

**COUNCIL DECISION (EU) 2022/656****of 11 April 2022**

**on the position to be taken on behalf of the European Union within the Technical Committees on Customs Valuation and on Rules of Origin, established under the auspices of the World Customs Organization, with regard to the adoption of advisory opinions, commentaries, explanatory notes, case studies, studies and similar acts concerning the valuation of imported goods for customs purposes under the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, and the adoption of advisory opinions, information and advice, and similar acts, concerning the determination of the origin of goods under the Agreement on Rules of Origin**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By means of Council Decision 94/800/EC <sup>(1)</sup>, the Union approved the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (Customs Valuation Agreement, CVA) and the Agreement on Rules of Origin (ARO).
- (2) Article 18(2) of the CVA establishes, under the auspices of the Customs Cooperation Council, a Technical Committee on Customs Valuation (TCCV), with a view, pursuant to point 1 of Annex II to the CVA, to ensuring, at the technical level, uniformity in interpretation and application of the CVA.
- (3) Pursuant to point 2(a) of Annex II to the CVA, the TCCV is responsible for examining specific technical problems arising in the day-to-day administration of the customs valuation system of Members and giving advisory opinions on appropriate solutions based upon the facts presented.
- (4) Pursuant to point 2(b) of Annex II to the CVA, the TCCV is responsible for studying, as requested, valuation laws, procedures and practices as they relate to the CVA and to prepare reports on the results of such studies.
- (5) Pursuant to point 2(d) of Annex II to the CVA, the TCCV is responsible for furnishing such information and advice on any matters concerning the valuation of imported goods for customs purposes as may be requested by any Member or by the Committee on Customs Valuation established by Article 18(1) of the CVA. Such information and advice may take the form of advisory opinions, commentaries or explanatory notes.
- (6) Article 4(2) of the ARO establishes, under the auspices of the Customs Cooperation Council, a Technical Committee on Rules of Origin (TCRO), which is to carry out the technical work prescribed in Annex I to the ARO.
- (7) Pursuant to point 1(a) of Annex I to the ARO, the TCRO is responsible for examining specific technical problems arising in the day-to-day administration of the rules of origin of Members and for giving advisory opinions on appropriate solutions based upon the facts presented.
- (8) Pursuant to point 1(b) of Annex I to the ARO, the TCRO is responsible for furnishing information and advice on any matters concerning the determination of the origin of goods as may be requested by any Member or the Committee on Rules of Origin established by Article 4(1) of the ARO.

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<sup>(1)</sup> Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) (OJ L 336, 23.12.1994, p. 1).

- (9) It is appropriate to establish the position to be taken on the Union's behalf in the TCCV with regard to the adoption of advisory opinions, commentaries, explanatory notes, case studies, studies and similar acts on any matter concerning the valuation of imported goods for customs purposes to secure uniformity in the interpretation and application of the CVA, as such acts may be capable of decisively influencing the content of Union law, namely Regulation (EU) No 952/2013 of the European Parliament and of the Council <sup>(2)</sup>, Commission Delegated Regulation (EU) 2015/2446 <sup>(3)</sup> and Commission Implementing Regulation (EU) 2015/2447 <sup>(4)</sup> pertaining to the value of goods for customs purposes and its determination.
- (10) It is appropriate to establish the position to be taken on the Union's behalf in the TCRO with regard to the adoption of advisory opinions, information and advice, and similar acts, concerning the determination of the origin of goods to secure uniformity in the interpretation and application of the ARO, as such acts may be capable of decisively influencing the content of Union law, namely Regulation (EU) No 952/2013, Delegated Regulation (EU) 2015/2446 and Implementing Regulation (EU) 2015/2447 pertaining to the origin of goods and its determination.
- (11) It is in the interest of the Union that the positions expressed on the Union's behalf in the TCCV be established according to principles, criteria and orientations governing the valuation of imported goods for customs purposes, and that those to be expressed in the TCRO be established according to principles, criteria and orientations governing the determination of the origin of goods. It is also in the interest of the Union that such positions be established in an expeditious manner to allow the Union to exercise its rights in the TCCV and in the TCRO.
- (12) In view of the highly technical nature of matters relating to the valuation of imported goods for customs purposes and of matters relating to the determination of the origin of goods, the volume of questions dealt with in TCCV and TCRO meetings taking place each year, the short time available to consider documents issued by the World Customs Organization (WCO) Secretariat and members of the TCCV or of the TCRO in preparation of TCCV or TCRO meetings and the consequent need for the position of the Union to take into account and to effectively act upon the new information presented before or during such meetings, necessary steps should be established, in line with the principle of sincere cooperation among the Union institutions enshrined in Article 13(2) of the Treaty on European Union (TEU), for the specification of the position of the Union.
- (13) In view of the recurrent late availability of working documents before TCCV and TCRO meetings, and in order to preserve the Union's rights and interests within those committees, the Commission should strive to call on the WCO Secretariat to ensure the availability of working documents in conformity with the respective rules of procedure of the TCCV and of the TCRO, so that such documents are dispatched at least 30 days before the opening of the relevant session.
- (14) To ensure that the Council is able to assess and, where appropriate, revise the policy in this Decision on a regular basis, and in the spirit of the sincere cooperation among the Union institutions enshrined in Article 13(2) of the TEU, the validity of this Decision should be limited in time,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The position to be taken on the Union's behalf within the Technical Committee on Customs Valuation, established under the auspices of the World Customs Organization, with regard to the adoption of advisory opinions, commentaries, explanatory notes, case studies, studies and similar acts concerning the valuation of imported goods for customs purposes under the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, and to the preparation of such acts, shall be established in accordance with the principles, criteria and orientations laid down in Section I of the Annex to this Decision.

<sup>(2)</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

<sup>(3)</sup> 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 (OJ L 343, 29.12.2015, p. 1).

<sup>(4)</sup> 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 Code (OJ L 343, 29.12.2015, p. 558).

*Article 2*

The specification of the Union's position to be taken under Article 1 shall be conducted in accordance with the specification laid down in Section II of the Annex.

*Article 3*

The position to be taken on the Union's behalf within the Technical Committee on Rules of Origin, established under the auspices of the World Customs Organization, with regard to the adoption of advisory opinions, information and advice, and similar acts, concerning the determination of the origin of goods under the Agreement on Rules of Origin, and to the preparation of such acts, shall be established in accordance with the principles, criteria and orientations laid down in Section I of the Annex to this Decision.

*Article 4*

The specification of the Union's position to be taken under Article 3 shall be conducted in accordance with the specification laid down in Section II of the Annex.

*Article 5*

This Decision shall enter into force on the date of its adoption.

It shall expire on 31 December 2025.

Done at Luxembourg, 11 April 2022.

*For the Council*  
*The President*  
J. BORRELL FONTELLES

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## ANNEX

- I. Position to be taken on behalf of the European Union within the Technical Committees on Customs Valuation and on Rules of Origin, established under the auspices of the World Customs Organization, with regard to the adoption of advisory opinions, commentaries, explanatory notes, case studies, studies and similar acts concerning the valuation of imported goods for customs purposes under the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, and the adoption of advisory opinions, information and advice, and similar acts, concerning the determination of the origin of goods under the Agreement on Rules of Origin

## 1. PRINCIPLES

In the framework of the Technical Committees on Customs Valuation and on Rules of Origin, established under the auspices of the World Customs Organization (WCO), the Union shall:

- (a) promote, contribute to and facilitate the valuation of imported goods for customs purposes and the uniform interpretation and application of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (Customs Valuation Agreement, CVA);
- (b) promote, contribute to and facilitate the determination of the origin of goods and the uniform interpretation and application of the Agreement on Rules of Origin (ARO);
- (c) work towards the appropriate involvement of stakeholders in the preparation phase for advisory opinions, commentaries, explanatory notes, case studies, studies, information or advice on any matters concerning the valuation of imported goods for customs purposes or the determination of the origin of goods, or similar acts of the Technical Committee on Customs Valuation (TCCV) and of the Technical Committee on Rules of Origin (TCRO), and ensure that such acts are in accordance with the CVA and the ARO, respectively;
- (d) ensure that measures adopted in the TCCV are consistent with the General Introductory Commentary to the CVA and the Interpretative Notes set out in Annex I to the CVA;
- (e) promote positions consistent with the Union's policies and best practices, including the objective to protect the financial interests of the Union, as well as any other international commitments of the Union in the area concerned.

## 2. CRITERIA

The positions to be taken on the Union's behalf:

- (a) shall be established according to the CVA, the General Introductory Commentary thereto and the Interpretative Notes set out in Annex I to the CVA, insofar as the valuation of imported goods for customs purposes is concerned;
- (b) shall be established according to the ARO, insofar as the determination of the origin of goods is concerned;
- (c) shall, where applicable, take into account the following:
  - (i) case law of the Court of Justice of the European Union related to the valuation of imported goods for customs purposes and to the determination of the origin of goods,
  - (ii) instruments previously adopted by the TCCV or the TCRO and which are still applicable,
  - (iii) the Union legal framework on the valuation of imported goods for customs purposes and the determination of the origin of goods,
  - (iv) the guidance instruments related to the valuation of imported goods for customs purposes developed in the framework of the Valuation Section of the Customs Expert Group,
  - (v) the guidance instruments related to the determination of the origin of goods developed in the framework of the Origin Section of the Customs Expert Group,
  - (vi) any other legal acts or guidelines related to the valuation of imported goods for customs purposes and the determination of the origin of goods developed by the Council or the Commission.

### 3. ORIENTATIONS

The Union shall, where appropriate:

- (a) endeavour to support the adoption, by the TCCV and the TCRO, of advisory opinions, commentaries, explanatory notes, case studies, studies, information and advice, or similar acts, concerning the valuation of imported goods for customs purposes or the determination of the origin of goods, to ensure, at the technical level, uniformity in interpretation and application of the CVA and the ARO;
- (b) propose and prepare instruments as referred to in point (a).

## II. Specification of the position to be taken on behalf of the Union within the Technical Committees on Customs Valuation and on Rules of Origin, established under the auspices of the WCO, with regard to the adoption of advisory opinions, commentaries, explanatory notes, case studies, studies and similar acts concerning the valuation of imported goods for customs purposes under the CVA, and the adoption of advisory opinions, information and advice, and similar acts, concerning the determination of the origin of goods under the ARO

1. Before each meeting of the TCCV or of the TCRO during which the TCCV or the TCRO is called upon to adopt advisory opinions, commentaries, explanatory notes, case studies, studies, information and advice, or similar acts, that have legal effects on the Union, the necessary steps shall be taken so that the position to be expressed on the Union's behalf takes account of the latest technical and other relevant information transmitted to the Commission, in accordance with the principles, criteria and orientations set out in section I. In order to preserve the Union's rights and interests within the WCO, the Commission shall pay special attention to the availability of working documents in conformity with the rules of procedures of the TCCV and of the TCRO.
  2. To this effect and based on the information transmitted to the Commission under point 1, the Commission shall transmit to the Council, in sufficient time before each meeting of the TCCV and of the TCRO as referred to in point 1, a written document setting out the particulars of the proposed specification of the Union's position for discussion and endorsement of the details of the position to be expressed on the Union's behalf. The Council shall examine the Commission's documents within the best possible timeframe. If the Council does not endorse a specific part of the proposal, the Commission will not present a Union position on that part in the TCCV or in the TCRO.
  3. In cases where the Union's position differs in substance from the advisory opinions, commentaries, explanatory notes, case studies, studies and similar acts proposed in the TCCV or from the advisory opinions, information and advice, and similar acts, proposed in the TCRO, the Commission shall express, on behalf of the Union, the position that the act in question does not meet the necessary consensus to be adopted by the TCCV or the TCRO.
  4. To preserve the Union's rights and avoid a decision on a matter on which the Council is unable to reach a position before the TCCV members or TCRO members are asked to express their final position on the adoption of advisory opinions, commentaries, explanatory notes, case studies, studies, information and advice, and similar acts, the Commission shall request on behalf of the Union that the proposed act remain under discussion in the TCCV or the TCRO.
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