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Customs Alert
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Tax & Legal
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1. General

In this issue we would like to provide you with brief information on new documents adopted during sessions of the Eurasian Economic Commission (“EEC”) within the framework of the activities of the Eurasian Economic Union (“EEU”) between Belarus, Kazakhstan, Russia and Armenia, published on the official EEU website <http://eaeunion.org/> and its legal portal <http://docs.eaeunion.org/ru-ru/>. We would also like to present new Kazakhstan normative legal acts in international trade.

2. Eurasian Economic Union

Kyrgyzstan's entry to the Eurasian Economic Union

On 8 May 2015, a session of the Higher Eurasian Economic Council (HEEC) saw the signing of a number of documents defining the specifics of the transition period for Kyrgyzstan's entry to the EEU, including the signing of:

1. a Protocol on the Introduction of Amendments to the Eurasian Economic Union Treaty dated 29 May 2014 ("EEU Treaty") and specific international treaties included in EEU law, due to Kyrgyzstan's accession to the EEU;
2. a Protocol on the conditions and transitional provisions for Kyrgyzstan to adopt the EEU Treaty, specific international treaties included in EEU law, and EEU body acts related to Kyrgyzstan's accession to the EEU Treaty;
3. a Protocol on Armenia's accession to the Treaty on the Accession of Kyrgyzstan to the EEU Treaty;
4. a number of HEEC Resolutions and Orders aimed at unifying EEU law in connection with Kyrgyzstan's accession to the EEU.

Resolutions were also signed on the following:

- the removal of customs controls for goods and vehicles crossing the Kyrgyzstan-Kazakhstan state border¹;
- the removal of sanitary and quarantine, veterinary and sanitary and quarantine phytosanitary controls (inspections) on the Kyrgyzstan-Kazakhstan state border²;
- a Free Trade Treaty between the EEU and its member countries as one party and Vietnam as the other³;
- a list of sensitive goods for which a resolution on changes to import customs duties is to be adopted by the EEC Council⁴;
- amendments to the list of service sectors (subsectors) in which a common service market operates within the EEU⁵.

The entire package of documents has been sent for ratification with EEU member countries, after which Kyrgyzstan will become a full member of the EEU.

Unification of legislation of the Eurasian Economic Union

Due to the entry into force of the EEU Treaty and the Treaty on Armenia's Accession to the EEU Treaty, EEC Council Resolution № 38 dated 27 April 2015 has made clarifications to certain Customs Union Commission ("CUC") and EEC Council resolutions to unify normative documents.

¹ HEEC Resolution №5 dated 8 May 2015

² HEEC Resolution №6 dated 8 May 2015

³ HEEC Resolution №14 dated 8 May 2015

⁴ HEEC Resolution №16 dated 8 May 2015

⁵ HEEC Resolution №17 dated 8 May 2015

Among others, changes were made to the following documents regarding the procedure for completing customs declarations:

1. Instructions for the completion of goods' declarations, approved by CUC Resolution № 257 dated 20 May 2010;
2. Instructions for the use of (freight) vehicles, commercial and (or) other documents as goods' declarations, approved by CUC Resolution № 263 dated 20 May 2010;
3. Procedure for completing passenger customs declarations, approved by CUC Resolution № 287 dated 18 June 2010;
4. CUC Resolution № 289 dated 18 June 2010 On the Form and Procedure for completing Transit Declarations;
5. CUC Resolution № 311 dated 18 June 2010 On the Procedure for concluding Customs Operations with Goods for Personal Use transferred by Individuals across the Customs Border, and for reflecting Goods as under Customs Control;
6. CUC Resolution № 376 dated 20 September 2010 On Procedures for declaring, controlling and adjusting the Customs Value of Goods;
7. CUC Resolution № 422 dated 14 October 2010 On Forms for the Customs Declaration of Vehicles and Instructions for their Completion;
8. EEC Council Resolution № 290 dated 25 December 2012 On the List of Data that should contain Transportation (Freight), Commercial and (or) Other Documents used as a Customs Declaration, when declaring Supplies for Customs.

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

The Resolution entered into force on 29 May 2015, except for point 1, which enters into force from 1 July 2015.

Agreements on the procedure for the collective control of copyright and allied rights

EEC Council Resolution № 27 dated 14 April 2015 has approved a draft agreement on the procedure for the collective control of copyright and allied rights.

The Agreement establishes a procedure for the collective control of copyright and allied rights in EEU member countries when it is difficult for right holders find it hard to exercise copyright and (or) allied rights or when EEU member country legislation allows the use of the objects of these rights without the consent of right holders, but in return for a fee.

The draft agreement is currently undergoing agreement in EEU member countries.

Exemption from import customs duties

EEC Board Resolution №16 dated 23 April 2015 has added a subpoint 7.1.22 to the list of goods exempt from customs duties⁶ as follows:

"7.1.22. Vanadium-aluminium alloy, classified as EEU FEA CU 8112 92 910 0, intended for use in the production of titanium bars, alloys and slabs and imported into Kazakhstan between 1 June 2015 and 31 December 2016, inclusive up to 300 tonnes in 2015 and 600 tonnes 2016, provided the customs bodies receive confirmation of the designated purpose of imported goods issued by the Kazakhstan authorised body, and containing information on the quality of goods and organisations supplying and importing the goods in question."

⁶ Approved by Customs Union Commission Resolution №130 dated 27 November 2009

The Resolution, which was published on 19 May 2015, enters into force at the end of 30 calendar days from its official publication date, except for point 2, which enters into force from 1 September 2015.

Non-tariff regulation

New non-tariff regulation measures were introduced by EEC Council Resolution № 30 dated 21 April 2015 to create the EEU.

The documents approved included:

1. a List of goods that may not be imported into the EEU and (or) exported from it;
2. a List of goods that require permission to be imported into the EEU and (or) exported from it;
3. provisions on the administrative procedure for importing and exporting specific goods (including human organs and tissue, blood and its components, live wild animals, specific wild plants and wild-growing medicinal materials, hazardous waste, cultural valuables, national archive documents, digital (cryptographic) instruments, narcotics, psychotropic substances and precursors).

The established administrative procedure assumes the licensing and application of other administrative measures for regulating foreign trade activities.

It was also established that export and (or) import licenses, import and (or) export decisions (permits), other documents issued before the resolution entered into force, and notifications entered into the register of notifications of the characteristics of digital (cryptographic) instruments and goods containing them, before this resolution enters into force, will remain valid until they expire.

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

The Resolution entered into force from on 23 May 2015.

Classifiers used to complete customs declarations

EEC Council Resolution № 52 dated 12 May 2015 has introduced amendments to certain classifiers used to complete customs declarations⁷.

Amendments were made to the classifiers for the transfer of goods, the customs declaration of goods, customs payment concessions and other classifiers.

In addition, the following new classifiers were introduced:

1. Classifier for international transportation vehicles. Appendix 25;
2. Classifier for makes of road vehicles. Appendix 26.

The classifiers (Appendix 25 and Appendix 26) are due to enter into force on 1 September 2015.

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

The resolution, which was published on 13 May 2015, enters into force at the end of 30 calendar days from its official publication date, except for point 2, which enters into force from 1 September 2015.

⁷ CUC Resolution № 378 dated 20 September 2010

Changes to the EEU Common Customs Tariff (“CCT”)

The table below provides details on EEC resolutions in relation to the EEU CCT:

EEC Board resolution №, publication date	EEU FEA CU code	Brief description of goods	Import duty rate ⁸
9 ⁹ 6 May 2015	2826 12 000 0	Aluminium fluoride	0% ¹⁰
15 ¹¹ 18 May 2015	0301 91 900 0 0301 99 110 0	Certain types of fish	0% ¹²
EEC Council resolution №, publication date	EEU FEA CU code	Brief description of goods	Import duty rate ¹³
31 ¹⁴ 22 April 2015	2607 00 000 1	Lead ore and concentrate, with at least 45 mass % lead content	0% ¹⁵
32 ¹³ 22 April 2015	7112 30 000 0 7112 91 000 0 7112 92 000 0 7112 99 000 0	Precious metal waste and scrap	0% ¹⁶
33 ¹⁷ 22 April 2015	3824 90 970 2 3824 90 970 8	Preservative fluid for the production of power capacitors	0% 5%
39 ¹⁸ 6 May 2015	7002 20 100 0	Fibre optic rods	0% ¹⁹
44 ²⁰ 6 May 2015	0511 91 901 9	Certain types of fertilised fish caviar	0% ²¹
50 ²² 13 May 2015	9403 70 000 2 9403 70 000 3 9403 70 000 8 9503 00 990 1 9503 00 990 9	Certain types of baby walker Play tents	15%, but no less than 0.523 Euros per kg 11.3%

⁸ Import duties are given as a percentage of customs value, or in Euros or US\$

⁹ The Resolution enters into force 30 calendar days from the official publication date, which was 6 May 2015

¹⁰ The import duty rate of 0% of customs value applies from the date the resolution enters force until 30 April 2016, inclusive. Note 36C to the EEU CCT

¹¹ The Resolution entered on 29 May 2015

¹² The import duty rate of 0% of customs value applies from the date the resolution enters force until 30 April 2018, inclusive. Note 48C to the EEU CCT

¹³ Import duties are given as a percentage of customs value, or in Euros or US\$

¹⁴ The Resolution entered into force from 23 May 2015

¹⁵ The import duty rate of 0% customs duties apply between 25 May 2015 and 24 May 2017, inclusive. Note 6C to the EEU CCT

¹⁶ The import duty rate of 0% customs duties apply between 1 June 2015 and 31 December 2016, inclusive. Note 42C to the EEU CCT

¹⁷ The Resolution removes from the EEU CCT position 3824 90 970 9, and entered into force on 23 May 2015

¹⁸ The Resolution enters into force at the end of 30 calendar days from its official publication, which was 6 May 2015

¹⁹ The import duty rate of 0% of customs value applies from the date the resolution enters force until 31 December 2016, inclusive. Note 45C to the EEU CCT

²⁰ The Resolution entered into on 17 May 2015

²¹ The import duty rate of 0% of customs value applies from the date the resolution enters force until 30 April 2018, inclusive. Note 47C to the EEU CCT

²² The Resolution removes from the EEU common customs tariff positions 9403 70 0009 and 9503 00 990 0, and enters into force at the end of 30 calendar days from its official publication, which was 13 May 2015

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

Classification of goods according to the Common Foreign Economic Activity Commodity Nomenclature

The table below shows resolutions adopted to classify goods according to the EEU common foreign economic activity commodity nomenclature.

EEC Council Resolution №, date	Brief description of goods	Customs Union FEA CN code
41 5 May 2015	Aluminium radiators used in fluid cooling in diggers	8431 49 800 9
42 5 May 2015	LED lamps consisting of several light emitting diodes and circuit boards in one frame	8543 70 900 0
43 5 May 2015	Roasting sleeves made from polymeric materials	3917

3. Republic of Kazakhstan

Customs Union Member Country Treaty on the removal of technical barriers in mutual trade with non-Customs Union CIS member countries

Law № 291-V dated 12 March 2015 ratified the Customs Union Member Country Treaty on the removal of technical barriers in mutual trade with non-Customs Union CIS member countries²³ (Moscow, 17 December 2012).

The treaty expands mutual trade among Customs Union member countries and non-Customs Union CIS countries.

Treaty between Kazakhstan and Russia on trade and economic cooperation in oil and petroleum supplies in Kazakhstan

Law № 294-V dated 17 March 2015 ratified a Protocol amending the Treaty between Kazakhstan and Russia on trade and economic cooperation in oil and petroleum supplies in Kazakhstan dated 9 December 2010.

The Protocol establishes that the Treaty is valid until 1 January 2019, after which it will be automatically extended for five years if none of the parties has not notified the other party in writing at least six months before the initial expiry date of their intention to terminate the Treaty.

Convention for the Unification of Certain Rules for International Carriage by Air

Law № 297-V dated 19 March 2015 has ratified the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal, 28 May 1999).

The Convention covers any international transportation of people, baggage or freight for a fee and by air. It also applies to carriage performed free of charge by air transportation aircraft.

Rules for the customs clearance of goods

Minister of Finance Order №246 dated 31 March 2015 has approved rules for the customs clearance of goods by state officials.

The rules determine the sequence of actions of officials (customs posts) in the customs clearance and release of goods.

The Rules do not apply for the customs clearance of goods in customs transit.

The full document text can be found in official sources.

The Order entered into force on 26 May 2015.

²³ CIS countries are Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russian, Tajikistan and Uzbekistan

Excise duties on petrol (except for aviation fuel) and diesel

Government Resolution № 133 dated 13 March 2015 has approved excise duty rates for petrol (except for aviation fuel) and diesel.

Type of activity	Excise duty rates per tonne (KZT)	
	Petrol ²⁴	Diesel ²⁵
Wholesale sale of petrol (except for aviation fuel) and own diesel by producers	4,500	540
Wholesale sale of petrol (except for aviation fuel) and diesel by individuals and legal entities	0	0
Retail sale of petrol (except for aviation fuel) and diesel by producers and used in own production needs	5,000	600
Retail sale by individuals and legal entities of petrol (except for aviation fuel) and diesel and used in own production needs	500	60
Imports	4,500	540
Transfer of the excisable goods referred to in subpoint 5) of article 279 of the Tax Code ²⁶ , which are the products of the processing of tolling materials	4,500	540

The Resolution entered into force from 1 January 2015 and was officially published on 28 March 2015.

Ban on the export of ferrous metal waste and scrap from Kazakhstan

Order of the Acting Minister for Investment and Development № 4 dated 9 January 2015 has introduced a ban on the export of ferrous metal waste and scrap (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).

The ban is in place for six months.

The Order entered into force on 2 March 2015.

Goods for personal use transferred across the Customs Union border

Order of the Minister of Finance № 250 dated 31 March 2015 establishes the criteria for treating goods transported by individuals across the Customs Union border as goods for personal use.

Goods are treated as not being for personal use if:

1. they are raw materials or semi-finished goods intended for the production of goods; or parts;
2. their quantity exceeds limits on clothing and footwear, bedding, fur and leather items, carpets, jewellery, electronics and others;
3. individuals and (or) their goods cross the Customs Union border more than once a month.

The above restrictions do not apply to used goods.

²⁴ except for aviation fuel, EEU FEA CN code 2710 12 411 0 - 2710 12 590 0

²⁵ EEU FEA CN code 2710 19310 0 - 2710 19 480 0

²⁶ Kazakhstan Code *On Taxes and Other Obligatory Payments to the Budget* № 99-IV 3PK dated 10 December 2008

The Order entered into force on 2 May 2015.

Rules for marking (re-marking) certain excisable products

Order of the Minister of Finance № 144 dated 27 February 2015 has approved Rules for marking (re-marking) alcohol products, except for wine materials and beer, with inventory control stamps and tobacco items with excise duty stamps.

The Rules define the procedure for marking (re-marking) alcohol products with inventory control stamps and tobacco items with excise duty stamps.

It was also established that inventory control and excise duty stamps be placed on alcohol products or tobacco items imported into Kazakhstan outside of Kazakhstan. The resolution also defined cases when alcohol products and tobacco items do not require stamps²⁷.

The Order entered into force on 24 May 2015.

²⁷ Point 4 of article 653 of the Tax Code

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.

We are always glad
to be of assistance!

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