

SOME ASPECTS OF THE UNIFICATION OF CUSTOMS LEGISLATION WITHIN THE FRAMEWORK OF THE CUSTOMS UNION

Zhatkanbayeva Ayzhan
Doctor of Law, professor
al-Farabi Kazakh National university

Nazgul Tuyakbaeva
PhD, associate professor
al-Farabi Kazakh National university

In connection with the establishment of the Customs Union of Russia, Belarus and Kazakhstan, the provisions of the customs legislation has undergone significant changes. Union is a form of trade and economic integration, providing a single customs territory. Within its limits in mutual trade in products originating from the territory, as well as originating from third countries and released for free circulation in the customs territory of the Union, shall not apply customs duties and restrictions of economic nature, with the exception of special protective, antidumping and countervailing measures.

Legal regulation of customs relations within the Customs Union is carried out by the legislation of the Union. If these relations are not regulated by the legislation, then the rules of national law are used, but before their establishment at the level of the Customs Union.

Customs legislation of the Union consists of:

- 1) the Customs Code of the Customs Union (hereinafter - CC CU);
- 2) international treaties of states-members of the Customs Union;
- 3) The decisions of the Commission of the Customs Union⁷².

Let us consider the general characteristics of the CC CU.

Agreement on the Customs Code of the Customs Union (EurAsEC Interstate Council decision of November 27, 2009 N 17 "On the Treaty on the Customs Code of the Customs Union") was approved on November 27, 2009 by the decision of the EurAsEC Interstate Council at the level of Heads of State. It is noteworthy that even before the Treaty enters into force, the Protocol (the Protocol of 16 April 2010 "On Amendments and Additions to the Agreement on the Customs Code of the Customs Union of November 27, 2009"), which made numerous changes and additions to the CC CU. I think that this circumstance is due to the accelerated formation of the Customs Union, the inability for a short period to create a uniform for the three countries and thus modified, competent in terms of legal technique normative act. CC CU was ratified by the Russian Federation on 2 June 2010 (Federal Law of June 2, 2010 N 114-FZ "On the ratification of the Treaty on the Customs Code of the Customs Union"). In Russia, it is applied from July 1, 2010.

CC CU includes 373 articles. It consists of general and special part. General part, consisting of three sections, devoted to the basic provisions customs duties and customs control. Special segment consists of five sections governing customs operations prior to submitting the customs declaration; customs operations related to the placement of goods under the customs procedure; customs procedures: especially moving through customs border and customs operations in respect of certain categories of goods; transition relations.

Since the document fixes all the major issues of customs regulations, we can conclude that it occupies a central place in the customs legislation of the Customs Union.

Creation of a single customs territory, economic cooperation in the post-Soviet space, in my opinion, is the key story in the creation of economic integration. On the one hand, it is the mechanism of collective counter against crises in the world economy, on the other hand, the definition of the prospects for movement in the XXI century, as in the era of world globalization, regional integration is a natural and objective process.

Customs Union is a step of the future single economic space and is a form of trade and economic integration. It provides a single customs territory, where in respect of bilateral trade customs duties and restrictions of economic nature are not applied. Background expansion of this union entrusted to the basic rules of the leadership of this body.

Three main stages of formation of a single customs territory of the Customs Union of Belarus, Kazakhstan and the Russian Federation are defined: preliminary - until January 1, 2010, the first - from 1 January, 2010 to 1 July, 2010 and the second - from 1 July, 2010 until July 1, 2011.

But the creation of the Customs Union, along with the positive aspects of the process generated a lot of negative phenomena. One of those cross-cutting issues is the coordination of normative documents by the parties. After more than six decades of independence the legislation of states-members of the Customs Union strongly diverged. The experts will have to do a herculean job to find mutually acceptable compromises for the formation of norms regulations of a single customs territory, which will operate in Belarus, Kazakhstan, and Russia. [1] In many legislative acts that constitute the legal framework of the Customs Union there are so many references to the national regulation of customs, and every state is using that right, including the Republic of Kazakhstan. The logical consequence of this is that at the same customs affairs three different practices are developed, and lack of uniformity of procedures does not promote the development of the Customs Union, and contributes to the overflow of the business, which is not always clear. Therefore, to solve this problem, it was necessary to unify the legislation, and the number of reference rules, which were more than a thousand, to reduce - take the appropriate amendments to the Customs Code of the Customs Union and a number of international agreements and decisions of the Commission of the Customs Union.

There are currently implemented measures for the creation of the legal framework of the Customs Union, the formation of the Common Customs rate, the institutional framework of the Customs Union, the unification of customs legislation. In accordance with the Plan of Action for the formation of the Customs Union the implementation of the provisions of international treaties that form the legal base of the Customs Union, the unification of trade regimes is continuing. Work on phase transfer of the agreed forms of state control on the customs border of the Customs Union is being conducted.

The development of the legal framework of the Customs Union, provided the preparatory and the first step in the formation of a single customs territory has been finished. In accordance with the stages and terms of the formation of a single customs territory of the Customs Union the Customs Union Commission currently has the functions of customs, customs-rate and non-rate regulation, the application

⁷² Custom code of customs union./ 27 November, 2009. <http://www.tsouz.ru/>