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Special Customs Alert

Customs Code of the  
Eurasian Economic Union

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## Discussion of the Draft Customs Code of the Eurasian Economic Union

On 27 October 2014, the National Chamber of Entrepreneurs of the Republic of Kazakhstan (the “National Chamber of Entrepreneurs”) held a roundtable dedicated to “the Customs Code of the Eurasian Economic Union: the Possibilities and Threats for Business” for representatives of the Ministry of the National Economy, customs authorities and the Astana and Almaty business community.

During the lively discussions and exchange of ideas, the parties noted that this was the first time that the business community had been allowed to take part in the discussion of the Draft Customs Code of the Eurasian Economic Union (“EEC Customs Code”). According to representatives from the state authorities, “the business community had received not only the chance to talk about its problems and bring them up in front of the authorities, but also to work directly on the wording of the document”.

However, according to the National Chamber of Entrepreneurs, there are some significant issues that could not be resolved during the discussions at both the expert group and the working group levels which involved leaders from the ministries and departments of three countries (Russia, Kazakhstan and Belarus).

In this special edition, we comment on some of the positive and negative changes expected in the EEC Customs Code that were brought up at the roundtable.

### What advantages and possibilities does the EEC Customs Code bring to business?

- emphasis on electronic customs declaration (written – in exceptional cases)
- the automation of the release and rejection of goods, customs monitoring using customs authority information systems to verify documents and (or) data
- a “one-stop-shop” for operations related to the arrival (departure) of goods in (from) the customs, with customs declaration and release of goods
- improvements to data shown in declarations and transit declarations
- the ability to file declarations without having to provide the documents on which they were based to customs
- the release of goods within four hours from the moment a customs declaration is registered
- the possibility of releasing goods before the customs authorities have completed controls
- an increase in the categories of legal entities entitled to receive the status of Authorized Economic Operator

## What are the threats of the EEC Customs Code to business?

### Additional financial expenses

- Interest on import customs duties and taxes when converted products of temporarily imported goods are released for domestic consumption  
*Reference.* Currently in force in Russia and Belarus. According to the National Chamber of Entrepreneurs, costs involved in managing the mechanism for collecting interest exceeds any amounts actually collected and will create additional barriers for business
- The list of payments (special, anti-dumping and compensation duties) applied by the customs authorities to secure payment for customs transit procedures has been expanded  
*Reference.* Including the above payments in security for transit procedures will divert working capital. Furthermore, the above payments are not covered by customs law
- The right of the customs authorities to determine the physical characteristics and classify goods, establish the origin and customs value of goods themselves – if after release they have not received documents or the documents they received are incorrect  
*Reference.* The Customs Union countries have difference statutes of limitation (for example, in Kazakhstan it is 5 years and in Russian - 3). Therefore, the customs authorities' discovery of inaccurate data for the 4<sup>th</sup> and 5<sup>th</sup> years of companies' activities in Kazakhstan will create unequal conditions compared to companies in Russia

### Administrative barriers

- The expansion of the list of data in declarations – entrepreneurs will admittedly be obliged to declare data on the purchaser and seller of goods, the price per unit and trade marks.  
*Reference.* The Kazakhstan Administrative Violations Code establishes accountability for the inaccurate declaration of goods, irrespective of the division of declared data into core and additional
- A ban on preliminary customs declaration for goods in relation to which acts have been published but that have not yet entered into force determining rates of customs duties, taxes, and that also change the conditions for providing concessions
- The customs authorities' ability to demand certificates confirming the origin of goods in the event it is discovered that the goods may be subject to bans and restrictions; special, protective, anti-dumping and compensatory measures or special quotas. At the same time, goods are not released until a certificate of origin is presented  
*Reference.* As requirements to apply restrictions with respect to protective, anti-dumping and compensatory measures are, as a rule, established at the customs border for transit procedures, freight forwarders are unable to meet them, which results in a rejection of the goods.

### Future steps

As noted at the round table, the draft EEC Customs Code is close to completion, after which it will be sent for governmental approval with the Customs Union members.

Given the numerous questions from the business community, the National Chamber of Entrepreneurs sent a suggestion to the Ministry of the National Economy to have the issues discussed at a session of the Coordinating Council for Economic Integration.

The intention is to have the new EEC Customs Code introduced into force from 1 January 2016, unless a different deadline is decided.

As the new EEC Customs Code differs from the current Customs Union Customs Code in terms of structure and content, we are planning to tell you about the expected changes and new approaches to customs regulation in the EEC in upcoming issues.

# How Deloitte can help

The Deloitte Customs Group was established to offer clients a multifaceted approach to their business needs and provide them with highly professional consulting services in the field of customs legislation.

Our Customs Group provides services that are specifically designed to help companies performing foreign economic activities understand and successfully apply statutory rules and regulations regarding the import and export of goods.

We have a team of specialists working on these engagements, and all have the necessary theoretical and practical knowledge of customs procedures and laws to provide you with a quality and professional service.

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