

LT in Focus

The Customs Code of the Eurasian Economic Union (EEU) enters into force

The EEU Customs Code (the "Code") entered into force on 1 January 2018 and replaced the Customs Code of the Customs Union.

The Code contains quite a few references to the resolutions of the Eurasian Economic Committee (the "EEC"), thus expanding its authority. Some of the EEC resolutions were enacted together with the Code (e.g. those that regulate the automatic release of goods and introduce the form of application for release of goods prior to filing of customs declaration).

Additional legislative effort is needed before the benefits of the Code could be fully reaped, e.g. the adoption of EEC resolutions and the new law "On Customs Regulation in the Russian Federation". The bill has not yet been submitted to the Russian State Duma, yet it is expected to be considered in 2018. If Russian customs legislation contradicts the new Code in the transitional period, regulations of the Russian Ministry of Finance will apply (according to Federal Law No. 436-FZ of 28 December 2016).

The new Code is intended to considerably simplify the customs formalities and improve the efficiency of cooperation between the customs authorities of the EEU member states, in particular, due to the improvement of electronic document flow systems and implementation of unified customs regulations. At the same time, closer cooperation between the customs authorities of the EEU member states will allow them to analyse the information available (e.g. on customs values of identical/similar goods imported into different EEU member states) and to increase control over the intra-EEU transactions (e.g. via track&trace mechanisms).

A simplified customs clearance procedure should accelerate completion of the customs formalities, which would likely result in customs control being shifted to the post-clearance stage. The companies will have to enhance their internal controls over customs operations to mitigate potential risks.

That is why further amendments and clarifications to the customs laws and the way the regulatory and judicial practice of the customs authorities and courts will be shaping are likely to top the customs regulation agenda in 2018.

Read on for insights into the key changes introduced by the Code.

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Simplified customs formalities

The Code is aimed at simplifying the customs formalities. In particular, it expressly prioritises electronic declaration, naming only few instances when hard copies are allowed. Even though 99.99 percent of all customs declarations in Russia are filed electronically¹, not all EEU countries are following suit. The new developments introduced by the Code must foster the universal use of electronic declaration across the EEU.

Other developments include:

- Electronic customs declarations will no longer have to be supported by documents verifying the reported data (e.g. invoices). Importers may be required to produce the confirming documents if the high risk profile is identified
- The automatic registration and release of customs declarations without customs officials' involvement
- Shorter deadlines for registering the customs declaration (reduced from two hours to one hour) and release of goods (from one day to four hours)
- A one-stop-shopping approach: the documents that were previously filed with any other regulatory authority (e.g. for transport or phytosanitary control) will not have to be refiled to the customs authorities. This will require a further unification of databases and information exchange between the state authorities of particular countries and within the EEU in general.

¹ According to the Federal Customs Service data for 2017

In view of the above, 16 electronic declaration centres are proposed to be established to handle the majority of customs declarations submitted. They will lay the groundwork for further automation of customs clearance, distribution of declarations among customs authorities, depending on their mandate, workload, and time zone, and the centralisation of customs payment accounting.

All of the above-mentioned provisions are aimed to expedite and simplify the customs formalities for businesses. We recommend following up on integration of the amendments into the national legal framework and their practical implementation, specifically from the risk management system perspective, and in any case have all documents in place to verify the data reported in the customs declarations.

Authorised economic operator

A landmark change introduced by the Code is the new regulation of authorised economic operators ("AEOs"), a special category of importers/exporters who enjoy the simplified customs clearance operations.

The Code splits the AEOs into three categories with different benefits (something the previous regulation lacked):

- Type 1 AEOs will be given priority in performing customs formalities and customs operations' efficiency improvement experiments, will not have to be guided by pre-establish transport routes and have their goods released prior to filing of customs declaration, etc.
- Type 2 AEOs will have the right to temporarily store goods (for themselves and for third parties), to have the customs control performed and customs

transit completed at an operator's site, and have their goods released prior to filing of customs declaration

- Type 3 AEOs enjoy the combined benefits of Type 1 and Type 2; this status can be awarded after two years in Type 1 or Type 2.

The new Code acknowledges the AEO status across the entire EEU, not only in the state where the status was originally granted. Furthermore, the AEO status can be granted not only to importers/exporters, but also customs brokers, operators of temporary storage facilities and bonded warehouses, and customs carriers.

The AEOs existing as at 1 January 2018 will be entitled to a transitional period of three years, when the earlier regulations still apply.

Customs valuation rulings

The Code lays the foundation for the concept of customs valuation rulings, a mechanism allowing to get preliminary rulings regarding customs valuation methods to be applied by importers. The relevant regulatory mechanism should be implemented in the national legislation.

As such, the current wording of the new Draft Law "On Customs Regulation" enables the issue of such rulings by the Russian Federal Customs Service. However, to ensure a proper enforcement of these provisions, a procedure for issue of customs valuation rulings must be additionally set forth by the Russian Ministry of Finance.

Other matters

Deferred customs duties According to the Code, payment of customs duties can be deferred in the following instances:

- Generally: up to one month after customs clearance subject to accrual of late payment interest per each day of deferral
- In case of a force majeure, as part of the agriculture support initiatives, etc.: up to six month free of charge
- For imports of raw materials, spare parts, and components for industrial processing: up to six months, subject to accrual of late payment interest.

Customs value control As part of customs value control measures, the customs authorities will be able

to calculate the security for customs payments due based on the customs value of goods of the same class and category, which could imply additional costs for the importers. Previously, the security could be calculated only on the basis of the customs value of identical/similar goods (such goods should meet the statutory criteria and cover a more narrow scope than the goods of the same class and category).

Residency rule The Code preserves the so-called "residency rule", setting forth that at the time of filing of customs declaration the goods must be located in the EEU country, in which the customs declaration is filed. In other words, a Russian importer may not declare goods imported into other EEU countries, which limits the choice of logistic arrangements used by the companies.

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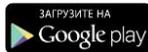
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