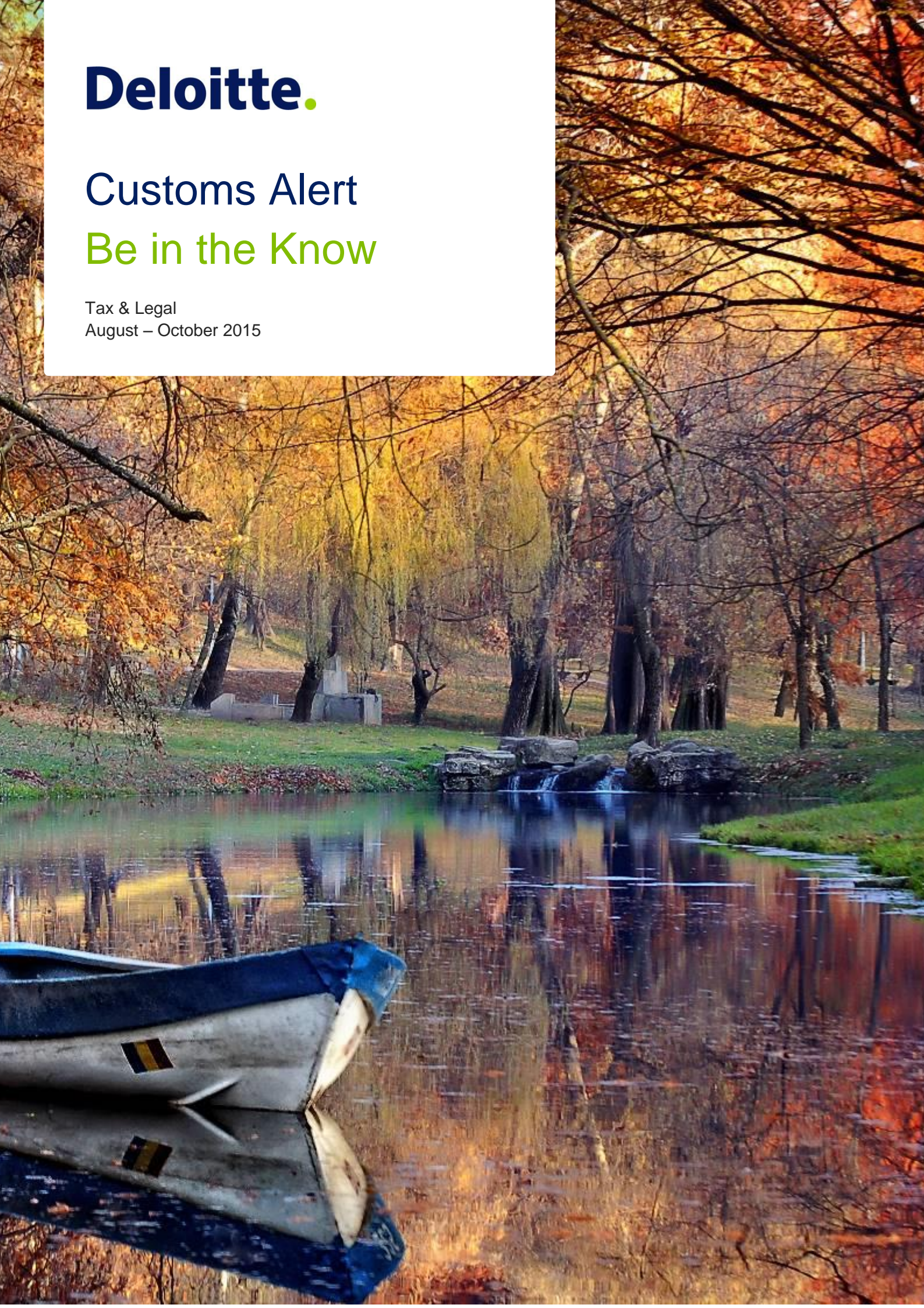


The Deloitte logo, consisting of the word "Deloitte" in a bold, dark blue sans-serif font, followed by a small green dot.

# Customs Alert

## Be in the Know

Tax & Legal  
August – October 2015



# 1. General

In this Customs Alert, we provide a brief summary of new documents adopted during sessions of the Eurasian Economic Commission (the “EEC”) within the framework of the Eurasian Economic Union (the “EEU”) between Belarus, Kazakhstan, Russia, Armenia and Kyrgyzstan, and published on the official EEU website <http://eaeunion.org/> and EEU legal portal <http://docs.eaeunion.org/ru-ru/>. Also, we offer you a summary of new Kazakhstan regulatory legal acts dealing with international trade.

## 2. Eurasian Economic Union

### Free trade zone with Israel

The Supreme Eurasian Economic Council has started talks with the Israeli Government to enter into a free trade zone treaty with the Eurasian Economic Union.

We will keep you up to date about the status and results of the talks in future issues.

#### **Council Resolution № 49 dated 21 August 2015**

### Customs value of imported goods

EEC Board Resolution № 118 dated 22 September 2015 has approved Rules for the accounting treatment of interest payments when calculating the customs value of goods (the "Rules"). The term "interest payments" means customers' interest payments made within the framework of financial relationships to purchase imported (estimated) goods.

The Rules are applied to determine the customs value of goods when using the transaction with imported goods method (method 1), and when other methods are used to determine customs value (methods 2 - 6).

If financing (within the framework of a financing agreement or foreign economic agreement) is provided by a seller (including in the form of payment deferrals or instalments) or banks, loan organisations, other legal entities or individuals, **interest is not included in the customs value of imported goods, provided the conditions** established by the Rules are met.

Interest payments are not included in the customs value of imported goods if the following conditions are met simultaneously:

- 1) interest payments are referred to separately from the price actually paid or due for imported (estimable) goods (for example, in a separate invoice line)
- 2) financial relations are drawn up in writing or electronically in a separate financial agreement or section of a foreign trade agreement
- 3) imported (estimable) goods are sold at the price declared as the price actually paid or due, i.e. the seller does not include interest in the price, and even if financial relations did not exist with the purchaser the goods would have been sold at the same price
- 4) the interest rate in a financing agreement or foreign trade agreement does not exceed that deemed typical for similar financing relationship in the same country and for the relevant period in which the financing agreement or foreign trade agreement were concluded

If a seller allowing a customer to defer payments for goods does not highlight interest in the price actually paid or due, and fixes prices for goods in a foreign economic agreement based on payment deadlines, **this type of financing will impact the customs value of goods**. In this case, **the price actually paid by the customer is used to determine the customs value of imported (estimable) goods**.

Furthermore, the Rules provide examples of cases when interest should be included in the customs value of imported goods and it should not be included.

**The Resolution enters into force on 23 October 2015.**

### Anti-dumping measures in relation to steel tubes

EEC Board Resolution № 101 dated 18 August 2015 has introduced anti-dumping duties on Chinese seamless steel pipes used in the drilling and operation of oil and gas wells and imported into the EEU.

The anti-dumping measures will be in place for five years.

EEU FEA CN Code	Manufacturer	Anti-dumping duty (% of customs value)
7304 22 000 1	Tianjin Pipe Manufacturing Co., Ltd.	31%
7304 22 000 2	Hengyang Valin Steel Tube Co., Ltd.;	25.21%
7304 22 000 9	Hengyang Valin MPM Co., Ltd.	
7304 23 000 1	Hunting Energy (Wuxi) Co. Ltd.	12.23%
7304 23 000 2	Shanghai Hilong Drill Pipe Co., Ltd.;	12.30%
7304 23 000 9	Nantong Hilong Steel Tube Co., Ltd.;	
7304 24 000 1	Shanghai Tube-Cote Petroleum Pipe Coating Co., Ltd.	23.18%
7304 24 000 2	Shengli Oil Field Freet Petroleum Equipment Co., Ltd.;	
7304 24 000 3	Shengli Oil Field Freet Petroleum Steel Pipe Co., Ltd.;	
7304 24 000 4	Jiangsu ChangBao Steel Tube Limited Co.;	
7304 24 000 5	Jiangsu ChangBao Precision Steel Tube Co., Ltd.;	
7304 24 000 6	Shandong Molong Petroleum Machinery Co., Ltd.;	
7304 24 000 9	Dongying Weima Petroleum Drilling Tools Co., Ltd.;	
7304 29 100 1	Tianjin Tiangang Special Petroleum Pipe Manufacture Co., Ltd.;	
7304 29 100 2	Dalipal Pipe Company;	
7304 29 100 3	Anhui Tianda Oil Pipe Company Limited;	
7304 29 100 9	Pan Gang Group Chengdu Steel & Vanadium Co., Ltd.;	
7304 29 300 1	Baoji Petroleum Steel Pipe Co., Ltd.	
7304 29 300 2		
7304 29 300 3		
7304 29 300 4		
7304 29 300 9	Others	31%
7304 29 900 1		
7304 29 900 9		

Furthermore, steel seamless pipe imports are exempt from anti-dumping duties, provided the manufacturers are in the approved list<sup>1</sup>, and the manufacturer provides a standard certificate signed by an authorised official and stamped.

<sup>1</sup> Appendix 3 to EEC Council Resolution № 101 dated 18 August 2015

EEC Board Resolution № 133 dated 6 October 2015 has extended anti-dumping duties on steel tubes from Ukraine until 5 July 2016, inclusive.

EEU FEA CN Code	Manufacturer	Anti-dumping duty (% of customs value)
7304 24 000 1 7304 24 000 2 7304 24 000 3 7304 24 000 4 7304 24 000 5 7304 24 000 6 7304 24 000 9 7304 29 100 1 7304 29 300 1 7304 29 100 2 7304 29 300 2 7304 29 100 3 7304 29 300 3 7304 29 300 4 7304 29 100 9 7304 29 300 9 7304 29 900 1 7304 29 900 9	Pipe casing	18.9%
7304 24 000 1 7304 24 000 2 7304 24 000 5 7304 29 100 1 7304 29 300 1 7304 29 100 2 7304 29 300 2 7304 29 100 9 7304 29 300 9	Oil well tubing	19.9%
7304 7305 7306	Oil pipelines, up to 820 mm diameter inclusive, gas pipelines up to 820 mm diameter inclusive and general purpose hot-deformed pipes up to 820 mm, inclusive	19.4% - 37.8%

**Resolution № 101 entered into force on 23 September 2015.**

**Resolution № 133 enters into force on 19 November 2015, but no earlier than at the end of 30 calendar days from its official publication date, which was 12 October 2015.**

### Classifiers used to complete customs declarations

Due to Kyrgyzstan's accession to the Eurasian Economic Union, EEC Board Resolution № 91 dated 18 August 2015 has introduced amendments to the following classifiers used to complete customs declarations<sup>2</sup>:

- for customs payments (Appendix 7)
- taxes, charges and other payments collected by the customs authorities (Appendix 9)

**The Resolution entered into force on 19 September 2015.**

<sup>2</sup> Established by Customs Union Commission Resolution № 378 dated 20 September 2010

## Tariff quotas for specific agricultural goods

EEC Board Resolution № 99 dated 18 August 2015 has established tariff quotas on specific agricultural goods imported into the EEU in 2016.

Tariff quotas apply to agricultural goods imported into the EEU and released for domestic use, except for goods originating and imported from CIS member countries.

Tariff quotas are set for goods with the EEU FEA CN codes 0201, 0202, 0203, 0207 and 0404.

Goods imported under tariff quotas should be accompanied with a license from the authorised state body.

**The Resolution entered into force on 19 September 2015.**

## Amendments to the EEU Integrated Customs Tariff

EEC Council Resolution № 54 dated 21 August 2015 amends the EEU Integrated Customs Tariff codes 0602, 2009, 3921, 4411, 4813, 6103, 8408, 8418, 8528, 8539, 8701, 8702, 803, 8704, 805, 9401, 9403 and 9609 in accordance with Russian WTO obligations. Notes to the EEU Integrated Customs Tariff have also been added.

The approved amendments are due to enter into force on 20 September 2015.

The table below shows the EEC Resolutions amending the EEU Integrated Customs Tariff:

EEC Council Resolution No., publication date	EEU FEA CN code	Brief overview of goods	Import duty rate <sup>3</sup>
55 <sup>4</sup> 10 September 2015	3901 20 900 1	Selected types of polyethylene	0% <sup>5</sup>
EEC Board Resolution No., publication date	EEU FEA CN code	Brief overview of goods	Import duty rate <sup>6</sup>
86 <sup>7</sup> 20 August 2015	8411 99 001 1 8411 99 001 9	Selected jet turbine, turboprop and gas turbine engines	5% 5% <sup>21C)</sup>
89 <sup>8</sup> 20 August 2015	8108 30 000 0	Titanium waste and scrap	0% <sup>9</sup>
108 <sup>10</sup> 2 September 2015	2710 12 110 1 2710 12 110 9 2710 12 150 1 2710 12 150 9	Selected types of light distillations	5%

<sup>3</sup> Import duties shows as a % of customs value, or in Euros/US\$

<sup>4</sup> Resolution entered into force on 20 September 2015

<sup>5</sup> Import duties of 0% of customs value applies from the date this Resolution enters into force until 31 October 2016, inclusive. Note 58C to the EEU Integrated Customs Tariff

<sup>6</sup> Import duties shows as a % of customs value, or in Euros/US\$

<sup>7</sup> Resolution entered into force on 19 September 2015. Note 21C to the EEU Integrated Customs Tariff: import duties of 0% of customs value apply from 2 September 2014 until 1 September 2016, inclusive

<sup>8</sup> Resolution entered into force on 19 September 2015

<sup>9</sup> Import duties of 0% of customs value applies from the date this Resolution enters into force until 31 December 2016, inclusive. Note 57C to the EEU Integrated Customs Tariff

<sup>10</sup> Resolution withdraws commodity positions 2710 12 110 0, 2710 12 150 0 and 2710 12 900 9. Valid from 2 October 2015

	2710 12 900 2		
	2710 12 900 8		
<b>113<sup>11</sup></b> <b>11 September 2015</b>	8430 41 000 2	Selected drilling or tunnelling machines, mechanical vehicles	2%
	8430 41 000 8		0%
	8430 50 000 2		7.5%
	8430 50 000 3		0%
<b>127<sup>12</sup></b> <b>29 September 2015</b>	8410 90 000 1	Selected parts for hydraulic turbines and selected goods for civil aircraft	7.5% <sup>13</sup>
	8518 10 300 1		0%
	8518 29 300 1		0%

The full text of the document can be found on the official EEC website and EEU legal portal.

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<sup>11</sup> Resolution withdraws commodity positions 8430 41 000 9 and 8430 50 000 1. Valid from 11 October 2015

<sup>12</sup> Resolution enters into force at the end of 30 calendar days from its official publication

<sup>13</sup> Import duties of 13% of customs value apply from the date this Resolution enters into force until 31 August 2016, inclusive. Note 56C to the EEU Integrated Customs Tariff

# 3. Republic of Kazakhstan

## Kazakhstan accession to the WTO

On 12 October 2015, the President signed a Law № 356-V 3PK ratifying a Protocol for Kazakhstan to accede to the 15 April 1994 Marrakesh Agreement establishing the World Trade Organisation.

Kazakhstan will become the WTO's 162<sup>nd</sup> full member by the end of a month from ratification of the protocol.

We will issue a special alert later covering the customs aspects of Kazakhstan's WTO membership.

## Ban on the export of selected goods

Orders of the Acting Minister for Investment and Development № 867 and № 868 dated 24 August 2015 have introduced a ban on the export from Kazakhstan of:

- untreated precious metals, precious metal scrap and waste classified as EEU FEA CN codes 7108 11 000 0, 7108 12 000 9 and 7112 91 000 0
- ferrous metal waste and scrap classified as EEU FEA CN code 7204, except for steel alloy waste and scrap, including stainless steel (EEU FEA CN code 7204 21 100 0 and 7204 21 900 0) and others (EEU FEA Cn code 7204 29 000 0)

for four months.

**The Orders entered into force from their publication date, which was 29 August 2015.**

## Deferral or instalment payment of customs duties

Order of the Ministry of Finance № 398 dated 2 July 2015 approves a list of documents used to allow the deferral of customs duty payments or their payment in instalments.

Grounds for a customs duty deferral or payment in instalments	Confirming document
Damage as a result of a natural disaster, man-made catastrophe or other unforeseen circumstances	Written confirmation from regional authorities of emergencies
Delay in budget financing or payment for work performed (services and goods provided) within the framework of registered civil transactions	Written confirmation from the relevant national budget programme administrator of delays in financing from the national budget or payment for work performed (services or goods provided)



Import of perishable goods into the EEU	Normative legal acts covering public health, hygiene standards are approved by the public health authorities and are binding for all individual and legal entities in Kazakhstan <sup>14</sup> .
Supplies of goods within the framework of international treaties	Copies of valid international treaties to which Kazakhstan is a party
Import into the EEU of goods included in a list of imported foreign aircraft and parts on which customs duties may be deferred or paid in instalments	Written confirmation of the civil aviation authorities on the use of imported foreign aircraft and parts, provided flights are served by Kazakhstan air companies
Import into the EEU by agricultural companies or supplies for them of planting material or seeds, crop protecting agents, agricultural machinery from EEU FEA CN subpositions 8424 81, 8433 51 and 8433 59, animal food, apart from cat, dog and domestic bird food	A document confirming the execution of agricultural activities by an organisation importing the goods in question or for which the goods in question are being supplied
Import of goods, including materials and supplied, technical machinery, components and spare parts, for their use in industrial processing	Foreign trade agreement (contract) on the supply of imported raw materials and supplied, technical machinery, components and spare parts to it, for their use in industrial processing Technical production flow diagram (production fragment) with imported goods used as raw materials, supplies, technical machinery, components and spare parts

**The Order entered into force on 10 September 2015.**

### **Rules for customs operations during customs declaration and issuing goods before customs declaration**

Ministry of Finance Order № 112 dated 23 February 2015 establishes the Rules for Customs Rules during Customs Declaration and issuing Goods before Customs Declaration.

The above rules establish the sequence of actions taken by declarants and officials during customs declaration and releasing goods before filing a customs declaration, and also the form for a commitment to file a customs declaration and provide required documentation.

The full text of the document can be found at official Kazakhstan sources.

**The Order entered into force on 19 April 2015.**

### **Rules for issuing permits to process products outside of Kazakhstan**

Minister for Investment and Development Order № 419 dated 31 March 2015 approves rules for issuing permits to process products outside of Kazakhstan in accordance with the Law № 300-III *On Export Controls* dated 21 July 2007.

The rules establish the procedure for issuing permits, and also approve:

- the permit form
- the application form for a permit
- information form

**The Order entered into force on 29 September 2015.**

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<sup>14</sup> Point 6 of article 144 of the Code *On Public Health and the Health System*

## List of imported goods on which value added tax is paid according to the offset method

National Economy Minister Order № 616 dated 24 August 2015 has amended and supplemented the list of imported goods on which VAT is paid according to the offset method<sup>15</sup>.

The amendments were made to ensure the list complies with the EEU FEA CN<sup>16</sup>.

**The Order entered into force on 17 October 2015.**

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<sup>15</sup> Establishes by National Economy Minister Order № 93 dated 13 February 2015

<sup>16</sup> Establishes by EEC Council Resolution № 54 dated 16 July 2012

## 4. Dear Clients

Please contact us should you have any questions regarding the application of Customs Union or Kazakhstan customs law.

The Deloitte customs group provides services specifically designed to assist those performing foreign economic activities understand and apply statutory rules and regulations concerning the import and export of goods. We have a team of experts to work on our engagements who have both theoretical and practical customs knowledge, which, in our opinion, is the key to a quality and professional job.

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**We are always glad  
to be of assistance!**

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