

LAW OF MONGOLIA ON CUSTOMS TARIFFS AND CUSTOMS 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 tariffs and value, classification and origin of goods as well as levying, collection and payment of Customs duties and other taxes.

Article 2. Legislation on Customs Tariffs and Customs Duties

2.1. The legislation of Mongolia on Customs tariffs and Customs duties consists of the General Law on Taxation of Mongolia¹, Customs Law of Mongolia² 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 it follows:

3.1.1. the term “Customs tariff” means a Customs duty rate;

3.1.2. the term “Customs duty” means an amount of duties levied on, collected from or paid for goods, which enter or leave the Customs territory, in accordance with the Customs tariffs;

3.1.3. the term “other tax” means an amount of tax imposed on, collected from or paid for goods, which enter or leave the Customs territory, in accordance with other Laws;

¹ Published in the Parliament News Release No.22 of 2008

² Published in the Parliament News Release No.23 of 2008

3.1.4. the term “Customs value” means a value determined in accordance with this Law for the purposes of levying Customs duties or compiling Customs statistics;

3.1.5. the term “Harmonized Commodity Description and Coding System” (hereafter referred to as “Harmonized System”) means a nomenclature comprising of Headings, Subheadings and their related numerical codes as well as National codes (National Subheadings) and notes to Sections, Chapters and Subheadings, and the General Rules for Interpretation of the Harmonized System;

3.1.6. the term “taxpayer” means a person declaring goods crossing through the Customs border of Mongolia;

3.1.7. the term “about the same time” means 90 days prior to declaration to Customs of the Customs value of imported goods being valued;

3.1.8. the term “levying Customs duties and other taxes” means an assessment of duties in accordance with this Law and other related legislation;

3.1.9. the term “collection of Customs duties and other taxes” means a remittance by Customs into the State Budget (Government Revenue) of taxes levied on in accordance with this Law and other related legislation;

3.1.10. the term “payment of Customs duties and other taxes” means 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. the term “goods of humanitarian and irrevocable assistance (relief goods)” means 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 have the same meaning 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 of and Amendment to Tariffs

³ Published in the Parliament News Release No.40 of 2006

4.1. In Mongolia Customs tariffs are applied on exported and imported goods. In adopting the Customs tariffs, the goods descriptions and respective classification codes shall be indicated in accordance with the Harmonized System.

4.2. The Customs tariffs on imported goods consist of basic tariffs, the most-favoured nation (MFN) tariffs and preferential tariffs. The basic tariffs (basic rates) twofold the MFN tariffs. The preferential tariffs are agreed by international treaties. *(This provision is revised by the Law of 3 December 2015)*

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

4.4. The MFN tariffs are applied for goods originated from the following foreign countries:

4.4.1. a contracting party (or a member state) to a multilateral treaty on tariffs and trade to which Mongolia has acceded;

4.4.2. a country as agreed by an international treaty other than that referred to in 4.4.1 of this Law; *(This provision is amended by the Law of 3 December 2015)*

4.4.3. other country which is considered to be appropriate to apply the MFN tariffs.

4.5. A list of countries eligible to the MFN tariffs and preferential tariffs is enacted by the Government and the goods originated from a country included in the list should have the documentary evidence of origin. *(This provision is added by the Law of 9 December 2016)*

4.6. For goods originated from a country not included in the list referred to in the paragraph 4.5 of this Law the basic tariffs are applied. *(This provision is amended by the Law of 9 December 2016)*

4.7. Where the retroactively or retrospectively issued documentary evidence of origin of goods falling into the paragraph 4.5 of this Law is lodged with Customs within 45 days after the Customs had permitted the goods to enter the Customs territory, the preferential tariffs are applied. In that case, the excess duty amount paid is refunded by Customs in

accordance with the provisions of the relevant legislation. *(This provision is amended by the Law of 9 December 2016)*

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

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

4.10. The preferential tariffs are applied for imported goods in accordance with international treaties of Mongolia. *(This provision is added by the Law of 3 December 2015)*

4.11. The goods covered by a list of countries eligible for preferential tariffs but having no documentary evidence specified in sub-paragraphs 31.7.2 and 31.7.3 of this Law are subject to the MFN tariffs in accordance with the sub-paragraph 31.7.1 of this Law. *(This provision is added by the Law of 9 December 2016)*

Article 5. Types of Customs Duties

5.1. The Customs duties are determined according to the following types:

5.1.1. ad valorem;

5.1.2. specific;

5.1.3. sole application or combination of those referred to in 5.1.1 and 5.1.2 of this Law; or

5.1.4. any of those referred to in 5.1.1 and 5.1.2 of this Law, 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 of Mongolia who is appointed and released by the Cabinet and he or she shall have a vacant secretary.

6.3. The Customs Tariff Council is composed of representatives from scientific, research and profit-making as well as non-profit legal persons in addition representatives from 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. A declarant shall determine Customs value on the basis of documents required for a specific Customs clearance procedure and declare it 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/her 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 true, accurate and objective 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 and the Customs considers the Customs value determined by the declarant as groundless.

8.4. In case of 8.3 of this Law, the Customs and other taxes shall be assessed on the basis of a value determined by Customs by the other method and charged to the declarant.

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 is 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 border 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 are 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 method 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 9.1.4 and 9.1.5 of this Law may be reversed.

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 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 border 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; and

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.

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 border 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 and 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 10.8 of this Law and the transaction value does not closely approximate to the test value referred to in 10.9 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 of identical or similar goods imported by the person specified in 10.8 of this Law which closely approximates to the transaction value in sales between unrelated persons;

10.9.2. the transaction value in sales of identical or similar goods imported by the person specified in 10.8 of this Law, which is determined by the transaction value method in accordance with the Customs value previously accepted by Customs.

10.10. To make a comparison with the test values referred to in 10.9 of this Law, due account shall be taken with regard to commercial levels, quantity levels and the costs referred to in 10.3 and 10.4 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 10.3 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. goods of humanitarian and irrevocable assistance (relief goods);

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, competitions or meetings;

11.10.9. probes (tests), specimens or samples of a goods;

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 the 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 the following two ways:

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 a soft 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 months or one year 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 border 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 (documents) 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 (well-known) 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 domestic market price of the country of exportation excluding the price of imported goods in case of cross-border trade;

15.3.4. the cost of production incurred in cases other than the cases where computed values for identical or similar goods are determined;

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 values determined in compliance with 15.2.2.2, 15.2.2.5. and 15.2.2.6. of this Law shall be posted by Customs online along with respective Harmonized System codes and goods descriptions for public use and updated on 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 border port 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 research 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 border 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, associated 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 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 manufactures (producers) located in the territory of Mongolia and economic entities and organizations – exporters.

18.3. In determining the Customs value of goods for export specified in 18.1 of this 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 border 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 (prices), 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 to compare shall be the transaction value recorded with own or other economic entity or organization;

19.4.2. the goods to compare should have been exported at the same time as the goods being valued or within 60 days before exportation of the goods being valued.

19.5. Where, within the timeframe specified in 19.4.2. of this Law, there found several transaction values for comparison that which occurred more times shall be chosen.

Article 20. Market Value Research Method

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

20.2. In determining the Customs value of goods for export by the market value research method, there shall be taken into account the following data or sources on the international trade practices and the world market price at that time shall be based on:

20.2.1. price lists, reference books or internet news releases 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 releases 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 subjecting goods to tariff and non-tariff measures and compiling foreign trade statistics.

21.2. The foreign trade commodity classification (tariff classification nomenclature) and the National codes (National Subheadings) are adopted by an head of Customs central administration.

Article 22. Classification of Goods

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

22.2. The Customs shall, in the course of examining Customs (Goods) declarations and respective goods, check and decide on the commodity classification codes determined by the declarant.

22.3. A declarant shall abide by a decision made by Customs on commodity classification. Where a declarant does not agree with the Customs decision he/she has a right to appeal it according to Article 17 of the Customs Law.

Article 23. Pre-Entry Classification (Advance Ruling on Classification)

23.1. The Customs may, at a request of declarant, determine classification codes of certain goods in advance (make an advance ruling on classification of certain goods).

23.2. The regulations on pre-entry classification shall be approved by the Customs central administration.

Article 24. Request for Pre-Entry Classification (Advance Ruling on Classification)

24.1. A declarant shall attach to a request for pre-entry classification a sample or specimen of goods, goods description, photos or schemes as well as trade and 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, within 14 days after receiving the request, notify a declarant to provide it with additional documents and information.

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 (decline to issue advance ruling on classification on the goods).

Article 25. Modification (Amendments, Changes), Annulment (Cancellation, Invalidation) or Suspension of a Pre-entry Classification Decision (Advance Ruling on Classification)

25.1. The Customs has a right to suspend or annul (cancel, invalidate) its decision on pre-entry classification (its advance ruling on classification).

25.2. The Customs shall annul (cancel, invalidate) its decision on pre-entry classification (its advance ruling on classification) in the following cases and shall notify a declarant of it in writing:

25.2.1. the foreign trade commodity classification (tariff classification nomenclature) and the National codes (National Subheadings) are amended;

25.2.2. it becomes incompatible with a newly concluded international treaty of Mongolia (it differs from or otherwise is provided for in a newly concluded international treaty of Mongolia).

25.3. Where, after issuing a decision on pre-entry classification, the documents or information supplied by a declarant are proved to be forged or there is a fact or a suspicion that they might be forged the Customs shall suspend its decision on pre-entry classification (its advance ruling on classification) and the decision on suspension shall be regarded as having (taking) retroactive effect 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 tariffs for goods or implementing economic or trade policies.

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 union of states, international Customs or economic union, or as specified for purposes of determining origin of goods, a particular part or region of one country.

27.3. At a request of declarant, an advance ruling on a country of origin may be issued by Customs (a country of origin may be pre-determined by Customs).

Article 28. A Country in which a Goods is Wholly Obtained or Produced

28.1. A country in which a goods is wholly obtained or produced shall be taken as the country of origin of that imported goods.

28.2. Where the following conditions are met the goods concerned shall be taken to be obtained or 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 commodity 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 consider 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 to ensure the safety of goods during their storage or transportation (carriage);

29.3.2. preparation of goods for sale or shipment;

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 Country of Origin Determination

30.1. The goods forwarded in several shipments as they cannot be sent in one shipment because of production or transportation requirements or unassembled or disassembled 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 shall be deemed to have the same origin when:

30.2.1. the reasons for dispatching goods in several shipments as unassembled or disassembled are indicated and notified to Customs in advance together with a list of classification codes, values and countries of origin of respective goods in each shipment, or there are presented documents to evidence 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. goods in each shipment have released by Customs into the Customs territory within 3 months after acceptance/presentation of the 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. When the machinery, equipment, apparatus or conveyances are supplied together with spare parts, parts (accessories), tools or instruments necessary for their use the country of origin should be the same.

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

30.6. For the purposes of determining the origin of goods, the country of origin of the electricity, machine tools and/or instruments used in the manufacturing or processing of the goods shall not be taken into account.

Article 31. Documentary Evidence of Goods Country of Origin *(The Mongolian version is amended to add “бичуу” after the word “баримт” by the Law of 9 December 2016)*

31.3. A declarant, in order to claim for the MFN tariffs and/or the preferential tariffs, should present to Customs a documentary evidence of origin of goods. *(This provision is revised by the Law of 28 December 2012)*

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

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

31.7. The documentary evidence of origin of goods shall have the following types:

31.7.1. a declaration of origin which is an invoice or bill of lading having an information on goods origin stated by manufacturer, seller or exporter;

31.7.2. a certified declaration of origin which is a declaration of origin certified by a competent authority of the relevant country;

31.7.3. a certificate of origin of goods which is a certificate officially issued in a special form by a competent authority of the relevant country to certify the origin of goods.

(This provision is added by the Law of 9 December 2016)

31.8. A list of goods requiring a certificate of origin shall be adopted by the Government. *(This provision is added by the Law of 9 December 2016)*

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 are 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 regulations on continuous application of the same 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 involved in violation of Customs legislation there shall be applied the tariffs and exchange rates in force on the day when the goods crossed the national border or if it is not possible to determine that day, on the day when the offence is detected.

35.6. If a stabilization certificate provided for in the Law on Investment is issued, the duties and other taxes shall be paid in accordance with the rates and amounts specified in the certificate. *(This provision is added by the Law of 3 October 2013)*

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

36.1. The Customs shall remit the Customs duties and other taxes collected from taxpayer to the State Budget (Government Revenue).

36.2. The Customs duties and other taxes collected from goods temporarily admitted into Customs territory shall be kept in a special account of Treasury (State (Government) Fund).

36.3. The regulations on collection and transfer into the State Budget of Customs duties and other taxes collected from petroleum (crude oil) and petroleum products shall be adopted by a Cabinet Member in charge of financial and fiscal matters. *(This provision is added by the Law of 11 September 2012)*

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 in transit through the Customs territory;

37.1.4. goods placed in Customs clearance procedure for transshipment; or

37.1.5. goods placed in Customs clearance procedure for destruction.

Article 38. Goods Exempted from Customs Duties

38.1. The following goods admitted into the Customs territory are exempted from the Customs duties:

38.1.1. special purpose equipment for use by people with disabilities, artificial bodyparts and parts thereof;

38.1.2. goods of humanitarian and irrevocable assistance (relief goods);

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

38.1.4. travellers' personal effects;

38.1.5. blood, blood-products, tissues and body organs (bodyparts) for medical use;

38.1.6. fuel gas, gas containers, equipment, special purpose machines, machinery, mechanical appliances and tools or accessories thereof;

38.1.7. imported logs, timber and lengthwise sawn wood as well as seeds, seedlings and saplings of such trees or bushes (shrubs) which are not subject to prohibition;

38.1.9. passenger aircraft (civil air passenger craft) or its spare parts;

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

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

38.1.12. special purpose vehicle, equipped with a track, platform or lift for mounting only disabled people on (confined to) wheelchair, or such a vehicle for drive by people with disabilities, operated only manually and manufactured with all the same installations (devices) or modifications as above, once per person;

38.1.13. other goods specified in a law or international treaty;

38.1.14. raw materials, materials or reagents, which are required for production of new items (goods) or products intended for domestic or foreign markets pursuant to innovation projects and which are not domestically (locally) produced; (*This provision is added by the Law of 22 May 2012*)

38.1.15. international postal parcel (international parcel post) with a value not exceeding 10 times the amount of minimum monthly wage, containing not more than two pieces of every similar item (identical goods) and addressed to an individual person; *(This provision is added by the Law of 1 July 2014 and came into force on 1 January 2015)*

38.1.16. special purpose machines, mechanical appliances, equipment, accessories, raw materials, materials, chemical substances, explosives and spare parts imported by contractors or subcontractors during the entire period of exploration and within the first 5 years of extraction with an intention to use in activities associated with crude oil (petroleum) depots and non-traditional crude oil resources; *(This provision is added by the Law of 1 July 2014)*

38.1.17. reports on crude oil (petroleum) depots and non-traditional crude oil resources, attached materials and samples and crude oil (petroleum) itself; *(This provision is added by the Law of 1 July 2014)*

38.1.18. renewable energy research and production equipment, its accessories and spare parts. *(This provision is added by the Law of 18 December 2015)*

38.1.19. equipment and requisites for sports purposes. *(This provision is added by the Law of 6 July 2017 being effective since 1 January 2019)*

38.2. A list of goods falling into 38.1.6, 38.1.14, 38.1.18 and 38.1.19 of this Law shall be adopted by the Government of Mongolia. *(This provision is amended by the Law of 22 May 2012, the Law of 18 December 2015 and the Law of 6 July 2017, the latter is being effective since 1 January 2019)*

38.3. Exemptions 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 expiry of the guaranteeing period.

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. For the purposes of paying Customs duties and other taxes, a taxpayer may make a deposit (an advance payment) into a Customs account. On the deposit there shall not be paid any interest.

39.5. A goods declaration shall become valid 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 (issued); or

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

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 the State Budget (Government Revenue);

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

39.6.3. a tax amount is withdrawn from a deposit paid to Customs account.

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 the respective goods declaration becomes valid.

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.

40.2. The Government may decide to defer the payment by up to 2 years, or allow the partial payment within 2 years of Customs duties and VAT levied on machinery and equipment and/or their sets imported by the respective investors for use in development works under the relevant projects or arrangements to finance the major (larger) projects or arrangements of nationwide importance in the industries provided for in sub-paragraphs 11.2.1 to 11.2.3 of the Law on Investment. *(This provision is added by the Law of 6 June 2014)*

40.3. The investment sizes (total investment, the total amount of financial resources) to finance major (larger) projects or arrangements of nationwide importance provided for in 40.2 of this Law are determined by the Government. *(This provision is added by the Law of 6 June 2014)*

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

41.1. For goods or means of transport crossing the Customs border, 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 border 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 on in accordance with the basic tariffs plus 10 per cent of such amount.

41.4. The regulations 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 loss in volume (quantity) or weight, a damage or a deterioration or no longer fits for its intended use.

Article 43. Drawback of Customs Duties 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 the set timeframe;

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

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

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

43.2.1. a goods subject to the basic tariffs became eligible for the MFN tariffs;

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 overpaid or over-assessed.

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

43.4. When a taxpayer wishes so, the overpaid duties or taxes may be left (with Customs) 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. a tax is (duties and taxes are) paid;

44.1.2. a declarant or a taxpayer becomes no longer obligated to pay the relevant taxes (duties and taxes);

44.1.3. a tax is (duties and taxes are) paid by a guaranteeing bank;

44.1.4. a tax is (duties and taxes are) paid within the timeframe provided for in a 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 made by a force of law.

Article 45. Bank Responsibilities

45.1. When a bank, according to 41.2.2 of this Law, had provided, on behalf of a declarant, a guarantee to pay Customs duties and other taxes 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, it shall-pay an interest equal to 0.3 per cent of unpaid tax amount per day (*This provision is amended by the Law of 22 March 2019*).

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. Where the due Customs duties and other taxes are not paid within the specified timeframe provided for in Article 40 of this Law or according to the guarantee specified in Article 41 of this Law, the unpaid duties and taxes shall be collected in accordance with the General Law on Taxation.

46.2. Unless otherwise is provided for in a law, the collection under paragraph 46.1 of this Law may be exercised by a person currently employed by Customs and having a title of state Customs inspector.

CHAPTER 9 Miscellaneous Provisions

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,
THE SPEAKER OF THE STATE GREAT KHURAL**