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Customs Alert

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Tax & Legal
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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

Goods declared as temporary imports with a full conditional exemption from customs duties and taxes

EEC Board Resolution № 88 dated 2 December 2015 states that the civil aircraft referred to in points 26 and 32-35 of the list of goods temporarily imported with a full exemption from customs duties and taxes¹, registered under the temporary import (release) procedure with a full conditional exemption from customs duties and taxes, **may be used in the EEU member country** whose customs authority registered them under the temporary import (release) procedure, **and transported between EEU member countries and (or) internationally**.

The Resolution entered into force on 26 January 2016.

Specific exemptions from import customs duties

EEC Board Resolution № 89 dated 2 December 2015 has introduced a new wording to point 7.1.13 of CUC Resolution № 130 dated 27 November 2009:

“7.1.13. Civil passenger aircraft in CU FEA CN subpositions 8802 40 003 5 and 8802 40 003 6, imported before 31 December 2023 into the EEU for use in the EEU member country into which the goods were imported, and for transportation among member countries and (or) for international transportation;”.

EEC Board Resolution № 4 dated 12 February 2016 has introduced a new wording to point 7.1.10 of CUC Resolution № 130 dated 27 November 2009:

“7.1.10. Fishing boats, depot ships and other marine vessels used to process and pack fish products (CU FEA CN 8902 00 100 0 code), registered in the EEU ships' register, sailing under the flag of an EEU member country, imported into the EEU and registered under the release for domestic use customs procedures before 1 January 2018, inclusive, provided documents are filed during the declaration procedure confirming registration in the ships' register of an EEU member country;”.

Resolution № 89 entered into force on 26 January 2016; Resolution № 4 enters into force 17 March 2016.

¹ Approved by Resolution of the Customs Union Commission (hereinafter, the “CUC Resolution”) № 331 dated 18 June 2010

Classifiers used to complete customs declarations

EEC Council Resolution № 168 dated 22 December 2015 has amended the following classifiers used to complete customs declarations²:

- the characteristics of the transportation of goods (Appendix 2)
- customs charge concessions (Appendix 7)
- documents and data used during customs declaration (Appendix 8)
- taxes, charges and other payments collected by the customs authorities (Appendix 9)
- measures to ensure compliance with customs transit (Appendix 18)

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

The Resolution entered into force 22 January 2016.

Protective measures in relation to specific types of goods

EEC Council Resolutions № 170 dated 22 December 2015 and № 6 dated 26 January 2016 have introduced anti-dumping duties on the following imports into the EEU:

- steel wrought wheels from Ukraine, and registered under EEU FEA CN 8607 19 100 9 code, for 5 years
- seamless stainless steel pipes from Ukraine, registered under EEU FEA CN 7304 41 000 1, 7304 41 000 5, 7304 41 000 8, 7304 49 100 0, 7304 49 930 1, 7304 49 930 9, 7304 49 950 1, 7304 49 950 9, 7304 49 990 0, 7304 90 000 1 and 7304 90 000 9 codes, for 5 years

Name of goods	Manufacturer	Anti-dumping duties (% of customs value)
710 mm or more diameter steel wrought wheels, used to manufacture and repair freight truck and passenger wagon wheel pairs, for locomotive passenger carriages; passenger, freight and shunting locomotives; electric and diesel train, and special rolling stock motor and non-motor wheel pairs	<ul style="list-style-type: none"> • Public joint stock company Interpipe Nizhnedneprovsk Tube Rolling Plant (Ukraine, Dnepropetrovsk, Stoletov Street 21) 	4.75%
	<ul style="list-style-type: none"> • Others 	4.75%
Seamless stainless steel pipes with diameter of up to 426 mm, inclusive	<ul style="list-style-type: none"> • Private joint stock company Sentravis Production Ukraine (53201, Ukraine, Dnepropetrovsk Oblast, Nikopol, Trubnik Avenue 56) 	4.32%
	<ul style="list-style-type: none"> • Limited Liability Partnership Intertype Nico Tube (53201, Ukraine, Dnepropetrovsk Oblast, 	4.32%

² Approved by CUC Resolution № 378 dated 20 September 2010

	Nikopol, Trubnik Avenue 56)	
	<ul style="list-style-type: none"> Limited Liability Partnership Production Association OSKAR (49044, Ukraine, Dnepropetrovsk, Yekaterinoslavskii Boulevard 2, Office 500) 	18.96%
	<ul style="list-style-type: none"> Others 	18.96%

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

Resolution № 170 entered into force 22 January 2016; Resolution № 6 entered into force 26 February 2016.

Changes to the EEU Integrated Customs Tariff

EEC Council Resolution № 13 dated 2 February 2016 has set rates on specific goods used in the printing industry. The resolution entered into force 4 March 2016.

Furthermore, the table below lists a number of EEC Resolution amending the EEU ICT:

EEC Board Resolution №, publication date	EEU FEA CN	Brief description of goods	Import customs duty rate ³
3 16 February 2016 ⁴	2917 36 000 0	Terephthalic acid and salts	0% ⁵
EEC Council Resolution №, publication date	EEU FEA CN	Brief description of goods	Import customs duty rate ⁶
7 27 January 2016 ⁷	2510 20 000 0	Natural calcium phosphate, natural aluminium limestone phosphate and phosphate chalk	0% ⁸
19 25 February 2016 ⁹	1803 10 000 0 1804 00 000 0	Specific cocoa products	0% ¹⁰

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

³ Import customs duties shown as a percentage of customs value, or in Euros or US\$

⁴ Resolution entered into force 26 February 2016 and covers legal relations arising after 1 January 2016

⁵ Import customs duty rate of 0% of the customs value applies from 1 January 2016 until 31 December 2017, inclusive. Note 9C of the EEU ICT

⁶ Import customs duties shown as a percentage of customs value, or in Euros or US\$

⁷ Resolution entered into force 26 February 2016 and covers legal relations arising after 5 January 2016

⁸ Import customs duty rate of 0% of the customs value applies from 5 January 2016 until 4 January 2019, inclusive. Note 4C of the EEU ICT

⁹ Resolution enters into force 26 March 2016

¹⁰ Import customs duty rate of 0% of customs value applies from the date the resolution enters into force until 31 December 2017, inclusive. Note 65C of the EEU ICT

3. Republic of Kazakhstan

Export customs duties

Minister of National Economy Order № 81 dated 17 February 2016 has approved a list of goods subject to export duties, duty rates and their period of validity, and Rules for calculating export customs duties on crude oil and goods manufactured from oil.

Among other things, the order states that export duties on crude oil are based on the average market price for crude oil on global markets for the previous period ("average market price"). The previous period starts from the 20th two months previously and ends on the 20th of the month preceding the month export customs duties are applied.

The average market price for crude oil is calculated by the authorised body for tax and customs policy. The average market price for crude oil generated for the previous period is published by the 25th of the month preceding the month export duties are applied on the official website of the authorise body for tax and customs policy.

The export duties stipulated by Appendix 1 to the Order apply to crude oil in EEU FEA CN 2709 00 900 9 code, based on the average crude oil market price for the previous period.

№	Average monthly crude oil market price (EEU FEA CN 2709 00 900 9)	Export customs duty rates, US\$/tonne
1.	up to US\$ 25 per barrel	0
2.	between US\$ 25 and US\$ 30 per barrel	10
3.	between US\$ 30 and US\$ 35 per barrel	20
4.	between US\$ 35 and US\$ 40 per barrel	35
5.	between US\$ 40 and US\$ 45 per barrel	40
6.	between US\$ 45 and US\$ 50 per barrel	45
7.	between US\$ 50 and US\$ 55 per barrel	50
8.	between US\$ 55 and US\$ 60 per barrel	55
9.	between US\$ 60 and US\$ 65 per barrel	60
10.	between US\$ 65 and US\$ 70 CИA per barrel	65
11.	between US\$ 70 and US\$ 75 per barrel	70
12.	between US\$ 75 and US\$ 80 per barrel	75
13.	between US\$ 80 and US\$ 85 per barrel	80
14.	between US\$ 85 and US\$ 90 per barrel	85
15.	between US\$ 90 and US\$ 95 per barrel	90
16.	between US\$ 95 and US\$ 100 per barrel	95
17.	between US\$ 100 and US\$ 105 per barrel	100
18.	between US\$ 105 and US\$ 115 per barrel	115
19.	between US\$ 115 and US\$ 125 per barrel	130
20.	between US\$ 125 and US\$ 135 per barrel	145
21.	between US\$ 135 and US\$ 145 per barrel	160
22.	between US\$ 145 and US\$ 155 per barrel	176
23.	between US\$ 155 and US\$ 165 per barrel	191

24.	between US\$ 165 and US\$ 175 per barrel	206
25.	between US\$ 175 and US\$ 185 per barrel	221
26.	from US\$ 185 per barrel and higher	236

The full document text can be found in official sources in Kazakhstan.

The Order enters into force from the day of its official publication, which was 25 February 2016, and covers relations arising after 1 February 2016.

Handling of precious metals and precious stones

Law № 444-V On Precious Metals and Precious Stones was signed on 14 January 2016 to regulate public relations arising around the production of precious metals, the circulation of precious metals and precious stones, raw materials containing precious metal, jewellery and other items made from precious metals and precious stones.

Article 7 of the above law establishes the specifics for importing precious metal, precious stones, raw materials containing precious metals, jewellery and other items into Kazakhstan from non-EEU member countries, and exporting the same to these countries.

Furthermore, Law № 445-V dated 14 January 2016 has updated the Administrative Violations Code with respect to the sale of jewellery and other items made from precious metals and precious stones.

The full document text can be found in official sources in Kazakhstan.

Law № 444-V and Law № 445-V were officially published 16 January 2016.

Goods eligible for tariff concessions

Minister of National Economy Order № 737 dated 27 November 2015 has updated Order of Acting Minister of National Economy Order № 279 dated 30 March 2015 so that the list of goods eligible for tariff concessions is worded as follows.

The list includes two categories of goods:

1. goods imported from non-EEU countries as a founder contribution to share capital.
These goods included machinery used in the agriculture and catering industries, industrial electric vehicles, aircraft and others
2. goods imported from non-EEU countries by sugar producers

For concession purposes, goods are defined according FEA CN codes.

The full document text can be found in official sources in Kazakhstan.

The Order enters into force at the end of 10 calendar days from its first official publication, which was 19 January 2016.

Transfer and accounting treatment of customs payments, taxes and late payment interest

Minister of Finance Order № 635 dated 9 December 2015 has updated the Rules for transferring and refunding (offsetting) excess (incorrectly paid) customs duties, taxes, customs fees and late payment interest, and advance payments to or from the budget¹¹.

According to the amendments, customs duties, taxes, customs fees and late payment interest should be paid through commercial banks and organisations carrying out specific banking operations.

To refund (offset) excess (incorrectly paid) customs duties, taxes, customs fees or late payment interest, payers should apply to the state revenue authorities in accordance with the procedure and within the deadline established by articles 599, 601 and 602 of the Tax Code.

The tax application to offset and (or) refund taxes, other obligatory payments, customs payments, late payment interest and fines has been approved by Minister of Finance Order № 604 dated 31 December 2014.

The full document text can be found in official sources in Kazakhstan.

The Order entered into force from 1 January 2016.

Issue of permits with respect to export controls

Government Resolution № 1083 dated 28 December 2015 has appointed the Ministry for Investment and Development Committee for Industrial Development and Safety:

- the licensor for the export and import of products subject to export controls
- the body authorised to issue permits to re-export products subject to export controls, permits to process products outside of Kazakhstan, transit permits, opinions on the classification of goods, technology, work, services or information as products, and warranties (end user certificate)

In addition, the state authorities coordinating the issue of licenses to export and import products subject to export controls, permits to re-export products subject to export controls and the state authorities coordinating the issue of transit permits have been determined.

The list of products subject to export controls has been approved by Government Resolution № 104 dated 5 February 2008.

The full document text can be found in official sources in Kazakhstan.

The Resolution entered into force 20 January 2016.

¹¹ Approved by Minister of Finance Order № 257 dated 3 April 2015

Rules for issuing re-export permits

Minister for Investment and Development Order № 539 dated 30 April 2015, in accordance with export control legislation, has approved rules for issuing re-export permits. The Ministry of Investment and Development Committee for Industrial Development and Safety has been appointed the authorised body.

The Order enters into force at the end of 21 calendar days from its first official publication, which was 6 January 2016.

Application forms stipulated by customs law

Minister of Finance Order № 659 dated 15 December 2015 has approved the application forms stipulated by the Customs Code, such as:

- to include in customs registers customs representatives, owners of bonded warehouses and other individuals operating in the customs field
- to adopt preliminary decisions on the classification of goods
- to issue a decision on the classification of unassembled or dismantled goods, including incomplete goods, due to be imported in separate lots over a specific period of time
- and others

The full document text can be found in official sources in Kazakhstan.

The Order enters into force at the end of 10 calendar days after its first official publication, which was 19 January 2016.

Rules for the authorities to take samples and specimens of goods

Minister of Finance Order № 558 dated 12 November 2015 has approved rules for state officials to take samples and specimens of goods, and norms for samples and specimens.

The rules were introduced in accordance with point 1 of article 234 of the Customs Code.

The Order entered into force 25 December 2015.

Indirect taxation issues

Criteria for treating goods as imported for entrepreneurial purposes

Minister of Finance Order № 717 dated 29 December 2015, in accordance with subpoint 2) of article 276-2 of the Tax Code, has approved the criteria for treating goods as imported for entrepreneurial purposes.

As such, shipping and (or) transferring goods, performing work or providing services to make a sale or a free transfer, and transferring pledged goods to the pledge holder

exceeding 12 times the minimum salary for the calendar year¹², will be treated as the entrepreneurial activities of the individual importing the goods.

In accordance with tax law, individuals importing goods for entrepreneurial purposes are treated as payers of import VAT in accordance with the established procedure.

The Order enters into force at the end of 10 calendar days after its first official publication and covers relations arising after 1 January 2016. The Order was published 25 January 2016.

Rules for providing guarantees to export (import) processing products

Minister of Finance Order № 683 dated 24 December 2015, in accordance with point 6 of article 276-13 and point 3 of article 282 of the Tax Code, has updated the rules for providing guarantees to export (import) processing products, and the related forms¹³, and changed the wording to:

- reports on the execution of the export/import of processing products
- forms for the obligation to export/import processing products

The Order entered into force from 1 January 2016 and was published 26 January 2016.

Rules for notifying of an import (export) of goods

Minister of Finance Order № 651 dated 11 December 2015, in accordance with subpoint 8) of point 1 of article 14 and points 4 and 5 of article 276-4 of the Tax Code, has reworded the rules for notifying of an import (export) of goods¹⁴.

The Order entered into force from 1 January 2016 and was published 26 January 2016.

¹² from 1 January 2016 – KZT 22,859

¹³ Approved by Minister of Finance Order № 240 dated 31 March 2015

¹⁴ Approved by Minister of Finance Order № 24 dated 15 January 2015

4. International trade

We would like to provide our findings from regular monitoring of foreign trade barriers in relation to goods imported by non-EEU countries from the EEU.

As at December 2015, 138 restrictive measures were being applied to EEU member country goods. Anti-dumping, special or compensatory measures account for the greatest share of barriers (73). In addition, 16 cases of anti-dumping and special protective research were being carried out. Likewise, non-EEU countries apply discriminatory excise duties, import bans, quotas and other restrictive measures.

EU countries, Ukraine, India, the USA, Indonesia, Turkey, Uzbekistan, China, Mexico, Thailand, Morocco, Moldova, Azerbaijan, Argentina, Brazil, Canada, Nigeria, Turkmenistan, Australia, Vietnam, Iran, Costa Rica, Laos, Malaysia, the Philippines and Ecuador apply restrictive measures against EEU member country goods.

Non-EEU countries apply 23 measures in EU countries, 13 in India, 11 in the USA, 10 in Indonesia and 9 in Turkey.

In the Post-Soviet region, the largest number of restrictive measures are in Ukraine (24) and Uzbekistan (7).

Indonesia, Mexico and the USA apply anti-dumping measures to goods exported from Kazakhstan. Thailand also applies anti-dumping measures on hot-rolled sheet metal in rolls and not. Revisions are currently being carried out due to the expiry of measures, but duties are still in force.

Full information on the restrictive measures on EEU member country goods can be found on the official EEU website.

5. Dear colleagues!

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.

We are always glad
to be of assistance!

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