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Dear readers!

Here is the new issue of the Information Bulletin "Trade Facilitation in Ukraine Monitoring," a product of the Institute for Economic Research and Policy Consulting, published with the support of the European Union, International Renaissance Foundation, and ATLAS Network within the project "Support to the Civil Society Initiative "For Fair and Transparent Customs." We strive to provide you with the latest and most up-to-date information on the state of customs reform implementation and the implementation of measures to facilitate international trade in Ukraine. Therefore, send your opinion, feedback, and wishes regarding communication links and methods of providing information to: customs@ier.kyiv.ua

Content

INTRODUCTION **4**

Regulatory legal acts that entered into force 4

The government has once again changed the lists of goods, the export and import of which are subject to licensing and the quotas for 2023..... 5

The government has approved the procedure for submitting information for the preparation of notifications, responses, and requests within the framework of the 7

The government has increased the maximum number of workers at the central office of The SCSU..... 7

Draft laws **8**

The parliament is proposed to introduce mechanisms that minimize abuse in the export of agricultural products and tax evasion..... 8

News **9**

Ten new enterprises received certificates of AEO status..... 9

From December 1, 2023, changes to the rules for importing and accounting for humanitarian aid came into force..... 10

The State Customs Service has agreed with DG TAXUD to postpone the transition to the application of NCTS Phase 5..... 11



The government has once again changed the lists of goods, the export and import of which are subject to licensing and the quotas for 2023

Resolution of the Cabinet of Ministers of Ukraine of October 31, 2023 No. 1133, "On Amending the Resolution of the Cabinet of Ministers of Ukraine of December 27, 202, No. 1466"

The government has once again changed the lists of goods, the export and import of which are subject to licensing and the quotas for 2023.

The list of goods whose export was subject to licensing for deliveries to the Republic of Bulgaria, Romania, the Slovak Republic, Hungary, and the Republic of Poland is excluded.

In addition, the resolution was supplemented with Appendix 7 with a list of agricultural products, the export of which is subject to licensing. It included wheat, rye, barley, oats, corn, soybeans, rapeseed, sunflower seed, soybean, rapeseed and sunflower oil, and oil cake.

The introduction of export licensing for individual agricultural products may be related to the situation on the market and a set of Government measures to ensure the return of foreign exchange earnings to the country from the export of the specified products.

Source: http://surl.li/obwuv

The government has set the deadline for payments for the export of certain types of agricultural products

Decree of the Cabinet of Ministers of Ukraine dated November 9 No. 1017, "On Amending the Decree of the Cabinet of Ministers of Ukraine dated February 13, 2019 No. 76"

The government changed to its own decree, which approved the list of goods and (or) sectors of the economy, for which the National Bank of Ukraine (NBU) has the right to establish exceptions and (or) specifics of the introduction of a protective measure, provided for by the first paragraph of the first part of Article 13 of the Law of Ukraine "On currency and currency operations." It is about the right of the National Bank of Ukraine to set deadlines for the settlement of operations on the export and import of goods and to establish exceptions and (or) peculiarities of the introduction of this protection measure for certain goods and (or) sectors of the economy at the request of the Cabinet of Ministers of Ukraine.

The government has added to the list of goods and (or) sectors of the economy for which the NBU has the right to set settlement deadlines for export and import operations of goods classified by codes in accordance with the Ukrainian classification of goods of foreign economic activity (UCG FEA) 8410 90 00 00, 8504 21 00 00, 8504 22 10 00, 8504 23 00 00, 8504 31 21 00, 8504 31 29 00, 8504 31 80 00, 8504 34 00 00, 8504 40 30 00, 8504 40 90 00, 8532 29 00 00, 8535 30 90 00, 8535 40 00 00, 8535 90 00 00, 8537 10 10 00, 8537 10 98 90, 8537 20 91 00, 8537 20 99 00, 8544 60 90 90 (electrical machines, equipment and their parts; recording equipment or sound reproduction, television equipment for recording and reproduction of images and sound,

their parts and accessories), the import of which is carried out by customers who carry out economic activities in the field of ensuring the production, transmission, distribution, supply of electric energy within the framework of contracts for the purchase of goods, works and services concluded within the framework of public procurement in accordance with current legislation.

In addition, the Government has determined that operations for the export of such goods as wheat, rye, barley, oats, corn, soybeans, rapeseed, sunflower seed, soybean, sunflower, and rapeseed oil and cakes (codes according to UCG FEA: 1001, 1002, 1003, 1004, 1005, 1201, 1205, 1206 00, 1507, 1512, 1514, 2306) are considered to require the establishment of settlement deadlines of 90 calendar days.

The State Customs Service is tasked with providing banks and the NBU with the information it has about customs clearance of export and import operations of relevant goods, including information about the exporter/importer, its non-resident counterparty, the country of origin of the goods and the code of the goods in accordance with the UCG FEA.

Source: http://surl.li/obwub



Alternative rules of origin of goods have been introduced between Ukraine and the EU

Resolution of the Cabinet of Ministers of Ukraine dated November 10, 2023, No. 1184 "On approval of the concept of "origin of goods" and methods of administrative cooperation in accordance with the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community, and their member states, on the other hand"

The government approved the concept of "origin of goods and methods of administrative cooperation in accordance with the Association Agreement between Ukraine and the EU, which is already in force from December 1, 2023. The draft of the relevant decision of the Ukraine-EU Subcommittee on Customs Cooperation was also approved and the Deputy Head of the State Customs Service Vladyslav Suvorov was authorized to sign the decision.

Thus, since December 1, 2023, Alternative rules of origin of goods have been introduced at the bilateral level between Ukraine and the EU. The mentioned rules contain some innovations and differences compared to the previous version of the rules of origin of the Regional Convention on Pan-Euro-Mediterranean Preferential Rules of Origin. In particular:

- the rules of origin are supplemented by the terms "interchangeable goods" "maximum content of materials originating from third countries," "groups," and "positions" of the Harmonized System of Description and Coding of Goods;
- list of goods that are completely obtained in the countries participating in the Convention has been updated;

- the "tolerance" rule is based on two criteria: by weight for agricultural goods of product groups 2, 4-24 of the UCG FEA, with the exception of fish products of product group 16 of the UCG FEA; by cost to industrial goods;
- the use of only two documents for proof of origin is provided, i.e. the EUR.1 certificate and the declaration of origin instead of four (EUR-MED documents are excluded), which will simplify the procedure of proof of origin;
- the validity period of origin documents has been increased from 4 months to 10 months;
- the list of documents required to confirm the origin of materials/raw materials used in the production of the finished goods has been clarified, in particular, the supplier's declaration and the supplier's long-term declaration;
- the possibility of crushing batches of goods in the country of transit is provided if the goods are under customs control;
- the declaration of origin can be drawn up retrospectively within two years after export;
- the mechanism for granting the status of an authorized (approved) exporter has been simplified (such a status can be obtained by any exporter regardless of the number of consignments of goods);
- the exchange of samples of seal impressions between the customs administrations of the countries participating in the Convention and the authorization numbers of authorized (approved) exporters (in the rules of origin of the Convention, the exchange is carried out through the European Commission).

Goods benefit from tariff preferences for the payment of customs duties and acquire preferential origin from Ukraine or the EU, provided that one of the following documents confirming the origin is submitted:

- EUR.1 goods transport certificate, which must contain in column 7 the inscription in English "TRANSITIONAL RULES" (issued by the customs authorities of Ukraine or the EU);
- or the declaration of origin, which is drawn up in the form given in Appendix III to the Alternative Rules, by an authorized (approved) exporter of the EU or Ukraine by stamping, typewriting or printing on an invoice, delivery notice or other commercial document, regardless of the invoice value of the batch of goods or any - by any exporter, if the total invoice value of the batch of goods does not exceed 6,000 euros.

The relevant changes are valid at the bilateral level between Ukraine and the EU and will contribute to the simplification of procedures in mutual trade.

Source: https://cutt.ly/lwAgWen3
https://cutt.ly/iwAgWbrN

REGULATORY LEGAL ACTS THAT ENTERED INTO FORCE



The government has approved the procedure for submitting information for the preparation of notifications, responses, and requests within the framework of the WTO

Resolution of the Cabinet of Ministers of Ukraine dated November 10, 2023, No. 1180 "On approving the Procedure for submitting information for the preparation of notifications, responses and requests in accordance with the requirements of the World Trade Organization agreements"

As part of the fulfillment of obligations of Ukraine's membership in the World Trade Organization (WTO), the Government approved the Procedure for submitting information for the preparation of notifications, responses, and requests in accordance with the requirements of WTO agreements. The Ministry of Economy ensures appropriate interaction with the central bodies of the executive power regarding the preparation of notifications, responses, and requests in accordance with the requirements of WTO agreements and informing the WTO Secretariat and WTO member countries.

This Procedure defines the procedure for interaction and submission of information by executive authorities for the preparation of Ukraine's notifications, responses to substantiated requests from WTO members regarding information submitted by Ukraine on trade policy measures, and preparation of substantiated requests to WTO members in accordance with the requirements of multilateral trade agreements within the framework of the WTO. The Ministry of Economy provides clarification on the application of this Procedure.

Source: http://surl.li/obwtw

The government has increased the maximum number of workers at the central office of the State Customs Service

Resolution of the Cabinet of Ministers of Ukraine dated November 14, 2023, "On Amending Appendix 1 to Resolution No. 85 of the Cabinet of Ministers of Ukraine dated April 5, 2014"

By the corresponding resolution, the Government increased the maximum number of workers of the central office of the State Customs Service of Ukraine by 200 people - to 771 people and reduced the maximum number of workers of territorial bodies of the State Customs Service from 10,737 to 10,537 people. In fact, there was a redistribution of staff between territorial bodies and the central apparatus of the State Customs Service.

Source: https://cutt.ly/7wAgQQaE





The parliament is proposed to introduce mechanisms that minimize abuse in the export of agricultural products and tax evasion

The Draft Law of Ukraine No. 10169-2 dated November 6, 2023, "On Amending the Customs Code of Ukraine regarding the improvement of foreign economic operations for the export of certain goods"

Registration date: November 6, 2023

Initiator: Member of Parliament of Ukraine

Draft Law of Ukraine dated November 6, 2023, "On Amending to the Tax Code of Ukraine and other legislative acts of Ukraine on improving the implementation of foreign economic operations for the export of certain goods"

Registration date: November 6, 2023

Initiator: Member of Parliament of Ukraine

These draft laws amend the Customs and Tax Codes of Ukraine and are interrelated. They are aimed at minimizing common tax evasion schemes when taxpayers carry out operations to export grain and oil crops outside the customs territory of Ukraine.

The draft laws propose to introduce mechanisms that minimize opportunities for abuses in the export of agricultural products and tax evasion.

In particular, it is proposed that in case of export of grain and oil crops (commodity items 1001, 1002, 1003, 1004, 1005, 1201, 1205, 1206, 1507, 1512, 1514, 2306 according to the UCG FEA), customs clearance of such goods is carried out based on a separate periodic, simplified customs declaration or a customs declaration filled out in the usual manner, in which the declarant must enter information about the details of the corresponding tax invoice registered in the Unified Register of Tax Invoices. Such a customs declaration must contain information only about the goods included in the specified commodity items and details of one relevant tax invoice. After the initiation of customs clearance of such goods based on a customs declaration, the data of such customs declarations shall not be subject to correction. In the case of placing the specified goods under the customs export regime, the customs value of such goods cannot be lower than the average index of international stock exchange quotations for such goods for every 10th calendar day of the month.

Additional grounds for refusal of customs clearance in case of export of the specified goods are provided, in particular:

1) lack of registration of the tax invoice, the details of which are specified in the customs declaration, in the Unified Register of Tax Invoices;

2) 30 days have passed since the date of registration of the tax invoice in the Unified Register of Tax Invoices;

3) the contract value of the exported goods is lower than the average index of international exchange quotations for such goods for every 10th calendar day of the month;

4) the invoice value of the goods in the customs declaration calculated in hryvnias exceeds the volume of supply specified in the relevant tax invoice for each code of the UCG FEA;

5) inconsistency of the UCG FEA code of the goods, quantity, and tax number of the payer in the customs declaration of the number of goods specified in the corresponding tax invoice;

6) indicating in the customs declaration the number and date of the tax invoice, the details of which are indicated in another customs declaration.

On the next day, after the completion of customs clearance for the export of the specified goods, the customs authority will transfer to the State Tax Service information from the completed customs declarations for the export of the specified goods.

It is also proposed to cancel the possibility of using the export security regime when exporting the specified goods and to allow the export of the specified products exclusively to VAT payers (six months after the entry into force of the relevant changes).

The complex of these changes is aimed at minimizing the possibility of tax evasion when exporting oil and grain crops and is designed to complicate the relevant procedures.

Source: http://surl.li/obwvj
http://surl.li/obwvo

Ten new enterprises received certificates of AEO status

On December 1, 2023, the State Customs Service handed over appropriate certificates to representatives of enterprises that received the status of Authorized Economic Operator (AEO).

AEO is a special status that certifies a high degree of trust of customs in the business entity and gives it the opportunity to enjoy advantages and simplifications during customs clearance, such as reducing the level of risk in relation to goods being moved; priority of customs formalities; release of goods at the location of the enterprise; simplified declaration procedure, etc.

The recognition of the AEO status of Ukrainian companies by the customs authorities of other countries, in particular, the EU (after the conclusion of relevant bilateral agreements on mutual recognition) will mean that, for example, EU countries in such a case should trust Ukrainian AEO companies as well as European companies, and accordingly the scope of control measures regarding of goods imported by Ukrainian AEOs to the EU will decrease.

The following companies received certificates of AEO status:

1. LLC "Fujikura Automotive Ukraine Lviv",
2. LLC "Schreder",
3. LLC "Ukrpol Publishing House"
4. MP "Rokada",

5. LLC "Glass Alliance",
6. LLC "Plastics-Ukraine",
7. PJSC "Odeskabel",
8. PPTE "JNL",
9. PJSC "Illichivskovnoshtrans",
10. LLC "Rehau"

As of December 1, 2023, a total of 18 enterprises received AEO status.

For more information about the status of AEO, see the link.

Source: http://surl.li/obwwi

From December 1, 2023, changes to the rules for importing and accounting for humanitarian aid came into force

By the changes that have taken place in the legislation of Ukraine on humanitarian aid, from December 1, 2023, the list of persons who can be recipients of humanitarian aid has been expanded. The right of the Cabinet of Ministers of Ukraine to establish a simplified procedure for recognizing goods as humanitarian aid based on the declarative principle is established at the legislative level during the period of martial law.

The corresponding changes concern the recognition of goods as humanitarian aid, their accounting, reporting by recipients, and distribution and control over the intended use of humanitarian aid under martial law.

At the same time, the mechanism for the passage of humanitarian aid through the customs border of Ukraine by the customs authorities does not fundamentally change.

A special feature of declaring humanitarian aid goods to the customs authority is the indication in the declaration of the recipient's number in the Unified Register of Humanitarian Aid Recipients and the unique humanitarian aid code provided by the automated humanitarian aid registration system.

At the same time, in accordance with the changes introduced by Resolution No. 1216 of the Cabinet of Ministers of Ukraine dated November 20, 2023, until April 1, 2024, a transitional period has been established for the passage of humanitarian aid through the customs border of Ukraine, which is carried out in accordance with the Procedure during which passage through the customs border of Ukraine, humanitarian aid can also be carried out at the place of crossing the customs border of Ukraine by submitting a paper declaration of goods recognized as humanitarian aid, filled out by the person transporting the relevant goods, using the form in accordance with Appendix 1 to the Procedure, without specifying the unique code of humanitarian aid, which is provided by the automated humanitarian aid registration system.

Clauses 4, 6 - 14, and 17 of the Procedure do not apply. The recipient of humanitarian aid imported without using the automated humanitarian aid registration system must, by March 31, 2024, upload to the specified system a copy of the paper report on the distribution and use of humanitarian aid in the form in accordance with Appendix 3 to the Procedure.

Thus, from 01.12.2023 to 01.04.2024, it is allowed to declare and pass goods into the customs territory of Ukraine without using the automated humanitarian aid registration system. At the same time, it is mandatory for recipients of humanitarian aid to report to the automated system of the Ministry of Social Policy.

Source: http://surl.li/mmqsy

The State Customs Service has agreed with DG TAXUD to postpone the transition to the application of NCTS Phase 5

Taking into account the expressed business concerns regarding the transition to the application of the common transit regime (NCTS) Phase 5 from December 1, 2023, due to the fact that additional time is needed for testing the brokerage software and preparing the companies themselves for new approaches, the State Customs Service agreed with the General Directorate for Taxation and Customs Union of the European Commission (DG TAXUD) to postpone the transition to the application of NCTS Phase 5 no later than May 1, 2024, taking into account the readiness of the new Trader's Portal and/or brokerage software for full interaction in accordance with the requirements of NCTS Phase 5.

The postponement of the NCTS Phase 5 launch date will provide brokerage software developers with additional time to test their systems for messaging with the Customs Service's new NCTS Phase 5 software.

In order to minimize the risks of business transition to the application of NCTS Phase 5, the State Customs Service signed a contract for the development of the Trader's Portal, which will be an alternative IT solution to brokerage software for submitting declarations in NCTS Phase 5.

The new Trader Portal is expected to be available to businesses at the end of Q1 2024.

We would like to remind you that Ukraine has successfully completed all testing stages of the NCTS Phase 5 system, determined by DG TAXUD as part of Conformance Testing. Passing Conformance Testing confirmed the functionality of the system deployed in the State Customs Service and the possibility of interaction with other participating countries of the Convention on the Common Transit Procedure within NCTS Phase 5.

Source: http://surl.li/obwwn



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The publication consists of three parts:

regulatory legal acts that entered into force;

draft laws;

news.

We understand that small and medium-sized businesses do not have enough time to analyze new legislation or possible regulatory innovations. Also, a significant number of such acts are difficult for the average person to understand. "Trade Facilitation Monitoring in Ukraine" is designed to draw attention to interesting events and innovations in Ukrainian legislation related to the trade procedures simplification that may directly affect foreign economic activity actors. In these publications, we will also analyze draft regulations on this issue.

The Institute for Economic Research and Policy Consulting (IER) is an internationally recognized independent Ukrainian think tank founded in 1999.

IER analyzes economic development problems, international trade, and business climate (particularly in the SME sector) and participates in developing policy documents at the national and regional levels.

The IER regularly issues its macroeconomic forecast for Ukraine and participates in developing the consensus forecast of the Ministry of Economic Development and Trade of Ukraine.

The IER sociologists' team conducts regular surveys of enterprises and experts to assess the business climate and expectations of Ukrainian business. IER successfully combines its analytical activities with advocacy for change and participation in the public life of Ukraine. IER cooperates with central and local authorities, national and foreign think tanks, and civil society organizations.

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