

Customs Regulation in the EurAsEC Customs Union and Financial Law Development in the Russian Federation¹

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Abstract

Customs payments play special role in the economy of the Russian Federation. They composed just over 50 percent of the total budgetary income on the eve of the Russian Federation's entry into the EurAsEC Customs Union.

The article considers the changes which occurred in the legal base of customs regulation since the EurAsEC Customs Union was created and the Russian Federation became a member. The customs legislation structure of the Customs Union is analyzed in the article. Special attention is given to the acts which became the source of financial law in the Russian Federation, being adopted by supranational regulator, the Eurasian Economic Commission.

Keywords: EurAsEC, customs union, customs legislation, customs payments, financial law

Introduction

The establishing of the Customs Union within the framework of EurAsEC in 2010, which integrates the Russian Federation, the Republic of Kazakhstan and the Republic of Belarus in its structure, became a marquee event for the further development of national legislations of these three countries. It affects not only those sectors of legislation that regulate customs and foreign trade relations, but also other sectors of public law, including financial law.

Prior to the creation of the supranational mechanism regulating economic relationships within the EurAsEC Customs Union and the Common Economic Space, supranational public finances were centralized in the budget of the Union state joining the Russian Federation and the Republic of Belarus. However, neither the bodies participating in the budget formation of the Union State (Parliamentary Assembly of the Russian Federation and the Republic of Belarus, Supreme State Council of the Union State, Council of Ministers of the Union State), nor the budget itself significantly influenced the national finances of the Russian Federation and the Republic of Belarus, and thus there were no reason to assert that any supranational moderator of public finances in the Russian Federation and the Republic of Belarus existed.

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The Establishment of the EurAsEC Customs Union and Formation of the New Model of Customs Regulation and the Fiscal Effect of the Customs Regulation for Russia

The situation cardinally changed with the new stage of economic integration and development in the post-soviet space. The establishment of the Customs Union within the EurAsEC and the adoption of the Customs Code² marked a transition to the bimodal legal regulation of customs payments in the states participating in the Customs Union. Henceforth, the fixing and payment of customs were regulated by the customs legislation of the Customs Union, while in those parts that are not regulated by the custom union legislation the regulation is performed according to the national legislation of the Customs Union member states. The legal basis of customs payments in the Russian Federation is the Federal Law of November 27, 2012 No. 311 – FZ “On Customs Regulation in the Russian Federation”³, the Tax Code of the Russian Federation⁴, and the Law of the Russian Federation of May 21, 1993, No. 5003-1 “On Customs Tariffs”⁵.

It is hard to overestimate the fiscal importance of customs duties for the Russian Federation. Custom duties made up from one forth to one third of total budget revenues in various years. In 2010 customs duties exceeded 50 percent of budget revenues. Transfer of legal regulatory authority relating to compulsory payments, which have such a high fiscal value for the Russian public finances to an international legislative level, is an important step assuming constant monitoring of the financial impact.

When designing the model of international legislative redistribution of customs duty revenues to be integrated into their national budgets, member states of the EurAsEC Customs Union created a unique financial model for the customs union. In the European Union similar redistribution mechanisms do not exist within the framework of its customs union, since customs duties and other payments, collected in relation to goods crossing the customs border of the European Union, are directed to the European Union budget, not to the national budgets of member states.

The financial model of the EurAsEC Customs Union supposes the inclusion of a number of legislative acts adopted at the level of the Customs Union and regulating financial relations, in regards to the movement of goods across customs borders, directly into the national systems of financial law of the each member state.

Structure of Customs Legislation of the Customs Union

An obvious scientific and practical interest for financial law is represented in this connection by the investigation of the concept and structure of the EurAsEC Customs Union legislation, some separate acts of which, as was mentioned above, became integrated into financial law in the Russian Federation, the Republic of Belarus and the Republic of Kazakhstan.

In the Article 3 of the Customs Code the three-level structure of the Customs Union customs legislation is determined. The highest level is represented by the Customs Code of the Customs Union, conferred with the highest legal validity among the all acts of the customs legislation. The international agreements of the Customs Union member states are at the second level, the decisions of the Customs Union supranational authority are at the third level.

² The Amendment to the Treaty on the Customs Code of the Customs Union, approved by the Decision of the EurAsEC Interstate Council at the heads of states’ level of November 27, 2009, No. 17. Collection of the legislation of the Russian Federation (hereinafter CL of RF), (2010), No. 50, Art. 6615.

³ CL of RF, (2010), No. 48, Art. 6252.

⁴ The Tax Code of the Russian Federation (part one) of July 31, 1998, No. 146-FL, CL of RF, (1998), No. 31, Art. 3824; Tax Code of Russian Federation (part two) of August 5, 2000, No. 117-FL, CL of RF, (2000), No. 32, Art. 3340.

⁵ Rossiyskaya Gazeta (June 5, 1993).