

Exploratory Public Consultation on the establishment in the EU of Decisions relating to binding information in the field of customs valuation

Fields marked with * are mandatory.

1 Context

Key elements of international trade in goods, and on which the customs declarations are based, are the tariff classification of the goods, their origin and their value. These three elements are essential for the calculation of customs duties.

Advance rulings (in the European Union, these are described as customs decisions, also known as Binding Information) relating to key elements of such trade operations are already established. Such decisions cover the determination of tariff classification and origin of goods.

On the other hand, advance rulings in the field of Customs Valuation are currently not available in the EU.

Objective of this exploratory public consultation

This consultation looks at advance rulings in the field of Customs Valuation and seeks your views. We would like to gather your views on:

- the level of interest in, and the need for, a possible initiative by the Commission, on the basis of the Union Customs Code, to establish a legal basis for Binding Value Information.
- the potential scope of Binding Value Information, identifying those elements (components) of the customs value of goods which could be covered by such decisions.

The results will feed into the more general project undertaken by the European Commission on the analysis of the need, relevance, scope, feasibility and implications of a possible initiative to provide for Binding Value Information at EU level.

The questionnaire takes about **20 minutes** to complete. The questionnaire is accessible in all official EU languages (please note that due to the translation process, with the exception of the English version, all language versions will be available online 2 weeks later, from the moment the consultation is launched). You can submit your reply in any of the official EU languages.

2 Personal data

In order to ensure a fair and transparent consultation process, only responses received through this online questionnaire will be taken into account.

Please note: The European Commission will prepare a report summarising the responses. Contributions received are thus intended for publication on the Commission's website.

* 2.1 Please choose between the following two options:

- My reply can be published **under my name/the name of the organisation** on behalf of which I reply: I consent the publication of all information in my contribution in whole or in part including my name or my organisation's name, and I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent publication.
- My reply can be published provided that I/the organisation on behalf of which I reply **remain anonymous**: I consent to the publication of any information in my contribution in whole or in part (which may include quotes or opinions I express) provided that it is done anonymously. I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

* 2.2 Please select whether you participate in this consultation as or on behalf of a:

- Citizen
- Business
- Business association
- Customs broker
- Public authority
- Academic
- Other

2.3 Other, please specify:

2.4 Is your organisation registered in the Transparency Register?

If your organisation is not registered, we invite you to register [here](#). More information on the Transparency Register can be found [here](#).

- Yes
- No

2.5 Please indicate your Register ID number.

2.6 Please indicate your name, or the name of your company, organisation, or institution for which you respond to this consultation.

2.7 Where do you live, where is the headquarters of your organisation (main headquarters in the case of multinational companies), or where is your public authority located?

- Austria

- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom
- Other

2.8 Other, please specify:

2.9 What is the size of your company?

- Self-employed
- Micro-enterprise (1-9 employees)
- Small enterprise (10-49 employees)
- Medium enterprise (50-249 employees)
- Large enterprise (more than 249 employees)

2.10 Is your company an Multi-National Enterprise?

- Yes
- No

2.11 What is the annual turnover of your company?

- Below EUR 500,000

- Between EUR 500,001 – 5,000,000
- Between EUR 5,000,001 – 10,000,000
- Between EUR 10,000,001 – 50,000,000
- Above EUR 50,000,000

2.12 Which is your main activity?

Multiple answers possible

- Production of goods
- Buy and resale of goods at EU level
- Buy and resale of goods at national level
- Buy and resale of goods at regional level
- Import of goods
- Customs broker
- Other

2.13 Other, please specify:

TRADE ASSOCIATION

2.14 Do you import goods from third countries into the EU?

- Yes
- No

2.15 How many import declarations (declarations for release for free circulation) did you lodge (or were lodged on your behalf) in 2016?

- Below 100
- Between 101 to 500
- Between 501 to 1000
- Above 1000
- Don't know

2.16 Are your customs declarations lodged in more than one Member State?

- Yes
- No

2.17 Please indicate the number of Member States

2.18 Which is the approximate value of your imports in 2016?

- Below EUR 100,000
- Between EUR 100,001 – 1,000,000
- Between EUR 1,000,001 – 10,000,000
- Above EUR 10,000,000

2.19 Which approximate amount of import duties did you pay in 2016?

- Below EUR 50,000
- Between EUR 50,001 – 200,000
- Between EUR 200,001 – 500,000
- Between EUR 500,001 – 1,000,000
- Above EUR 1,000,000

2.20 Have you been granted the Authorized Economic Operator (AEO) status?

Authorized Economic Operator in accordance with the provisions of Articles 38-41 of the Union Customs Code

- Yes
- No
- Don't know

2.21 Are you the holder of any of the following authorizations for customs simplifications?

More than one answer possible

- Simplified declaration
- Entry in the declarant's records
- Centralized clearance
- Transit simplifications
- Other
- Don't know

2.22 Have you been granted any of the authorizations for special customs procedures, as indicated in [Article 211 of the Union Customs Code](#)?

More than one answer possible

- Inward processing procedure
- Outward processing procedure
- Temporary admission procedure
- End-use procedure
- Customs warehousing
- None
- Don't know

2.23 Are you a holder of an authorization for the simplified determination of certain elements of the customs value, in accordance with [Article 73 Union Customs Code](#) ?

- Yes
- No
- Don't know

2.24 Would you like to provide additional information on the scope of the authorisation?

3 The rules of customs valuation

3.1 How would you rate your knowledge of the EU rules on customs valuation?

- Excellent

- Good
- Satisfactory
- Low
- Don't know

3.2 Are there any circumstances or situations causing problems with regard to the correct determination of the customs value (please indicate up to three from the following elements)

- Complexity of the EU legislation
- Complex or unusual commercial situations
- Changing commercial situations
- Need for expertise at enterprise level
- Need for guidance from authorities
- Non-uniform implementation of the legal provisions
- Other
- There are no major obstacles

3.3 Please specify

There is a need for guidance from the EU Member States under the auspices of the European Commission in order to achieve, for the sake of legal certainty, an EU-wide harmonized system which levels the playing field for importers.

3.4 Please indicate the level of difficulty for applying the provisions on customs valuation for Transaction Value

- High
- Medium
- Low
- No opinion

3.5 Please indicate the level of difficulty for applying the provisions on customs valuation for Other Methods of Valuation

- High
- Medium
- Low
- No opinion

3.6 Which are the provisions on Transaction Value whose application is more challenging in practice?

More than one answer possible

- Price paid or payable
- Sale for transaction value purposes
- Conditions and Considerations
- Discounts and price adjustments
- Transfer Pricing
- Other elements referred to the price
- Royalties and licence fees
- Assists (goods and services used in the production of the imported goods provided free of charge or at a reduced price by the importer)
- Proceeds (further payments to the seller from subsequent resale of the goods)

- Other elements to be added to the price
- Elements not to be included in the transaction value

3.7 Please explain

As an example and without aiming at providing an exhaustive list, the distinction between "sales" and "orders" is not clear; whether and to what extent price adjustments can be made is interpreted differently from Member State to Member State; following the changes introduced by the entry into force of the Union Customs Code and its implementing provisions, it is unclear whether royalty license fees qualify as a "condition of sale" and should therefore be part of the customs value, leading to divergent interpretations.

4 Advice and information

4.1 Are you familiar with the EU legislation in the field of customs valuation (via Union Customs Code legal package sources, EUR-LEX, Official Journal)?

- Yes
- No

4.2 How often do you consult customs authorities for information and/or advice in relation to customs valuation in the EU?

- Often (more than 5 times/year)
- Some times
- Never

4.3 Please indicate the issues most frequently raised with customs authorities:

Royalty payments, adjustments to customs value, the determination of what is the sale for export.

4.4 Which sources for guidance and advice on customs valuation matters do you use?

More than one answer possible

- EU guidance (i.e. TAXUD Website, TAXUD INFO)
- Member States' guidance
- World Customs Organisation sources (including WCO Customs Valuation compendium)
- I don't use any source
- Other

4.5 Please specify

US Customs and Border Protection guidance on customs value, case law of EU Member States, case law of the EU Court, instruments adopted by the WCO Technical Committee on Customs Valuation and other guidance published by the WCO.

4.6 Do you consult any of the following persons for advice or information in relation to customs valuation in the EU?

- Legal specialists
- Customs and tax advisors
- Customs brokers
- I do not consult any expert
- Other

4.7 Please specify

4.8 How would you rate the quality and usefulness of the advice/information obtained?

	Fully satisfactory	Sufficient	Insufficient	Don't know
Customs Authorities	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Guidance sources (such as EU or WCO guidance)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Legal/customs specialists	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

5 Awareness

5.1 Do you know that it is possible to get decisions on binding information in relation to certain customs matters (Binding Tariff Information and Binding Origin Information) in the EU?

- Yes
 No

5.2 Are you aware of the scope of the general legal rules in this field (for example, the rules on the issue and operation of Binding Tariff Information and Binding Origin Information)?

- Yes
 No

5.3 Are you a holder of binding information decisions in relation to certain customs matters in the EU?

- Yes, of Binding Tariff Information (Tariff classification of goods)
 Yes, of Binding Origin Information (Country of origin of goods)
 Yes, of both Binding Tariff Information and Binding Origin Information
 No
 Don't know

6 Interest, scope, functions and purpose of Binding Valuation Information

6.1 Would you be interested in binding information decisions in relation to customs valuation in the EU?

- Yes
 No

6.2 Please indicate how important are binding information decisions in relation to customs valuation in the EU?

- Essential
 Necessary
 Helpful

6.3 Please explain:

The possibility to obtain legal certainty on the application of a complex set of rules, as are those on customs value, is essential for daily business operations.

6.4 Does the absence of Binding Valuation Information in the EU have effects on your trading operations?

- Yes
- No
- Don't know

6.5 Please explain:

It obliges economic operators to operate without legal certainty in a particularly complex legal environment.

6.6 What could be the advantages of Binding Valuation Information for your enterprise?

More than one answer possible

- Legal certainty
- Avoidance of disputes
- Compliance assurance
- Level playing field throughout the EU
- Uniform application of the law in the EU
- Other

6.7 Please specify:

6.8 Would a system of Binding Valuation Information in the EU create challenges or problems for your activity?

- Yes
- No
- It depends on the conditions applicable

6.9 Please specify:

There must however be a possibility for an appeal or mediation procedure, where the EU Commission and other EU Member States should be involved to ensure a uniform interpretation of the EU customs valuation rules.

6.10 Which elements of the customs value should be covered by Binding Valuation Information ()?

More than one answer possible

- Price paid or paid or payable
- Sale for transaction value purposes
- Conditions and Considerations
- Discounts and price adjustments
- Transfer pricing
- Assists (only for adjustments)
- Royalties and licence fees (only for adjustments)
- Elements not to be included in the customs value

Other

6.11 Are there elements of the customs value which should not be covered by binding valuation information?

- Yes
 No
 Don't know

6.12 Please explain:

6.13 Should Binding Valuation Information be made publicly available (except confidential data)?

- Yes
 No

6.14 How should Binding Valuation Information be made available to the public?

More than one answer possible

- EU website
 National websites
 Public Database
 Other

6.15 Please specify:

The publicly available BVI must include sufficient information to provide meaningful guidance to economic operators on how the customs valuation rules are interpreted and applied throughout the EU. Therefore, the public BVI must at least include a description of the facts concerned, the rules applied, and how they have been interpreted in that case. This information should be sufficiently detailed and should therefore take the form of a motivated decision, where only business confidential information would need to be deleted before the decision is published in the EU website.

7 Application, use and management of Binding Value Information decisions

7.1 Should a Binding Value Information decision have a pre-defined validity period?

- Yes
 No
 Don't know

7.2 Please explain your choice:

It should however be sufficiently long, and not shorter than six years. If the period of validity is too short, the BVI will fail to provide legal certainty and to meet its purpose.

7.3 When should a Binding Value Information decision cease to be valid (more than one answer possible)?

- When the contractual terms of the commercial transaction on which the decision was based are the subject of modifications
 In other specific cases

7.4 Please explain or provide examples:

The contractual modifications should however be relevant for the determination of the customs value.

7.5 When should a Binding Value Information decision be revoked?

More than one answer possible

- When it is no longer compatible with a judgment of the Court of Justice of the European Union
- In other specific cases

7.6 Please explain or provide examples:

- When the EU Commission adopts a decision addressing the existence of conflicting BVIs; In the event of changes to the law or in to the interpretation given by the Technical Customs Committee on Valuation and by the WTO Valuation Committee as endorsed by the WCO Council; BVIs conflicting with WTO Dispute Settlement Body findings.

8 Further Information

8.1 Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your document here.

Please note that the uploaded document will be published alongside your response to the questionnaire which is the essential input to this open public consultation. The document is an optional complement and serves as additional background reading to better understand your position.