings when imported into the Customs territory separately except the case they are declared separately shall have the same origin.

30.5. For the purpose of determining the origin of goods, no account shall be taken of the origin of the energy, plant, machinery and tools used in the manufacturing or processing of the goods.

Article 31. Documentary Evidence of the Country of Origin

31.1. The Customs is entitled to require a documentary evidence of the country of origin.

31.2. The documentary evidence of the country of origin shall be either declaration of origin or certified declaration of origin or certificate of origin.

31.3. The documentary of evidence of country of origin shall be presented to Customs by a declarant.

31.4. The Customs may verify the accuracy of documentary evidence of origin and

31.5. Verification of documentary evidence of origin shall not exceed 30 days and the Customs Headquarters may extend that period once by another 30 days.

31.6. The documentary evidence is not required in the following cases:

31.6.1. goods in international transit;

31.6.2. cases provided for in the international treaty of Mongolia or in its national legislation.

Article 32. Declaration of Origin

32.1. A statement as to the origin of the goods provided by the manufacturer, seller or exporter in invoice or other document relating to the goods shall be the declaration of origin.

32.2. The declaration of origin shall be required for the following goods:

32.2.1. goods for sale or use, the aggregate value of which does not exceed US\$1000;

32.2.2. travellers' personal effects, the aggregate value of which does not exceed US\$1000;

32.2.3. where several consignments of the kind referred to in 32.2.1 and 32.2.2 of this are sent at the same time, by the same means, by the same consignor, the aggregate value does not exceed US\$1000.

Article 33. Certified Declaration of Origin

33.1. "The declaration of origin" certified by a competent authority shall be a certified declaration of origin.

33.2. The certified declaration of origin may be required for goods referred to in 32.2 of this Law.

Article 34. Certificate of Origin

34.1. A certificate of origin in a special form issued by a competent authority of a given country to give effect to the origin of goods shall be taken as an official document to determine the country of origin of the goods concerned.

34.1. A certificate of origin shall be regarded as a basic document for application of the MFN tariff for imported goods.

CHAPTER 8

LEVYING, COLLECTION AND PAYMENT OF CUSTOMS DUTIES AND OTHER TAXES

Article 35. Levying Customs Duties and Other Taxes

35.1. Customs duties and other taxes are levied on goods entering or leaving the Customs territory. This provision is applied also for goods exempted from Customs duties and other taxes.

35.2. The basis for assessment of Customs duties and other taxes shall be the Customs value and quantity of the goods.

35.3. The Customs duties and other taxes shall be assessed in togrogs on the basis of tariffs and exchange rates in force on the day when the goods declared to Customs. If the exchange rates of togrogs against foreign currencies and tariff rates have been changed between the dates of pre-entry clearance of documents and release of goods the exchange rates and tariffs effective on the date of release of goods shall be applied.

35.4. The rules on continuous application of the exchange rate of togrogs against foreign currencies for a certain period of time shall be adopted jointly by the President of the Mongolbank and the Cabinet Minister in charge of Customs matters.

35.5. In assessing Customs duties and other taxes for goods in violance of Customs legislation it shall be applied the tariffs and exchange rates in force on the day when the goods crossed the national frontier or if it is not possible to determine that day, on the day when the offence is detected.

Article 36. Collection of Customs Duties and Other Taxes and Accumulation into State Budget

36.1. The Customs shall accumulate the Customs duties and other taxes collected from taxpayer into the state budget.

36.2. The Customs duties and other taxes levied on goods temporarily admitted shall be kept in special account of state fund.

Article 37. Remission of Customs Duties and Other Taxes

37.1 The remission of the Customs duties and other taxes is granted for the following goods:

37.1.1. goods entering the Customs bonded areas, the duty free shops, the Customs special zones or the free zones directly from abroad or the goods leaving them directly for abroad;

37.1.2. goods returning after carriage by mistake;

37.1.3. goods under transit;

37.1.4. goods in transshipment; or

37.1.5. goods for destruction.

Article 38. Exemption from Customs Duties

38.1. The following goods are exempted from the Customs duties upon their importation into the Customs territory:

38.1.1. artificial bodyparts and appliances for special use by disabled people, and components or accessories thereof;

38.1.2. relief goods or aid;

38.1.3. currencies, mongolian bank-notes ordered and produced abroad;

38.1.4. travellers' personal effects;

38.1.5. blood, blood-products, organs or bodyparts for medical use;

38.1.6. gas fuel, its containers, equipment, special-use machines, machinery and appliances or accessories. A list of goods to be covered by this provision shall be approved by the Cabinet;

38.1.7. imported logs, beam wood, lengthwise sawn wood, seeds, roots or slips of other non-prohibited woods or cluster;

38.1.8. machinery and equipment, materials, raw materials, spare parts, autofuels or diesel oils imported for use in oil exploration, mining, extraction or exploitation to be carried out under product-sharing contract concluded with the Government in oil sector;

38.1.9. civil aviation aircraft or its spare parts;

38.1.10. imported goods for official use by foreign diplomatic missions or consular office, the United Nation Organization or its specialized agencies;

38.1.11. articles for personal use, necessary for establishment in the receiving State, of head of foreign diplomatic mission, staff members, of administrative and technical staff and their families;

38.1.12. lifting and mounting device for vehicles for disabled persons, self-moving cars for disabled equipped by manual driving and manipulating devices, once per person;

38.1.13. other goods specified in this Law or international treaty.

38.2. Goods temporarily admitted into the Customs territory in an unforeseeable or force majeure case or in the framework of international events may

be exempted from the Customs duty in accordance with the regulations adopted by the Government.

38.3. Exemption from Customs duties shall be governed solely by this Law.

Article 39. Payment of Customs Duties and Other Taxes

39.1. The Customs duties and other taxes shall be paid by a taxpayer.

39.2. Where a guarantee to pay Customs duties and other taxes is issued by a bank, such guaranteeing bank shall be responsible for payment of Customs duties and other taxes upon guaranteeing period expiry.

39.3. Where a goods temporarily admitted into the Customs territory is not re-exported within its timeframe the Customs duties and other taxes levied upon their entry into the Customs territory shall be paid.

39.4. A taxpayer may make an advance payment into a Customs account in order to pay Customs duties and other taxes. On the advance payment there shall not be paid any interest.

39.5. A goods declaration shall be validated upon meeting of any of the following conditions:

39.5.1. the Customs duties and other taxes are paid;

39.5.2. a decision on suspension or payment by installment of the Customs duties and other taxes is taken; or

39.5.3. any form of guarantee to pay Customs duties and other taxes provided for in Article 41 of this Law is issued.

39.6. The Customs duties and others taxes are deemed to be paid in any of the following cases where:

39.6.1. a tax amount is transferred by a bank into Customs account or state revenue;

39.6.2. a payment is made in cash at Customs; or

39.6.3. a tax amount is transferred from previously paid to Customs payments.

39.7. In case where the relevant guarantee to pay Customs duties and taxes is granted according to the provision of Article 41 of this Law or the relevant decision of the Government is issued in accordance with 40.1. of this Law, the Customs shall regard the Customs duties and other taxes as paid and shall validate the respective goods declaration.

39.8. As an evidence of payment of Customs duties and other taxes, the Customs shall leave a copy of the valid goods declaration with a taxpayer.

Article 40. Suspension or Payment by Instalment of Customs Duties and Other Taxes

40.1. A decision to extend the time-limit to pay the Customs duties and other taxes by up to 2 months, or to pay these taxes by installment within 2 months may be taken by the Government.

Article 41. A Guarantee To Pay Customs Duties and Other Taxes

41.1. For goods or means of transport crossing the Customs frontier, the Customs may allow a guarantee to pay the Customs duties and other taxes.

41.2. A taxpayer may provide a guarantee to pay the Customs duties and other taxes in one of the following forms:

41.2.1. giving into a custody a goods crossing the Customs frontier or money asset;

41.2.2. providing a bank guarantee; or

41.2.3. presenting other forms of guarantee provided for in international treaties.

41.3. Any guarantee to pay the Customs duties and other taxes shall not exceed the amount of Customs duties and other taxes levied according to the basic tariffs plus 10 per cent of the due amount.

41.4. The rules on issuance of a guarantee to pay the Customs duties and other taxes shall be adopted by the Government.

Article 42. Abatement of Customs Duties and Other Taxes

42.1. An abatement of Customs duties or other taxes may be allowed by Customs in case where there is a documentary evidence that a goods, while being under Customs control, has suffered a damage, deterioration, or loss in volume or weight, or became no longer of use.

Article 43. Drawback of Customs Duties and Other Taxes

43.1. A drawback of Customs duties and other taxes shall be allowed by Customs in the following cases:

43.1.1. goods temporarily admitted into the Customs territory are re-exported within agreed timeframe;

43.1.2. goods temporarily exported from the Customs territory are re-imported within agreed timeframe;

43.1.3. goods temporarily admitted into the Customs territory are placed under the non-duty procedures.

43.2. A refund of Customs duties and other taxes may be allowed by Customs in the following cases:

43.2.1. the basic rate is replaced by the MFN rate;

43.2.2. a value determined by Customs is rejected in accordance with 8.6 of this Law;

43.2.3. Customs duties or taxes are over-paid or over-assessed.

43.3. Customs shall not pay any interest for the drawback or refund of Customs duty or other taxes.

43.4. At the request of the taxpayer, the over-paid duties or taxes may be left and used for payment of duties or taxes on next consignment.

Article 44. Discharge of Obligation To Pay Customs Duties and Other Taxes

44.1. The taxpayer's obligation to pay Customs duties and other taxes shall be discharged in the following cases:

44.1.1. tax is paid;

44.1.2. declarant or taxpayer is freed from payment of certain taxes;

44.1.3. tax is paid by a guaranteeing bank;

44.1.4. tax is paid within the timeframe collateral agreement;

44.1.5. temporarily admitted goods or temporarily exported goods are returned within a prescribed timeframe;

44.1.6. goods are seized by Customs;

44.1.7. payment of duties and taxes is enforced.

Article 45. Responsibilities of the Bank

45.1. When a bank, according to 41.2.2 of this Law, had provided a guarantee to pay Customs duties and other taxes on behalf of a declarant and the latter fails to pay that duties and taxes within a timeframe provided for in the guarantee, the bank is obliged to pay that duties and taxes to Customs.

45.2. Where a bank fails to pay the duties and taxes according to 45.1 of this Law, according to 71.3 of the General Law on Taxation, it shall pay an interest equal to 0.3 per cent of unpaid tax amount per day.

45.3. A bank or financial organization shall execute/transfer the payments of Customs duties and other taxes of its client economic entities or organizations within 12 hours and the same day place them into the state budget account. In case of failure, it shall pay an interest equal to 0.3 per cent of non-paid tax amount each day.

Article 46. Collection of Unpaid Duties and Other Taxes

46.1. Though a guarantee to pay Customs duties and other taxes is provided according to Article 40 of this Law, the due Customs duties are not paid within the timeframe provided for in 40.1 of this Law, the unpaid duties and taxes shall be collected in line with provisions of the General Law on Taxation.

46.2. Unless otherwise is provided for in a law, the provision of 46.1 of this Law may be exercised by a Customs officer.

CHAPTER 9

Miscellaneous

Article 47. Entry into Force of this Law

47.1. This Law shall enter into force from the 1st Day of July 2008.

D. Lundeejantsan
SPEAKER
OF THE STATE GREAT KHURAL