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**VALUATION SIMPLIFICATION
UNDER ARTICLE 73 UCC AND ARTICLE 71 UCC DA
GUIDANCE FOR MEMBER STATES AND TRADE**

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Disclaimer

This document does not constitute a legally binding act and is of an explanatory nature. Legal provisions of customs legislation take precedence over the contents of this document and should always be consulted. The authentic texts of the EU legal instruments are those published in the Official Journal of the European Union.

There may also exist national instructions or explanatory notes in addition to this document.

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1. INTRODUCTION

This document aims at setting out and analysing certain aspects of the authorisation relating to the simplification for the determination of amounts being part of the customs value of the goods (hereinafter referred to as the "valuation simplification"), with particular focus on the scope and use of this simplification and its union-wide validity, as well as on the application of horizontal provisions in respect to the simplification.

2. REGULATORY FRAMEWORK

2.1 Basic provisions on the valuation simplification

The following provisions as set out in the UCC¹ and UCC DA² are the key provisions applicable.

Article 73 UCC

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

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

Article 71 UCC DA

1. The authorization referred to in Article 73 of the Code may be granted where the following conditions are met:

- (a) the application of the procedure referred to in Article 166 of the Code would, in the circumstances, represent disproportioned administrative costs;*
- (b) the customs value determined, will not significantly differ from that determined in the absence of an authorisation.*

2. The grant of the authorisation is conditional to the fulfilment, by the applicant, of the following conditions:

- (a) he complies with the criterion laid down in Article 39(a) of the Code;*
- (b) he maintains an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held and which will facilitate audit-based customs control. The accounting system shall*

¹ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code

² Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code

maintain a historical record of data that provides an audit trail from the moment the data enters the file;

(c) he has an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions.

2.2 Data requirements for applications and valuation simplifications

The data requirements for applications and valuation simplifications (CVA) are defined in Annex A to UCC DA. The data requirements are grouped in two categories:

- the ones which are common for all kind of applications/decisions (Title I, Chapter 1, the data elements in column 3 of the Data requirement table together with the relevant notes relating to data requirements presented in Title I, Chapter 2 of the Annex), and
- the ones which are specific for this particular authorisation (Title V, Chapter 1 of the Annex). In Chapter 2 of Title V one finds notes relating to the specific data requirements for the application and the authorisation for the simplification.

Moreover, in accordance with the provisions of Annex B to UCC DA concerning common data requirements for declarations, notifications and proof of the customs status of the Union goods (Article 2(2)), the fact that the customs value is declared with the use of the valuation simplification is to be reflected in the customs declaration.

A declarant is obliged to introduce the information about the authorisation for valuation simplification providing its reference number and who is its holder. In addition, the declarant has to provide separately from other elements of the customs value, the amounts included into/deducted from the customs value under the transaction value method that have been calculated in accordance with the specific criteria defined in the valuation simplification. Additions and deductions calculated in accordance with the simplification have their own codes as referred to in Annex B to UCC IA³ concerning formats and codes of the common data requirements for declarations, notifications and proof of the customs status of the Union goods (Article 2(2)).

2.3 Horizontal provisions

The valuation simplification is one of the kind of decisions relating to the application of the Union customs legislation taken upon application. The UCC introduced closer

³ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs

harmonization of such decisions.⁴ The UCC together with its delegated and implementing acts laid down common general rules for the decision-taking process, as well as for the management of decisions - so called “horizontal provisions.” In general, the horizontal provisions are set out in Title I of the UCC and their delegated and implementing provisions.

In some cases, the Union legislator introduced specific procedural provisions for particular kind of decisions relating to the application of the customs legislation taken upon application, which are applicable apart from the standard horizontal provisions, or/and exempted the application of particular horizontal provisions in respect to particular kind of decisions (e.g., binding information, authorised economic operators). None of these situations arises with regard to the valuation simplification.

Therefore, while the relevant horizontal provisions on management of decisions taken upon application are applicable in relation to the valuation simplification, the existing guidelines containing clarifications in this respect should be considered **to the extent that they may be relevant for the purposes of the valuation simplification**, keeping in mind the nature of this simplification. In this regard, one may refer to:

- *General Guidance on Customs Decisions* (the document TAXUD.a.2(2016)39455664 dated 8 July 2016)⁵;
- *Simplifications – Title V UCC/ “Guidance for MSs and Trade”* (TAXUD/A2/24/05/2022)⁶.

As some conditions that have to be met to grant the valuation simplification are the same as for the AEO authorisation for customs simplifications, *Guidelines on Authorised Economic Operators* (the document TAXUD/B2/047/2011 – rev. 6 dated 11 March 2016)⁷ may also be used for the purposes of the valuation simplification accordingly.

Disclaimer

The above-mentioned sources of information may be revised or updated by the relevant sections of the Customs Expert Group. Therefore, if reference is made to any of these

⁴ Recital (22) to UCC stipulates that “All decisions relating to the application of the customs legislation, including to binding information, should be covered by the same rules. Any such decisions should be valid throughout the Union and should be capable of being annulled, amended except where otherwise stipulated, or revoked where they do not conform to the customs legislation or its interpretation.”

⁵ [UCC - Guidance documents - European Commission \(europa.eu\)](https://ec.europa.eu/eurofisc/ufp/ucc/guidance)

⁶ *Ibidem*.

⁷ *Ibidem*.

sources, please note that up-to-date versions of the guidelines are published on **the TAXUD's website: UCC – Guidance documents.**

2.4 Customs Decision System

In order to support and facilitate the process of taking decisions relating to the application of the customs legislation, as well as their management a central Customs Decision System (CDS) has been created in accordance with Article 7 of *the Commission Implementing Regulation (EU) 2023/1070 of 1 June 2023 on technical arrangements for developing, maintaining and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013 of the European Parliament and the Council*. CDS is used inter alia for the purposes of valuation simplification (Article 8 (1)(a) of the said Regulation). CDS is to be used with respect to applications for the issuance of valuation simplifications and valuation simplifications, as well as the management of decisions related to those applications and simplifications, where those simplifications or decisions may have an impact in more than one Member State.

In addition, under Article 8 (3) of the said Regulation, a Member State may decide that the common components of the CDS may be used with respect to applications for the issuance of valuation simplifications and valuation simplifications, as well as the management of decisions related to those applications and valuation simplifications, where those simplifications or decisions have an impact only in that Member State

2.5 EU Trader Portal

The EU trader portal shall be an entry point to the CDS for economic operators and other persons (Article 10 (1) of the above-mentioned Regulation 2023/1070). The EU trader portal shall be used in cases for applications and valuation simplifications, as well as the management of decisions related to those applications and valuation simplifications, where those valuation simplifications or decisions may have an impact in more than one Member State (Article 10 (3) of the said Regulation).

Under Article 10 (4) of the said Regulation, a Member State may decide that the EU trader portal may be used for applications for the issuance of valuation simplifications and valuation simplifications, as well as the management of decisions related to those applications and valuation simplifications, where those simplifications or decisions have an impact only in that Member State.

2.6 National trader portal

As Member States may create their national trader portals, such portal shall be additional entry points to the CDS for economic operators and other persons. In accordance with Article 14 (2) of the said Regulation, with respect to applications of the issuance of valuation simplifications and valuation simplifications, as well as the management of decisions related to those applications and valuation simplifications where those simplifications or decisions may have an impact in more than one Member State,

economic operators and other persons may choose to use the national trader portal, where created, or the EU trader portal.

3. PURPOSE AND SCOPE OF THE VALUATION SIMPLIFICATION

3.1 Purpose of the valuation simplification

The permissibility of granting operators, under certain conditions, the possibility to determine some elements of the customs value based under the transaction value method, that are not quantifiable on the date on which the customs declaration is accepted, on the basis of appropriate and specific criteria was first introduced in the EU legislation by Regulation No 1676/96, amending the CCIP⁸ through the new Article 156a.

The purpose of that initiative was to allow operators to avoid use of the simplified procedure (incomplete declarations) and to finalize customs valuation declarations without delay, in the situation where the protection of the EU financial interest and the proper collection of own resources was deemed not to be at risk.

With the same purpose⁹, the UCC package confirmed the possibility of this facilitation for operators, and even expanded its scope. In addition, it specified new conditions and requirements under which this authorization can be granted.

3.2 Scope of the simplification

The simplification can be granted only in cases in which the customs value of imported goods is to be determined under the transaction value method.

The UCC package expanded the scope of the simplification, making it possible now to determine on the basis of specific criteria, not only additions and deductions to the price paid or payable, but also elements of the total payments made or to be made by the buyer (see Article 70 (2) UCC).

Examples

Such simplification might be considered in cases where the exact amount of licence fees that should be included in the customs value of the licenced products as defined in Article 71 (1)c) of the UCC would not be known at the time of importation because those licence fees payments are expressed as a certain percentage of the total sales of the licenced goods in the EU during the specified period.

⁸ Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

⁹ Recital (23) to UCC DA states that *"In view of avoiding disproportionate administrative costs while ensuring protection of the financial interests of the Union, it is necessary, in the context of simplification and facilitation, to ensure that the authorisation granted to determine specific amounts relating to the customs value on the basis of specific criteria is subject to appropriate conditions"*.

The use of such simplification could be also considered in situations in which costs of quality control of the imported goods is not known at the time of customs clearance and, consequently, the final determination of a price actually paid or payable for those goods as defined in Article 70 (2) of the UCC at that time is not possible.

4. CONDITIONS FOR THE VALUATION SIMPLIFICATION

The scope of the simplification encounters significant limits when considering the conditions that must be fulfilled in accordance with Article 71(1) (a) and (b) UCC DA.

Article 71 UCC DA describes **two categories of conditions** that an economic operator shall meet to be authorised to use this additional simplification.

4.1 First category of the conditions (Article 71(1) UCC DA)

The first category of the conditions refers to the need and effect of the simplification for the goods being valued (Article 71 (1) UCC DA):

- *The use of the simplified procedure as referred to in Article 166 UCC¹⁰ would represent disproportioned administrative costs (Article 71(1)(a) UCC DA).*

The valuation simplification is an alternative solution for a simplified customs declaration as referred to in Article 166 of the UCC. If the simplified declaration procedure is applied, an economic operator will have to provide the competent customs authority within a specific time-limit with a supplementary declaration(s) containing the missing information that was not quantifiable on the date on which the customs declaration was accepted (Article 167 (1) of the UCC).

The mere lack of the possibility for providing the customs authorities with information/documents necessary to establish the customs value under the transaction value method at the time of importation, is not enough to consider granting the valuation simplification. In this context, it should be noticed that the Union legislation introduced a long maximum period for submitting the missing information/documents necessary for the final determination of the customs value (2 years – Articles 146 (3b) and 147 UCC DA).

¹⁰ Article 166 UCC stipulates that “1. The customs authorities may accept that a person has goods placed under a customs procedure on the basis of a simplified declaration which may omit certain of the particulars referred to in Article 162 or the supporting documents referred to in Article 163. 2. The regular use of a simplified declaration referred to in paragraph 1 shall be subject to an authorisation from the customs authorities”.

Administrative costs mean the costs incurred by enterprises, the voluntary sector, public authorities and citizens in meeting legal obligations to provide information on their activities (or production), either to public authorities or to private parties.¹¹

In the context of providing the complementary information necessary to establish the customs value under the transaction value method using supplementary declarations, the administrative costs mean costs incurred by the economic operator:

- to prepare supplementary information when all factors necessary to do so are available,
- to submit the information in supplementary declarations to the relevant customs authorities in accordance with Article 167 of the UCC and its appropriate allocation to initially submitted simplified customs declarations by imported items,
- to prepare a final statement of customs duties based on a final declaration of the customs value.

If the above-described activities are carried out on regular basis in relation to many importations concerning a significant number of the imported goods under the same contractual arrangements relating to costs relevant for the purposes of the determination of the customs value under the transaction value method (e.g. licence agreement, transport arrangements) one may consider that from the point of view of the applicant fulfilling the legal requirements as referred to in Articles 166 and 167 of the UCC is time consuming and labour intensive. High repeatability of those activities and making a reference to the same source of contractual arrangements for the same purposes may generate ***disproportioned administrative costs*** on the importer's side. In such a case, the condition defined in Article 71(1)(a) of the UCC DA is fulfilled. The burden of proof of the existence of such disproportioned administrative costs lies on the applicant.

- *The resulting customs value would not significantly differ from that determined in the absence of the authorisation (Article 71(1)(b) UCC DA).*

The condition is met when – on the basis of objective and quantifiable data provided by the applicant – it may be assumed that the customs value declared with the use of the valuation simplification would not substantially differ from the customs value determined in the absence of the simplification. It should be highlighted that the data used to check the fulfilment of the condition still must be quantifiable by its nature. Another thing is that amounts to be included into/excluded from the customs value under the valuation simplification are not quantifiable on the date on which the customs declaration is accepted.

¹¹ MEMO/06/425, *Measuring administrative costs and reducing administrative burdens in the EU*, Brussels, 14th November 2006 (page 2).

Compliance with this condition may be examined on the basis of **commercial documents referring to the planned importations** (e.g. sales contracts, licence agreements, policy insurances) and, for example, **historical data** referring to the previously accepted transaction values concerning identical or similar goods as the ones which are to be imported by the applicant.

As regards the historical data related to the previously accepted transactions, it will come from the importer's accounting.

The Union customs provisions refer to the concept of *generally accepted accounting principles* – Article 1(20) of the UCC DA. The Article stipulates that “‘*generally accepted accounting principles*’ means the principles which are recognised or have substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared”.

In order for the data to be considered objective and quantifiable it should be consistent with *generally accepted accounting principles* applicable in the Member State where the accounts are held.

Maintaining an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held is one of the conditions to be met to grant the valuation simplification. **Moreover, the accounting system shall maintain a historical record of data that provides an audit trail from the moment the data enters the file** (Article 71(2)(b) of the UCC DA).

4.2 Second category of the conditions (Article 71 (2) UCC DA)

The second category of conditions concerns the applicant (Article 71 (2) UCC DA). They are like follows:

- The absence of any serious infringement or repeated infringements of customs legislation and taxation rules, including no record of serious criminal offences relating to the economic activity of the applicant (**a direct reference to Article 39(a) of the UCC**).

The provisions of Article 24 of the UCC IA stipulate when the criterion set out in Article 39(a) UCC is deemed to be fulfilled.

- Maintaining an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held and which will facilitate audit-based customs control. The accounting system shall

maintain a historical record of data that provides an audit trail from the moment the data enters the file (**an indirect reference to Article 25(1)(a) of the UCC IA**).

- Having an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods and have internal controls capable of detecting illegal or irregular transactions (**an indirect reference to Article 25(1)(f) of the UCC IA**).

Economic operators applying for valuation simplifications have to fulfil some of the conditions envisaged for entities who are applying for the status of authorised economic operator for customs simplifications.¹² Therefore, in accordance with **Article 38 (5) UCC**, the conditions laid down in Article 71 (2) UCC DA do not need being re-examined if an authorised economic operator applies for the valuation simplification. The competent customs authority will nevertheless have to verify whether all the other conditions, defined in Article 73 UCC and Article 71 (1) UCC DA, are met.

When an applicant does not enjoy the status of AEO, the customs authority will have to verify whether all conditions envisaged for the valuation simplification are fulfilled. When the customs authority verifies whether the applicant meets the conditions referred to in Article 71 (2) UCC DA (AEO criteria), they should consider *Guidelines on authorised economic operators* accordingly.

All conditions indicated in Articles 73 UCC and 71 UCC DA shall be met together to authorise the person concerned to use the simplification on customs value.

4.3 Proposing a formula to be used to calculate an amount forming the customs value to be determined on the basis of specific criteria

The applicant shall propose to the customs authorities a method/formula to be applied to determine a given element of the customs value in accordance with specific criteria, not quantifiable on the date on which the customs declaration is accepted, together with the reasons for the choice in its application for an authorisation for valuation simplification.¹³

The choice of such method/formula may be justified by referring to (examples):

- information contained in sales contracts and other documents relating to sales contracts, transport service contracts, insurance policies, licence agreements,

¹² Articles 38 and 39 UCC, Articles 24-27 UCC IA

¹³ See Annex A to UCC DA, Title V, Chapter 2 - Notes relating to the specific data requirements for the application and the authorisation for the simplification of the determination of amounts being part of the customs value of goods; (...), Data requirements V/1. Subject and nature of the simplification, “Indicate on which elements to be added to or deducted from the price pursuant to Articles 71 and 72 of the Code or which elements forming part of the price actually paid or payable pursuant to Article 70(2) of the Code the simplification applies (e.g. Assists, Royalties, transport costs, etc.) followed by a reference to the calculation method used for the determination of the respective amounts.”

- particulars resulting from customs declarations covering a certain relevant period prior to the submission of the application under Article 73 UCC,
- the tariffs of freight rates normally applied to certain means of transport.

The explicit reference to the procedure of Article 166 UCC implies that the value obtained by means of the application of the valuation simplification **is to be considered as definitive**. Therefore, the scope of the simplification is limited to those cases where, although the declarant is not in possession of all the elements or documents regarding the customs value, it is reasonable to deem that there is a possibility to obtain a correct value without further adjustments. Therefore, a decisive appreciation by the issuing authorities is that the grant of the simplification will not constitute a risk for the proper collection of traditional own resources.

Nevertheless, the customs value declared with the use of the valuation simplification may be subject of the verification at the time of importation (Article 188 of the UCC) or in the framework of the post-release control (Article 48 of the UCC). Verification should ensure that the use of the simplification corresponds to the scope of the authorisation and is not unduly extended to situations that do not relate to this authorisation.

5. CUSTOMS REPRESENTATION UNDER ARTICLE 18 OF THE UCC AND THE VALUATION SIMPLIFICATION

The declaration of a customs value of imported goods using the valuation simplification may be made either by the holder of the simplification (in his/her own name and on his/her own behalf) or by his/her direct representative (in the name and on behalf of the holder of the simplification). In other words, the simplification's holder is the importer who may work with a direct representative dealing with customs formalities. Indirect representation is not possible while the customs value is declared with the use of the simplification.

6. OBLIGATIONS OF THE HOLDER OF THE VALUATION SIMPLIFICATION

In accordance with Article 23 (1) and (2) of the UCC, the holder of the valuation simplification is obliged to:

- comply with the obligations resulting from the decision, including the use of the simplification only for the operations that are covered and identified by the authorisation;
- inform the customs authorities without delay of any factor arising after the decision was taken, which may influence its continuation or content.

There are examples of information to be transmitted to the competent customs authorities by the holder of the valuation simplification¹⁴:

- change the quantity and/or frequency of the delivery of shipments covered by the simplification,
- change/reformulation of any kind of contractual arrangements that may have an impact on a way in which the formula of calculating of specific element forming the customs value has been established in the simplification, e.g. change on tariffs or costs, revised calculations,
- any changes concerning general information such as: company name, its legal status, its merger or demerger, sale or closure of business, place of establishment,
- any changes in the company management or structure,
- any pending criminal proceeding linked to an infringement of the customs legislation, taxation rules or criminal offences to the economic activity,
- dysfunction of the accounting system (e.g. loss of accounting data, lack of traceability etc.),
- loss or destruction of accounting and commercial archives/data,
- incapability of managing internal controls.

Since some of the conditions to be authorised to use the valuation simplification are the same as for AEO authorisations for customs simplifications, the holder of the valuation simplification who also possess such AEO status should inform the competent customs authorities about suspending or revoking their AEO status.

The fact of using the valuation simplification is to be reflected in a customs declaration (please see point 2.2 of the document).

7. MANAGEMENT OF THE VALUATION SIMPLIFICATIONS

7.1 Monitoring of the valuation simplification

Under Article 23 (5) UCC the customs authorities shall monitor the conditions to be fulfilled by the holder of the valuation simplification and compliance with the obligations resulting from the simplification. When the holder of the simplification does not comply with the obligations resulting from the decision, or when the simplification was granted on the basis of incorrect or incomplete information, or in cases in which one or more of the conditions for taking the valuation simplification were not or are no longer fulfilled, it may be necessary to annul, revoke or amend the authorisation (Articles 27 and 28 of the UCC). The valuation simplification shall be also revoked or amended upon application by the holder of the simplification (Article 28(1)(b) of the UCC).

¹⁴ As some of the conditions to be authorised to use the valuation simplification are the same as for AEO authorisation for customs simplifications, some of those examples come from *Guidelines on Authorised Economic Operators*. Please see point 2.3 of this document. For further information in this respect, please consult the indicated *Guidelines*.

The provisions on suspension, annulment, amendment or revocation of the valuation simplification are correlated with the above-mentioned provisions on the obligations of the holder of the simplification.

The accurate determination of the customs value directly impacts on the amount of customs duties and taxes to be levied. Therefore, the valuation simplification should be monitored regularly. **It is recommended that such monitoring takes place once a year.** Regular monitoring is of particular importance in case of economic operators, which had no historical data at the time of issuing the valuation simplification, in order to ensure early detection of any need for suspension, amendment, revocation or annulment.

Under Article 23(3) of the UCC “*Without prejudice to provisions laid down in other fields which specify the cases in which decisions are invalid or become null and void, the customs authorities which took a decision may at any time annul, amend or revoke it where it does not conform to the customs legislation*”.

The provisions of Article 23(3) of the UCC will be applied in different situations than the ones defined in Articles 27 and 28 of the UCC. The provisions of this Article will be applicable in cases in which, for example, the valuation simplification was issued in breach of the rules on jurisdiction of customs authorities or in cases in which the simplification concerned a case already decided by another final decision.

7.2 Annulment of the valuation simplification and its impact on the affected customs declarations

Under Article 27 (1) UCC “*The customs authorities shall annul a decision favourable to the holder of the decision if all the following conditions are fulfilled:*

- (a) the decision was taken on the basis of incorrect or incomplete information;*
- (b) the holder of the decision knew or ought reasonably to have known that the information was incorrect or incomplete;*
- (c) if the information had been correct and complete, the decision would have been different.”*

The customs authorities shall annul the valuation simplification **only if all the three conditions indicated in Article 27 of the UCC are fulfilled.**

The holder of the valuation simplification shall be notified of its annulment.

In accordance with Article 27 (3) of the UCC “*Annulment shall take effect from the date on which the initial decision took effect, unless otherwise specified in the decision in accordance with the customs legislation*”. As a consequence, declarations made on the basis of the annulled valuation simplification have to be identified, and the declared customs value has to be checked by the customs authorities. The correct customs value has to be determined, and as the case may be, a new amount of customs debt will be communicated to the importer.

7.3 Revocation and amendment of the valuation simplification and their impact on the affected customs declarations

Under Article 28 (1) of the UCC, "*A favourable decision shall be revoked or amended where, in cases other than those referred to in Article 27:*

- (a) one of the conditions for taking that decision were not or are no longer fulfilled; or*
- (b) upon application by the holder of the decision.*"

The decision on the revocation or amendment of the valuation simplification in the framework of Article 28 UCC will be performed *ex nunc*. In other words, the customs value declared using the valuation simplification that was subsequently revoked or amended would not be changed retrospectively. The economic operator would be obliged to declare the customs value using an amended valuation simplification as of the date the decision is received, except where otherwise specified in the decision. If the valuation simplification was revoked, the economic operator would have to stop using it as of the date the decision is received, except where otherwise specified in the decision. As from the date of the revocation the importer has to apply the regular procedure which corresponds to its situation. If the conditions are met, the importer may request a new authorisation for a valuation simplification.

In exceptional cases where the legitimate interests of the holder of the decision so require, the customs authorities may defer the date on which revocation or amendment takes effect up to one year. That date shall be indicated in the revoking or amending decision (the second paragraph of Article 28(4) of the UCC).

7.4 Suspension of the valuation simplification

Under Article 23(4)(b) of the UCC in conjunction with Article 16 of the UCC DA, instead of annulling, revoking or amending the valuation simplification in accordance with Articles 23(3), 27 or 28 of the UCC, the customs authority competent to take the decision shall suspend it in the following situations:

- (a) That customs authority considers that there may be sufficient grounds for annulling, revoking or amending the decision, but does not yet have all necessary elements to decide on the annulment, revocation or amendment.
- (b) That customs authority considers that the conditions for the decision are not fulfilled or that the holder of the decision does not comply with the obligations imposed under that decision, and it is appropriate to allow the holder of the decision time to take measures to ensure the fulfilment of the conditions or the compliance with the obligations.

- (c) The holder of the decision requests such suspension because he is temporarily unable to fulfil the conditions laid down for the decision or to comply with the obligations imposed under that decision.

The suspension of the valuation simplification means that the holder of the simplification cannot use it for the period of the suspension established in accordance with Article 17 of the UCC DA. **As from the date of the suspension, the importer has to apply the regular procedure which corresponds to its situation.**

In accordance with Article 17(3) of the UCC DA *“Where, following the suspension of a decision, the customs authority competent to take the decision intends to annul, revoke or amend that decision in accordance with Articles 23(3), 27 or 28 of the Code, the period of suspension, as determined in accordance with paragraphs 1 and 2 of this Article, shall be extended, where appropriate, until the decision on annulment, revocation or amendment takes effect”*.

Under Article 18 of the UCC DA, a suspension of a valuation simplification shall end at the expiry of the period of suspension unless before the expiry of that period any of the following situations occurs:

- (a) The suspension is withdrawn on the basis that there are no grounds for the annulment, revocation or amendment of the decision in accordance with Articles 23(3), 27 or 28 of the UCC. In such a case, the suspension shall end on the date of withdrawal.
- (b) The suspension is withdrawn on the basis that the holder of the decision has taken to the satisfaction of the customs authority competent to take the decision, the necessary measures to ensure fulfilment of the conditions laid down for the decision or compliance with the obligations imposed under that decision. In such a case, the suspension shall end on the date of withdrawal.
- (c) The suspended decision is annulled, revoked or amended. In such a case, the suspension shall end on the date of annulment, revocation or amendment.

The customs authority competent to take the decision shall inform the holder of the decision of the end of the suspension.

If the suspended valuation simplification is subsequently annulled, the annulment shall take effect from the date on which the initial decision took effect, unless otherwise specified in the decision in accordance with the customs legislation.

If the suspended valuation simplification is subsequently revoked or amended, the revocation or amendment of the valuation simplification shall take effect from the date on which the holder of the simplification receives it except where otherwise specified in the decision (Article 28 (4) of the UCC with conjunction with Article 22 (4) of the UCC).

7.5 Valuation simplification and AEO status

As some of the criteria for granting the valuation simplification are the same as those for the AEO authorisation for customs simplifications, it should be underlined that in accordance with Article 30 (1) UCC DA *"where an AEO authorisation is suspended due to the non-compliance with any of the AEO criteria, any decision taken with regard to that AEO which is based on the AEO authorisation in general or on any of the specific criteria which led to the suspension of the AEO authorisation, the customs authority having taken that decision shall suspend it"*.

On the other hand, *"the suspension of a decision relating to the application of the customs legislation taken with regard to an AEO shall not lead to the automatic suspension of the AEO authorisation"* (Article 30 (2) UCC DA).

7.6 Re-assessment of the valuation simplification

Under Article 23(4)(a) of the UCC in conjunction with Article 15(1) of the UCC DA, the competent customs authority shall carry out a re-assessment of the valuation simplification in the following situations:

- (a) Where there are changes to the relevant Union legislation that affects the valuation simplification.
- (b) Where necessary as a result of the monitoring carried out.
- (c) Where necessary due to information provided by the holder of the valuation simplification concerning factors arising after the simplification was taken, which may influence its continuation or content.

The customs authority competent to take the decision shall communicate the result of the re-assessment to the holder of the decision (Article 15(2) of the UCC DA). **As a result of such re-assessment, the valuation simplification may be suspended, annulled, revoked or amended.**

8. VALIDITY OF THE VALUATION SIMPLIFICATION IN TERMS OF TIME AND IN TERMS OF THE CUSTOMS TERRITORY OF THE UNION

8.1 In terms of time

To be legally effective, the valuation simplification must be valid on the date of acceptance of a customs declaration for release for free circulation relating to the imported goods, which customs value is to be established with the use of the simplification.

In accordance with Article 22 (5) UCC_“*Except where otherwise provided in the customs legislation, the decision shall be valid without limitation of time.*” The Union legislator did not envisage any time limits as regards validity of the valuation simplification. This means that the decision is to be used by its holder as long as the holder complies with the conditions defined in the simplification and there are no circumstances which would have given grounds to the amendment, revocation, annulment, or suspension of the simplification.

The above-presented issue of validity is highly intertwined with the issue of monitoring of decisions taken upon application (please see point 7.1 of the document).

The valuation simplification provides inter alia a formula/method on the basis of which the costs included in the customs value (e.g. royalties) or costs which are not included in the customs value under the transaction value method (e.g. buying commissions) are to be calculated at the time of customs clearance. While the method/formula may be applied for even a long time (e.g. during the period when the licence agreement concluded by the buyer/importer/licensee and licensor is in effect), **the figures** used to calculate the costs forming the customs value or the costs not included in this value in accordance with the method/formula may need to be adjusted periodically.

In order to secure a proper application of the valuation simplification in this respect, **an obligation to provide the customs authorities within a specific time with updated information/figures used to calculate the missing elements in accordance with the formula/method described in the valuation simplification** at the time of customs clearance should be among obligations imposed on the holder of the valuation simplification.

Based on the updated information/figures, and in accordance with Article 23(4)(a) of the UCC in conjunction with Article 15(1)(c) of the UCC DA, the competent customs authorities shall re-assess the valuation simplification and amend it in this respect. Other conditions of the valuation simplification will remain unchanged.

If the updated information/figures are not provided to the competent customs authorities within the period set out in the valuation simplification, one considers that the holder of the valuation simplification does not comply with the obligation resulting from that decision. In such a situation, the competent customs authorities - depending on circumstances - will suspend or revoke the valuation simplification.

8.2 In terms of the customs territory of the Union

As a general rule, Article 26 UCC stipulates that "*Except where the effect of a decision is limited to one or several Member States, decisions relating to the application of the customs legislation shall be valid throughout the customs territory of the Union.*"

Therefore, the assessment of the Union wide validity of all decisions (including the simplification on valuation referred to in Article 73 UCC) is complementary to the

analysis of the scope of that decision, and in particular by the assessment on whether the effects of the decision are logically limited to one or more MS or can apply throughout the Union.

Example

The granted authorization concerns the determination of the amount of transport costs from a third country to a given point of entry in the Union customs territory, under a specific contract for transportation; it is evident that the simplification granted under such authorization could be in principle valid only for the MS concerned, and only for one or more consignments destined to that given point of entry.

Where the valuation simplification concerns elements of the value factors (e.g., the apportionment of an assist) whose determination is not conditional to geographical/national delimitations, then the general rule of union-wide validity of all decisions may apply.

The geographical validity of the authorization must therefore be evaluated by the authorities of the Member State where the application is lodged on a case-by-case basis, having regards to the individual set of facts on which the application is based and at the specific element of the value for which the authorization is requested.

Although the fact that the customs law does not require a consultation procedure between MS in the meaning of Article 14 UCC IA for granting of the simplification at stake, this does not prevent a simplification being considered as EU-wide valid.

9. RIGHT TO BE HEARD AND RIGHT FOR APPEAL

In accordance with the general rules expressed in Article 22 (6) of the UCC “*Before taking a decision which would adversely affect the applicant, the customs authorities shall communicate the grounds on which they intend to base their decision to the applicant, who shall be given the opportunity to express his or her point of view within a period prescribed from the date on which he or she receives that communication or is deemed to have received it. Following the expiry of that period, the applicant shall be notified, in the appropriate form, of the decision.*”

In cases in which the customs authority competent to take a decision, having examined an application for the issuance of valuation simplification, concludes that there are no grounds to grant the valuation simplification in accordance with Article 73 of the UCC and Article 71 of the UCC DA, then it will issue a decision that refuses granting the simplification.

The customs authority competent to take the decision, has to guarantee the economic operator the right to be heard before issuing such decision, as well as decisions on annulment, revocation, amendment and suspension of the valuation simplification taken

from the initiative of the competent customs authority. The general procedure for the right to be heard is defined in Article 8 of the UCC IA.

A decision which adversely affects the person concerned shall set out the grounds on which it is based and shall refer to the right of appeal provided for in Article 44 of the UCC (Article 22 (7) of the UCC).

10. CONSULTATION BETWEEN THE CUSTOMS AUTHORITIES UNDER ARTICLE 14 UCC IA

As a general rule expressed in Article 26 of the UCC, decisions on the application of customs law are valid throughout the customs territory of the Union. As already mentioned above, this principle also applies to the valuation simplification. In practice, this means that the holder of simplification in question may use it not only in the Member State where the decision was granted, but also in other Member States depending on a material scope of the decision concerned (please see information in point 8.2 of the document).

Considering the principle of Union-wide validity of decisions relating to the application of the customs legislation, the Union legislator envisages the consultation procedure between the customs authorities of the Member States.

The detailed rules for carrying out the consultation procedure are laid down in Article 14 of the UCC IA and Article 13 (3) of the UCC DA.

In the case of applications and valuation simplifications, the consultation procedure **is not mandatory**, and its launch depends on the assessment of situation by the competent Member State examining an application for a valuation simplification (Article 14 (1) first paragraph of the UCC IA). The customs authority competent to take the valuation simplification may consult customs authorities of other Member States where checks have to be carried out for the purpose of examining one or more of the criteria laid down in Article 71 of the UCC DA.

Nevertheless, this procedure can be initiated at any time when the customs authority that issued the valuation simplification considers it necessary in order to assess whether the holder of the simplification still is compliant or not with the conditions set out in Article 71 of the UCC DA.

The consultation procedure will be also used during the subsequent monitoring of the use of the valuation simplification and its re-assessment (Article 14 (4) of the UCC IA). When the competent customs authority that issued the valuation simplification decides to launch a re-assessment of the use of the decision by its holder, it also has to decide whether other Member States should be consulted or not in this respect.

ANNEX

11. QUESTIONS ON THE APPLICATION OF THE UNION CUSTOMS PROVISIONS IN THE CONTEXT OF THE VALUATION SIMPLIFICATION RAISED IN THE CUSTOMS EXPERT GROUP-VALUATION SECTION (CEG-VAL).

1. Whether the value determined on the basis of the specific criteria authorised under Article 73 UCC is a definitive value (as opposed to the provisional value under Article 166 UCC)?

Correct

It should be kept in mind that the customs value declared with the use of the valuation simplification may be subject of the verification at the time of importation (Article 188 of the UCC) or in the framework of the post-release control (Article 48 of the UCC).

2. Can the customs authorities modify the declared value on the basis of the specific criteria authorised under Article 73 UCC retroactively if the real value differs from the declared value?

The initially declared customs value with the use of the valuation simplification may be changed retrospectively only if the valuation simplification is annulled in accordance with Article 23(3) or Article 27 of the UCC, or in case where the importer unduly used the simplification.

3. Can the customs authorities modify the declared value retroactively if the real value “significantly differs from the determined in the absence of an authorisation”?

It may be assumed that the declared customs value with the use of the valuation simplification may significantly differ from the customs value that would be declared in the absence of an authorisation in the following situations (the list may not be exhaustive):

- a) the information provided by the applicant was incorrect or incomplete; or
- b) the formula used to calculate an amount to be included into/excluded from the customs value was wrongly formulated or used at the time of making the customs declarations; or
- c) the holder of the valuation simplification did not inform the competent customs authority about factors arising after the decision was taken, which influenced its correction/content.

The initially declared customs value with the use of the valuation simplification may be changed retrospectively only if the valuation simplification is annulled in accordance with Article 23(3) or Article 27 of the UCC.

To annul the simplification under Article 27 of the UCC, the following three conditions defined in the Article should be fulfilled simultaneously:

- that the decision was taken on the basis of incorrect or incomplete information;
- that the holder of the decision knew or ought reasonable to have known that the information was incorrect or incomplete;
- that the information had been correct and complete, the decision would have been different.

4. *What criteria should be applied to determine whether the customs value determined with the use of an authorisation “will not significantly differ from that determined in the absence of an authorisation”?*

Please see information provided in point 4.1 (pages 10 and 11) of the Guidance.

5. *Can the economic operator modify the declared value on the basis of the specific criteria authorised under Article 73 UCC retroactively if the real value differs from the declared value?*

The holder of a valuation simplification cannot request for changing the declared customs value retrospectively if the declared customs value differs from the customs value that would be declared in the absence of the simplification. Under the Union horizontal provisions, the holder of the simplification can request for amendment, revocation or suspension of the simplification.

However, the holder of a simplification is obliged to inform the competent customs authority about any factor arising after the decision was taken, which may influence its continuation or content. Then, the competent customs authority may take a decision about an annulment of the valuation simplification (Article 27(3) of the UCC).

6. *Can the customs authorities include in the authorization under Article 73 UCC (as a “specific criteria”) the possibility of the economic operator of modifying the declared value retroactively if the real value differs from the declared value?*

The scope of the obligations of the holder of a valuation simplification is defined in Article 23(1) and (2) of the UCC. The competent customs authority cannot introduce any other obligations in addition to the ones introduced by the Union legislator.

7. *What is the meaning of “disproportioned administrative costs” (Article 71 UCC DA)? Are they costs of the customs authorities, of the economic operators or both?*

Please see information provided in point 4.1 (pages 9 and 10) of the Guidance.

8. Given that Article 71 UCC DA establishes as a condition for the authorization referred to in Article 73 UCC that “the application of the procedure referred to in Article 166 of the Code would, in the circumstances, represent disproportioned administrative costs”, should we give preference to Article 166 UCC over Article 73 UCC? In other words, isn’t the Code saying that Article 73 UCC can only be authorized if Article 166 UCC is not suitable given the circumstances, analysing the administrative costs?

Correct.

9. How to deal with the authorisations under Article 73 UCC referring to fixed amounts or percentages of transport costs, in the context of exceptional increases of these costs?

In accordance with Article 23(2) of the UCC, the holder of the valuation simplification shall inform the competent customs authority about the increases of transportation costs. Considering the new information, the competent customs authority may suspend, revoke or amend the valuation simplification.

10. Is it possible to use both simplified procedure as referred to in Article 166 UCC (to an extent other than the customs value) and valuation simplification simultaneously?

Yes.

The data requirements necessary for the declaration of the customs value under the transaction value method as defined in Annex B to UCC DA are among other particulars which are necessary for application of the provisions governing the customs procedure for which the goods are declared (Article 162 of the UCC).

In accordance with the first paragraph of Article 73 of the UCC “*The customs authorities may, upon application, authorise that the following amounts be determined on the basis of specific criteria, where they are not quantifiable on the date on which the customs declaration is accepted (...)*”. Since, the provisions do not refer to a specific customs declaration, one may conclude that the valuation simplification may be used in the context of a standard customs declaration and a simplified customs declaration.

In cases in which an economic operator uses the valuation authorisation in order to declare the customs value under the transaction value method, the customs value should be considered as final regardless of the type of a customs declaration provided by the economic operator.

11. Can the simplification also be used in the context other than the determination of the customs value under the transaction value method, given that other methods refer to art. 71 and art. 72 UCC to exclude deductions or add amounts and given

that in the fall-back method (art. 144 UCC IA) the transaction value (art. 70 UCC) can be used with reasonable flexibility?

The valuation simplification may be used only in cases in which the customs value is to be declared under the transaction value method. This intention of the Union legislator is underlined by the fact that the provisions concerning the valuation simplification are placed in the UCC directly after the provisions concerning the determination of customs value under the transaction value method (Articles 70-72 of the UCC) and before the provisions concerning the secondary valuation methods (Article 74 of the UCC). The provisions on valuation simplification should not be interpreted broadly.

12. What happens if the valuation simplification affects different Member States Customs?

As a rule, the valuation simplification issued by the relevant customs authority of one Member State may be applicable across the Union (Article 26 of the UCC).

Article 14 (1) of the UCC IA envisages consultation between the customs authorities “where a customs authority competent to take a decision needs to consult a customs authority of another Member State concerned about the fulfilment of the necessary conditions and criteria for taking a favourable decision (...)”. It should be underlined that in the light of the provisions of Article 14 of the UCC IA **a decision about launching such consultation depends on the customs authority who is competent to issue the valuation simplification.**

13. What happens if the company does not reach Article 39 a) UCC requirements and thus the customs value cannot be determined neither by Article 73 UCC or 166 UCC because of the lack of data?

There are two questions that should be answered separately.

Article 39(a) of the UCC

Complying with the criterion laid down in Article 39(a) of the UCC is among the conditions defined in Article 71 of the UCC DA that are to be met cumulatively by the applicant to grant the valuation simplification. If any of the criteria is not fulfilled by the applicant, the valuation simplification shall not be granted. In practice, a decision refusing the grant of the valuation simplification will be issued. The economic operator has the right to appeal against such decision.

Lack of data necessary to determine amounts defining the customs value under the transaction value method under Article 73 of the UCC or Article 166 of the UCC

If there is no information/data to apply the transaction value method, the customs authority should not grant the valuation simplification under Article 73 of the UCC. The customs value should be declared on the basis of one of the secondary valuation methods.

The valuation simplification is an alternative solution for the simplified customs declaration as referred to in Article 166 of the UCC. The simplified customs declaration may be used in cases in which the customs value may be determined under the transaction value method, as well as in cases in which the secondary valuation methods are to be applied.
