

**LAW OF MONGOLIA
ON CUSTOMS TARIFF**

May 20, 1996
Ulaanbaatar city

(Turiin medeelel #9, 1996)

**CHAPTER ONE
GENERAL PROVISIONS**

Article 1. Purpose of the law

The purpose of this law is to regulate matters relating to the creation of the Customs tariff system of Mongolia, principles for the adoption of Customs duty rates, valuations and assessments and relating to the collection of customs duties.

Article 2. Customs Tariff Legislation of Mongolia

1. The Customs tariff legislation is comprised of the Constitution of Mongolia, this law, the Customs Law, and other relevant legislation which is consistent with those laws.

2. If an international treaty to which Mongolia is a party is inconsistent with this law, then the provisions of the international treaty shall prevail.

Article 3. Definitions

1. For the purposes of this law:

1. "Customs duty" shall mean duties collected by Customs in accordance with this law and the Customs Law of Mongolia on or in connection with goods crossing the Customs frontier;

2. "other taxes" shall mean taxes collected by Customs from a tax payer in accordance with laws other than this law;

3. "tax payer" shall mean a declarant (a person declaring goods to Customs);

4. "Customs value" shall mean a value determined in accordance with this law for the purposes of imposing Customs duty and compiling Customs statistical data;

5. "Customs tariff" shall mean a comprehensive schedule of customs duty rates adopted according to the classification in the "Harmonized Commodity Description and Coding System" publication;

6. "goods and humanitarian assistance" shall mean goods forwarded to relieve losses and damages caused by natural disaster or similar catastrophes; and

7. "goods of irrevocable assistance" means goods forwarded free of charge in accordance with the international treaties of Mongolia.

2. Other terms used in this law which are defined in the Customs Law of Mongolia shall be interpreted as having the meaning given to them in that law.

CHAPTER TWO CUSTOMS TARIFF SYSTEM

Article 4. Customs tariff system

1. Customs duties shall be imposed in accordance with the Customs tariff on goods crossing the Customs frontier. Customs duties are assessed on the basis of Customs value.

2. The Customs tariff for goods crossing the Customs frontier shall be approved by the State Ikh Khural of Mongolia

3. The Customs tariff shall consist of the general, the most favored and the preferential rates.

4. The most favored rates in the Customs tariff may [reciprocally] apply to goods originating in a country that applies the most favored nation status to Mongolia.

5. The preferential rates in the Customs tariff may apply to goods originating in a country that has granted tariff preferences to Mongolia.

6. The general rates in the Customs tariff shall apply to goods originating in a country other than those referred to in paragraph 4 and 5 of this Article. The general rate in the Customs tariff shall be twice the most favored rate in the Customs tariff.

7. Where it is deemed necessary, the Government may modify the Customs tariff rates upon authorization of the State Ikh Khural of Mongolia.

8. In adopting, reducing or increasing Customs tariff rates, or relieving certain goods from Customs duties, the codes and descriptions of the goods concerned shall be described in accordance with the "Harmonized Commodity Description and Coding System".

Article 5. Customs Tariff Council

1. The Customs Tariff Council shall be established on a part-time basis and shall be responsible for making recommendations and conclusion on matters relating to the Customs tariff policy, formulation of a proper tariff system, the adoption of appropriate Customs duty rates and the imposition of additional duties.

2. The Government of Mongolia shall decide on the composition and procedural rules of the Customs Tariff council. The work of the Customs Tariff Council shall be administered by the Cabinet member in charge of Customs.

3. In deciding on the composition of the Customs Tariff Council, in addition to the involvement of the Government agencies responsible for Customs and finances, the representation of scholars, researchers, business entities and organizations shall be taken into consideration.

Article 6. Reducing or increasing Customs tariff rates

1. The Government of Mongolia may, upon the recommendation of the Customs Tariff Council and according to paragraph 7 of article 4 of this law, alter Customs tariff rates in the following way:

1) to reduce the Customs duty rates of certain kinds of goods by up to 50

percent for the purposes of regulating market demand and supply;

2) to increase the Customs duty rates of certain kinds of goods by up to 50

percent for the purposes of regulating imports of such goods and building appropriate structure of the domestic market;

3) to modify the Customs duty rates of certain kinds of goods entering particular region(s) of Mongolia for use therein, or leaving such region(s), for the purposes of balanced economic development;

4) to temporarily modify the Customs duty rates of the goods concerned (for a period of not more than 6 months) in order to balance seasonal demand and supply of certain kinds of consumer goods.

CHAPTER THREE

TYPES OF CUSTOMS DUTY RATES AND ADDITIONAL DUTIES

Article 7. Types of Customs duty rates

1. Customs duty rates shall be of the following types:

1) ad valorem;

2) specific;

3) combinations of the types referred to in the above two subparagraphs

Article 8. Additional duties

1. The Government of Mongolia may, in addition to Customs duties, impose the following additional duties:

1) special duty;

2) anti-dumping duty;

3) countervailing duty.

2. Additional duties shall be imposed when the failure to so impose will or may:

1) cause damage to a domestic manufacturer;

2) preclude production or expansion of production of comparable goods;

or

3) allow other countries to discriminate against Mongolia or infringe its interests.

3. Additional duties shall be imposed for the purposes of protecting the interests of domestic manufacturers or taking counter actions in relation to any goods which, because of their quantity, price or other condition, fall within the

cases referred to in sub-paragraphs 1 and 3 of paragraph 2 of this Article, if those goods enter the Customs territory.

4. Where goods entering the Customs territory are valued at a price substantially less than their normal value in the country from which they have been exported and those goods fall within the cases referred to in sub-paragraphs 1 and 2 of paragraph 2 of this article, then anti-dumping duties shall be imposed for the purposes of taking protective measures.

5. Where goods entering the Customs territory are subsidized at their production or at their exportation to Mongolia and those goods fall within the cases referred to in sub-paragraphs 1 and 2 of paragraph 2 of this article, then countervailing duties shall be imposed for the purposes of taking protective measures.

Article 9. Grounds for imposition of additional duties

Before imposing additional duties the Customs Tariff Council shall examine the existing situation to determine if grounds exist under the legislation and the international treaties of Mongolia for the imposition of such duties.

CHAPTER FOUR CUSTOMS VALUE

Article 10. Customs valuation methods

1. The Customs value of imported goods shall be calculated using the following methods in the following order of priority:

- 1) the transaction value method. This is the principal method for Customs valuation of imported goods;
- 2) the transaction value method for identical goods;
- 3) the transaction value method for similar goods;
- 4) the deductive method;
- 5) the computed method; or
- 6) the fall-back method. This is the method of last resort for determining the Customs valuation of imported goods.

2. Upon request of a declarant, the sequence of methods referred to in sub-paragraphs 4 and 5 of paragraph 4 of this Article may be reversed.

3. Methodologies for the Customs valuation of imported goods shall be approved by the Government of Mongolia.

4. The Customs value of exported goods shall be their value at the Mongolian national border.

Article 11. Declaration of Customs value

1. The Customs value shall be determined and declared to Customs by a declarant.

2. A declarant is obliged to provide Customs with documentary evidence supporting his/her declaration of the Customs value. The documentary evidence must be shown in quantitative figures and be based on objective data.

Article 12. Verification of Customs value

1. Customs shall verify and decide whether the Customs value determined by a declarant is accurate and objective.

2. Customs may calculate the Customs value using a method other than that used by a declarant and on basis of the objective data where:

- 1) a declarant fails to prove the accuracy of his/her Customs value;
- 2) a declarant fails to prove the validity of information or documents used in the calculation of his/her Customs value; or
- 3) Customs considers a Customs value determined by a declarant to be groundless.

In such cases a declarant shall pay Customs duties and other taxes according to the Customs value determined by Customs.

3. Where a declarant does not agree with a Customs value assessed by Customs, he/she may appeal in accordance with article 89 of the Customs Law of Mongolia.

4. A declarant shall be responsible for bearing expenses incurred during the verification of a Customs value.

CHAPTER FIVE

DETERMINATION OF CUSTOMS VALUE OF IMPORTED GOODS

Article 13. Transaction value method

1. The transaction value of imported goods is the price (actual price) paid or payable for goods purchased from abroad. Where a transaction value of imported goods includes components referred to in paragraph 2 of this article, it shall be considered to be the Customs value of the goods.

2. In determining a Customs value using the transaction value method, where the declared value does not include the following payments, those payments shall be included:

- 1) the cost of transport, loading, unloading and insurance charges incurred before the goods reach the national border of Mongolia;
- 2) commissions and brokerage paid or payable by a buyer in connection with the purchase of the goods and a price for containers or packing materials classified together with the goods being valued;
- 3) the value, apportioned as appropriate, of goods (including materials, components, parts, tools and moulds) or services (including engineering, development, design work, artwork, plans and sketches undertaken outside the territory of Mongolia) supplied directly or indirectly by the buyer, either free of charge or at a discounted price, for use in connection with the production and export of the goods to Mongolia;

4) royalties directly or indirectly paid or payable by the buyer as a condition of resale of the goods; and

5) the value of any part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer which accrue directly or indirectly to the seller.

3. Any restrictions, which are imposed by the legislation of Mongolia with regard to the disposition or use of the goods by the buyer or which limit the geographical area where the goods may be resold and which do not affect the value of the goods, shall not preclude using the transaction value method.

4. The transaction value method shall not be used where:

1.) disposition, use or resale of the goods by the buyer is restricted in a way other than those referred to in paragraph 3 of this article;

2.) a transaction is subject to terms and conditions which make it impossible to determine the value of the goods;

3.) it is impossible to determine the value of any part of the proceeds which accrue to the seller in accordance with sub-paragraph 5 of paragraph 2 of this article; or

4.) the buyer and the seller have an interdependent relationship which may influence the transaction value.

Article 14. The transaction value method for identical goods

1. The transaction value method for identical goods shall be used when the conditions referred to in paragraphs 2 and 3 of this article have been met.

2. "Identical goods" shall be goods which are the same as, or which share the following common features with, the goods being valued:

- 1) physical characteristics;
- 2) quality, trademark and reputation;
- 3) country of origin;
- 4) producer.

Minor differences between the physical characteristics of identical goods and the goods being valued shall not preclude application of the transaction value method for identical goods.

3. For determination of the Customs value by the method provided for in this article, the identical goods are required to have been introduced into the Customs territory in substantially the same quantity, at the same commercial level and at the same time as the goods being valued, or no earlier than 90 days before the importation of the goods being valued.

4. Where the identical goods are of a quantity and commercial level different from those referred to in paragraph 3 of this article, a declarant taking into account such differences must make appropriate adjustments and prove the grounds for the adjustments by way of documentary evidence.

5. In determining the Customs value by the transaction value method for identical goods the payments provided for in paragraph 2 of article 13 of this law shall be included.

6. If there is more than one transaction value for identical goods which meets all requirements, the lowest such value shall be used for determination of the Customs value.

Article 15. The transaction value method for similar goods

1. The transaction value method for similar goods shall be used when the conditions described in this article have been met.

2. " Similar goods" shall be goods which may be not alike to the goods being valued in all respects but which have like principal characteristics and like component materials, perform the same functions and are commercially interchangeable with the goods being valued.

3. In determining similar goods the following features shall be considered:

- 1) quality, trademark and reputations; and
- 2) country of origin.

4. In determining a Customs value by the transaction value method for similar goods, the provisions of paragraphs 3 to 6 of article 14 of this law shall be complied with.

Article 16. The deductive method

1. The deductive method shall be used when the goods being valued, or identical or similar goods, have been introduced into the Customs territory and resold in the domestic market in the same condition as when they were imported.

2. In using the deductive method, the basis for the valuation shall be the unit price at which the greatest number of the goods referred to in paragraph 1 of this article have been sold to a person unrelated to the seller over the 90 day period no preceding the introduction into the Customs territory of the goods being valued.

3. In determining a Customs value by the method described in this article, the following expenses shall be deducted from the unit price of the goods sold in the domestic market:

- 1) costs of transportation, loading, unloading and insurance charges and commissions incurred after the goods have been introduced into the Customs territory; and
- 2) the total amount of Customs duty and other taxes paid and any surcharges.

4. In determining a Customs value by the method described in this article, where the goods being valued, or identical or similar goods, are resold after the making of alterations or processing following their introduction into the Customs territory, the expenses incurred during the alteration or processing may be deducted.

Article 17. The computed method

In determining a Customs value by the computed method the following costs, expenses and charges shall be included:

- 1.) the costs of materials employed by a producer in producing the goods being valued together with related operational and other expenses which he/she has incurred;
- 2.) the cost of transportation, loading, unloading and insurance charges and other payments incurred before the goods arrived at the national frontier of Mongolia; and

3.) any proceeds which accrue to the exporter from the export of the goods to Mongolia.

Article 18. The fall-back method

1. When the Customs value cannot be determined under any of the methods provided for in articles 13 to 17 of this law in the sequence set out in this law, they may be co-applied.

2. Under the method provided for in paragraph 1 of this article the Customs value must not be based on:

- 1) the domestic market price of goods produced in Mongolia;
- 2) the price of the goods in the domestic market of the country of exportation;
- 3) the price of the goods for export from the country of exportation to a third country; or
- 4) an arbitrary or fictitious price.

3. In determining the Customs value according to this article international practices and current commercial situation shall be taken into account.

CHAPTER SIX

PAYMENT AND COLLECTION OF CUSTOMS DUTY AND OTHER TAXES

Article 19. Payment and collection of Customs Duty and Other Taxes.

1. Customs shall collect Customs duty and other taxes from the tax payer.

2. Customs shall collect Customs duty and other taxes by converting the Customs value determined in foreign currency into the national currency (togrog) at the exchange rate effective on the last date of customs clearance for the goods entering the Customs frontier and the first date of customs clearance for the goods leaving through the Customs frontier. The taxpayer may pay Customs duty and other taxes in convertible foreign currencies.

3. Regulations on the application of a prescribed exchange rate over a certain period shall be approved jointly by the President of the Bank of Mongolia (the Central Bank) and the Minister for Finance.

4. Customs duties and other taxes may be paid prior to Customs clearance. Customs shall not pay interest on the amount of any duties and taxes which have been paid in advance.

5. The taxpayer may ask banking or insurance agencies to provide security to ensure the payment of Customs duties and other taxes or may give goods or property into custody. Regulations on accepting securities and taking goods or property into custody shall be approved by the Customs central State administrative body.

6. Customs shall permit the goods to be released to their owner or to leave the Customs territory only when all due duties and taxes have been paid or securities to ensure payment have been provided.

Article 20. Suspension of payment of Customs duty and other taxes

Customs may, upon the decision of the Government of Mongolia, defer payment of Customs duties and other taxes or permit them to be paid in installments over a period of time not exceeding two months.

Article 21. Goods exempt from Customs duty

1. The following goods shall be exempt from Customs duty:

1) technological equipment and heavy mechanisms (facilities) to be installed for technological and industrial purposes by the business entities with foreign investment that invest in priority sectors and export oriented industry. List of the priority sectors shall be approved by the Government of Mongolia;

2) *Deleted*

3) *Deleted*

4) appliances for special use by the disabled or equipment or raw materials necessary for making such appliances;

5) goods of humanitarian or irrevocable assistance;

6) equipment, facilities, materials, raw materials, appliances, petroleum, diesel fuel, food and consumer items for employee and private needs required for oil related activities according to the agreement made with the Government on product sharing in oil sector;

7) re-exportation of equipment and facilities temporarily introduced into the Customs territory for use in oil exploitation works according to the agreement made with the Government on product sharing in oil sector;

8) exportation of a foreign contractor's share of oil;

9) the nominal price of currency or securities;

10) goods for official use by organizations or representative offices enjoying diplomatic privileges and immunities, and household articles of persons and the families of persons enjoying diplomatic privileges; and

11) travellers' personal effects;

12) private vehicles (no more than one) of a Mongolian citizen returning to the country after more than one year appointment in a Consular or diplomatic mission of Mongolia in another country or in an international institution.

13) diagnostic facilities, equipment, appliances and packages required for guaranteed and safe transportation and reservation of blood, blood products, body and organs to be used for medical purposes.

14) gas fuel, designated container, equipment, special machinery, facilities and equipment. The list of goods relevant to this subparagraph shall be approved by the Government.

15) round wood, beams, cut materials and wood, grain seeds, plants and crops other than prohibited ones.

2. *Deleted*

3. Matters relating to exemption from Customs duty shall be regulated by this law only.

CHAPTER SEVEN ORIGIN OF GOODS

Article 22. Rules of origin

Rules of origin shall be approved by the Government of Mongolia for the purposes of applying the most favored or preferential rates of the Customs tariff.

Article 23. Certificate of origin

1. The official document for determination of the country of origin shall be a certificate of origin issued and endorsed by a competent authority.

2. A certificate of origin shall be prepared and presented to Customs by a declarant.

3. Where a certificate of origin is not presented the goods shall be subject to Customs duty at the general rate of the Customs tariff.

4. Where the certificate of origin is presented within 90 days since the permit by Customs for the goods to enter the Customs territory, the balance of any excess Customs duty paid may be refunded.

CHAPTER EIGHT

REMISSION, ABATEMENT OR REFUND OF CUSTOMS DUTIES

Article 24. Remission of Customs duties

1. Customs may, in exceptional cases, grant a remission of Customs duty for goods temporarily and legitimately crossing the Customs frontier.

2. Remission of Customs duties shall be granted where:

1) goods re-imported into the Customs territory are proved to be home produced;

2) goods coming from abroad are to enter Customs bonded zones or Customs special zones located in the Customs territory;

3) goods crossing back over the Customs frontier having been dispatched by mistake; and

4) goods placed under Customs transit or transshipment procedures.

Article 25. Abatement of Customs duties

Where there is documentary proof that any goods have suffered damage, deterioration or loss in volume or weight or become no longer of use while under Customs control, Customs may grant an abatement of the whole or any part of Customs duties.

Article 26. Refund of Customs duties

1. Customs may grant a refund of the whole or any part of Customs duties which have been paid where:

1) there is documentary proof that the goods have suffered damage, deterioration or loss in volume or weight or become no longer of use while under Customs control; or

2) before the goods are permitted by Customs to enter or leave the Customs territory it is established that they enjoy duty free status, that a lower rate

of duty applies or that they should be diverted to a Customs procedure under which Customs duty is not imposed.

2. Where goods have suffered damage or deterioration or are no longer of use, no refund of Customs duty shall be granted on the part of the goods which may be of further use.

3. Where it is difficult to determine the amount of refund of Customs duties, a specific sum may be granted in lieu thereof according to the regulations provided for in article 28 of this law.

Article 27. Refund of Customs duties

1. Customs may grant a refund of the whole or part of Customs duties where:

1) goods which have temporarily crossed the Customs territory upon payment of Customs duty are entitled to enjoy duty free release or a lower rate of duty or to be diverted to a Customs procedure under which Customs duty is not imposed or have crossed back over the Customs frontier within the time permitted; or

2) *Deleted*

2. *Deleted*

Article 28. Regulations

Regulations on remission, abatement or refund of Customs duties according to articles 24 to 27 of this law shall be approved by the Government of Mongolia.

CHAPTER NINE

MISCELLANEOUS PROVISIONS

Article 29. Travelers' personal effects

Quantitative and price limits for travelers' personal effects shall be approved by the Customs central State administrative body.

Article 30. Coming into force of the law

This law shall come into force on 1 July 1996.

CHAIRMAN OF THE
STATE IKH KHURAL

N. BAGABANDI