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The Government by the Degree of 5 October 2016 No.686 annulled Resolution No.724 of the Cabinet of Ministers of Ukraine of 16 September 2015 On Application of Benchmark Indexes of Customs Value of Goods in the Risk Management System. How will this Act impact the work of business entities in the implementation of control over the correctness of determining the customs value of goods transported through the customs

border of Ukraine?

In September 2015 business was taken aback by the adoption of the Resolution of the Cabinet of Ministers of Ukraine *On Application of Benchmark Indexes of Customs Value of Goods in the Risk Management System No. 724 dated 16 September 2015* (Resolution No. 724) because all companies were sure that sadly remembered indicative prices have returned. The tax authorities declared immediately that the benchmark indexes should not be mandatory and should be used only for information purposes.

However, the business and the legal community receive it with incredulity due to the following quite justified reasons.

First, Resolution No. 724 itself was very equivocal. It did not stipulate precisely how it should correlate with the *Customs Code of Ukraine* setting out methods for customs valuation. Second, Resolution No. 724 made no remarks as to the procedure for application of benchmark indexes in the risk management system. Third, the benchmark indexes have not been publicly available and it remains unclear for companies how they have been calculated and how they have been analyzed in each particular transaction as there are different supply terms and incurred expenses, etc. Fourth, in practice, Resolution No. 724 has complicated customs clearance procedures at least at the very beginning because many companies have been required to provide additional documents for customs valuation purposes and have spent more time for customs clearance. Last, but not least, unfortunately, customs value has always been a stumbling block for conducting business in Ukraine for the vast majority of companies.

Notably, Resolution No. 724 has also raised WTO compliance issues. The fact is that under the WTO jurisprudence e.g. *Colombia — Indicative Prices and Restrictions on Ports of Entry* the panel has precisely concluded that application of mandatory indicative prices contradict the *Customs Valuation Agreement*.

In view of the above, it goes without saying that Resolution No. 686 of Cabinet of Ministers of Ukraine of 5 October 2016, which has abolished Resolution No. 724, is in the interests of the business and fully complies with WTO rules.