

Special Customs Alert

June, 2014

Activities of the Court of the
Eurasian Economic Community



In this alert we will inform you how the Court of the Eurasian Economic Community (“EEC Court”) considers commercial customs law disputes filed by both European Economic Community (“EEC”) members and non-members.

We believe that the most topical issues are those related to Customs Union customs tariff regulation¹.

For example, the EEC Court considered three cases related to specific provisions of Customs Union Commission (“CUC”) Resolution № 728 dated 15 July 2012, which establishes a procedure for applying customs duty exemptions on imports of certain categories of goods into the Customs Union (the “Procedure”). The cases in question covered point 4 of the Procedure on goods imported from non-member countries as foreign founder charter capital contributions. Case materials show that the companies in question used goods imported with a customs duty exemption in accordance with point 4 of the Procedure, which is a violation of the terms for providing concessions. The applicants’ claims were not met.

A further two cases were filed by a Ukrainian company regarding anti-dumping duties on forged steel for rolling mills and also graphitised electrodes made in India and imported into the Customs Union. The claims were not met.

The EEC Court also considered cases:

- where sections of CUC Resolution № 335 dated 17 August 2010, which deals with how to declare CU FEA CN group 27 goods imported from Russia to Customs Union countries, did not comply with international treaties valid in the Customs Union and Common Economic Area;
- where CUC Resolution № 819 dated 18 October 2011, which classifies vehicles, did not comply with international treaties valid in the Customs Union.

These cases were concluded in favour of the declarant.

In total, between 2012 and 31 May 2014, the EEC Court considered 13 cases, resulting in judicial acts, including:

- 2 EEC Court resolutions,
- 4 EEC Court greater judicial bench resolutions,
- 6 EEC Court judicial bench resolutions,
- 1 EEC Court appeal chamber resolution,
- 6 EEC Court appeal chamber verdicts,
- 5 special opinions.

¹Customs Union member countries are Russia, Kazakhstan and Belarus.

You can find more details of cases materials on the official EEC website at <http://www.eurasiancommission.org/>.

Reference: The EEC Court is the judicial body of the EEC and acts in accordance with the Treaty dated 10 October 2000 creating the EEC (the "Treaty").

According to Treaty article 8, the EEC Court:

- ensures the consistent application of the Treaty and other treaties valid in the EEC² and resolutions applied by EEC authorities;
- considers economic disputes between EEC member countries with respect to the implementation of EEC resolutions and treaties valid in the EEC, and provides clarifications and opinions on them.

In addition, since the creation of the Customs Union, the EEC Court:

- 1) ensures that Customs Union acts comply with international treaties, which form the legal base of the Customs Union;
- 2) considers disputes related to the resolutions and actions (inaction) of Customs Union authorities;
- 3) interprets international treaties, which form the legal base for the Customs Union, and acts adopted by the Customs Union authorities;
- 4) resolves disputes between the Customs Union Commission and Customs Union countries, and also between Customs Union members in relation to their execution of obligations adopted within the framework of the Customs Union.

The EEC Court may help resolve other disputes as required by international treaties.

² The EEC member countries are Belarus, Kazakhstan, Kyrgyzstan, Russia and Tajikistan.

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.

How to contact us

If you have any questions about the information contained in this Special Customs Alert, please contact any member of our team:

Almaty:

Vladimir Kononenko

Tel: +7(727) 258 13 40
Fax: +7(727) 258 13 41
Email: vkononenko@deloitte.kz

Atyrau/Aktau:

Anthony Mahon

Tel: +7(727) 258 13 40
Fax: +7(727) 258 13 41
Email: anmahon@deloitte.kz

Astana:

Sholpan Dossymkhanova

Tel:+7(717) 258 04 80
Fax:+7(717) 258 03 90
Email: sdossymkhanova@deloitte.kz

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world class capabilities and deep local expertise to help clients succeed wherever they operate. Deloitte's approximately 200,000 professionals are committed to becoming the standard of excellence.

Deloitte's professionals are unified by collaborative culture that fosters integrity, outstanding value to markets and clients, commitment to each other, and strength from cultural diversity. We have achieved this by providing our staff with an beneficial work environment and opportunities for further training and professional development to help them realize their potential. Deloitte's professionals are dedicated to strengthening corporate responsibility, building public trust, and making a positive impact in their communities.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms. Please see www.deloitte.com/ru/about for a detailed description of the legal structure of Deloitte & Touche CIS.