



Customs and International Trade

News Flash

Upcoming update on the guidance document for Customs Valuation: removal of the concept of “domestic sale”

Background

On 30 October 2018, the European Commission published the minutes of the latest meeting of the Customs Expert Group (CEG) on customs valuation. Amongst others, the Expert Group decided to review and update the guidance document on customs valuation. The major change decided by the CEG is the removal of all references to so-called “domestic sales” in the chapter on sale for export. The reason for the removal is that the concept of “domestic sales” doesn’t exist in prevailing customs legislation (i.e. the Union Customs Code (UCC)).

The concept of “domestic sales” was introduced to complement and clarify the term “sale for export” as referred to in the UCC. “Sale for export” should be understood as the sale occurring immediately before the introduction of the goods into the EU customs territory. However, based on EU guidance, a “domestic sale”, i.e. a sale concluded between a buyer and a seller both in the EU, could never qualify as a sale for export to the EU, even if this sale were to happen before the goods crossed EU customs territory borders.

Impact

The impact of this decision can be considerable; from the moment the Guidance Document of the European Commission is updated, sales between two persons in the EU may fall within the scope of the definition “sale for export”. Since there is no definition of what constitutes a sale, this removal of the concept of “domestic sales” may also open up discussions on the pre-orders qualifying as a sale.

Therefore, such a sale between two EU parties may easily be qualified as “the sale occurring immediately before the introduction of the goods into the EU”, that must be used as the basis for the customs value. This will typically result in a potential increase in the customs value to be declared and logically the customs duties burden.

The CEG’s minutes state clearly that practical examples of such scenarios will be added to the updated guidance document on customs valuation. However, the question is to which extent these can have a similar effect as the “domestic sales” concept.

Way forward: how PwC can help you

Economic operators importing goods into the EU are advised to review the current state of their supply chain and related invoice flows. The removal of the concept of “domestic sale” may have a direct impact on their business as a sale that was not taken into account as customs value in the past, may have to be taken into account in the future, resulting in a higher taxable base and increased customs duties burden.

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