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Trade Facilitation Monitoring in Ukraine

Monitoring period:
December, 2023

Issue № 84
February, 2024



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

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Parliament criminalized goods smuggling

Law of Ukraine dated December 9, 2023, No. 3513 "On Amending the Criminal and Criminal Procedure Codes of Ukraine on the Criminalization of Smuggling of Goods"

The Parliament introduced criminal liability for the illegal movement of goods across the customs border of Ukraine.

We would like to remind that in 2012 goods smuggling was decriminalized in Ukraine. Illegal movement across the customs border of Ukraine of cultural values, poisonous, powerful, explosive substances, radioactive materials, weapons or ammunition, lumber or sawn timber of valuable and rare tree species, and unprocessed timber remained criminally punishable. In turn, the illegal movement of other goods across the customs border of Ukraine became a crime in accordance with the norms of the Customs Code of Ukraine.

Since 2012, there have been constant calls for the criminalization of the so-called goods smuggling and the return of the provisions of the Criminal Code in the pre-2012 version.

With the adoption of this law, the parliament stopped discussions on this issue. According to the norms of the adopted law:

- the violation of customs rules on a significant and large scale, which until now was subject to the provisions of the Customs Code of Ukraine as an administrative offense, was classified as a criminal offense - smuggling;
- increased liability for smuggling of excise goods with stricter sanctions;
- false declaration of goods was equated with the movement of contraband items across the customs border of Ukraine with concealment from customs control, i.e., smuggling;
- provided for a number of qualifying signs of smuggling.

Regulations on the criminalization of smuggling of goods will enter into force on July 1, 2024. Smuggling of goods will include actions aimed at moving goods across the customs border of Ukraine outside of customs control or hiding them from customs control (except excise goods and electrical energy), committed in a significant amount. For example, the provisions of the law provide for criminal responsibility for the smuggling of goods worth from 7.57 to 15.14 million UAH in the form of a fine from 170 to 425 thousand UAH, and for the value of more than 15.14 million UAH - liability from a fine of 850 thousand UAH to imprisonment for 11 years with confiscation of property. For excise goods with a value from 1.136 to 2.271 million UAH, the sanction is a fine of UAH 340,000 to 6 years of imprisonment, and with a value of more than 2.271 million UAH - a fine of 1.275 million UAH to 12 years in prison with confiscation of property.

The norm that describes the signs of movement of contraband items through the customs border of Ukraine with concealment from customs control is important. By this, the legislator understands the intentional movement of contraband items using

specially made hiding places and other means or methods that make it difficult to detect them, or by giving some goods the appearance of others, or by submitting to the customs authority for moving goods forged documents or documents obtained illegally, or containing knowingly false information that is subject to mandatory declaration in accordance with the customs legislation, and if the specified documents and information are necessary to determine the amount of customs payments due and/or to confirm compliance with the prohibitions established by law and restrictions on the movement of goods across the customs border of Ukraine.

Source: http://surl.li/qdfop

The government extended the ban on the import of goods originating in Russia

Resolution of the Cabinet of Ministers of Ukraine No. 1356 dated December 22, 2023, "On Amending the Resolution No. 1147 of the Cabinet of Ministers of Ukraine dated December 30, 2015"

The government extended the ban on the import of goods originating in Russia (according to the list) until December 31, 2024. The ban was introduced at the end of 2015 in response to similar actions of Russia regarding goods of Ukrainian origin.

Source: http://surl.li/qdfpj

The time spent in military service by officials of customs authorities in a special period will be counted towards the term of stay in a special rank

Resolution of the Cabinet of Ministers of Ukraine No. 1378 of December 27, 2023, "On Amending Clause 3 of the Procedure for Assigning Special Ranks to Officials of Customs Authorities"

According to the government's decision, the military service during mobilization for a special period and the military service of reservists for a special period by officials of customs authorities will be counted as the period of stay in a special rank.

It will have a positive effect on the level of financial support and the status of customs officials who have been drafted into the armed forces for a special period and will also be fair to the drafted customs officials.

Source: http://surl.li/qeuvw

The government approved the lists of goods whose export and import are subject to licensing and quotas for 2024

Resolution of the Cabinet of Ministers of Ukraine No. 1302 dated December 27, 2023, "On approval of the lists of goods whose export and import are subject to licensing and quotas for 2024"

The government has updated the annual resolution by which it annually approves the relevant lists of goods whose exports and imports are regulated through the introduction of quotas and/or licenses.

In particular, it was approved:

- the volume of quotas of goods, the export of which is subject to licensing; these goods include: salt suitable for human consumption; hard coal, anthracite; natural gas of Ukrainian origin; fuel wood; silver; gold, waste or scrap of precious metals; oil fuel; coking coal (only "K" brand).
- At the same time, the government established export quotas for two commodity positions:
- "K" brand coking coal in the amount of 900,000 tons per year;
- liquid fuel (fuel oil) in the amount of 540,000

tons per year;

- the list of controlled substances (ozone-depleting substances and fluorinated greenhouse gases), the export and import of which is subject to licensing in accordance with Annexes 2 and 3;

the list of goods (agricultural products), the export of which is subject to licensing in accordance with Appendix 4. Such goods include wheat and meslin, rye, barley, oats, corn, soybeans, rapeseed or rapeseed, sunflower seeds, soybean oil, oil sunflower, safflower or cotton, and rapeseed oil.

This tool allows to control of the export of important goods and responds quickly to the economic and security situation in the country by limiting the export of strategic products important for the country's national security.

Source: http://surl.li/qeuwe

A plan of measures for the implementation of the Integrated Border Management Strategy has been approved

Decree of the Cabinet of Ministers of Ukraine No. 1196 dated December 22, 2024, "On approval of the plan of measures for 2023-2025 regarding the implementation of the Strategy of Integrated Border Management for the period until 2025"

The Government approved the plan of measures for 2023-2025 regarding the implementation of the Strategy of Integrated Border Management for the period until 2025.



The strategy was approved on July 24, 2019 and is designed for the period until 2025.

Integrated border management is a coordinated activity of the competent state bodies of Ukraine and military formations aimed at creating and maintaining a balance between ensuring the appropriate level of border security and maintaining the openness of the state border of Ukraine for legal cross-border cooperation and for travelers.

The Strategy defines the main directions of the systematic formation of the state development policy and effective management of the state border of Ukraine for the period until 2025. The purpose of the Strategy is to ensure the development of foreign economic ties and international trade, to facilitate the movement of people and goods across the state border of Ukraine and its proper security. It is aimed at introducing effective tools of cooperation and coordination at the intra-departmental, inter-departmental, and international levels and with the private sector.

The measures of the Strategy implementation plan are aimed at the implementation of 9 strategic goals; each measure contains an indicator of implementation, deadlines for implementation with the corresponding indicators, and relevant executors - state authorities.

Source: http://surl.li/qeuwn



The government approved the National Income Strategy until 2030

Decree of the Cabinet of Ministers of Ukraine dated December 27, 2023, No. 1218-r "On the approval of the National Income Strategy until 2030"

The National Revenue Strategy of Ukraine is a road map for the reform of the tax and customs systems until 2030 and the improvement of tax and customs administration procedures, which is necessary to ensure the potential to meet fiscal needs in the medium term. It aims to support economic growth by reducing inequality and inefficiencies in revenue policy and administration.

The national strategy contains a list of major reforms, particularly in the customs sector. It is described as strategic goals and measures for their implementation.

In the customs sector, it is:

- strengthening of anti-corruption measures and increasing trust in customs authorities;
- support and cooperation with business;
- development of international customs cooperation;
- institutional development of customs bodies;
- development of IT and provision of technical means of customs control;
- harmonization of customs legislation of Ukraine with EU legislation;
- development of the law enforcement function of customs authorities.
- These goals are implemented through a number of relevant measures.

The basis of reforming the customs system is European integration. Ukraine is expected to implement the EU Customs Code. It is also planned to assess the conformity of domestic customs legislation with EU legislation and to obtain a corresponding opinion of the European Commission.

Anti-corruption measures are also foreseen. It is proposed to introduce the attestation of customs officials and their systematic integrity check (with the help of a polygraph). Checkpoint workers will wear body cameras to prevent bribery.

Additionally, it is planned that the internal security units of the customs office will be empowered to carry out investigative activities. Also, customs authorities will be able to carry out investigative activities in the context of investigations of smuggling cases.

In the economic sphere, the government intends to strengthen control over the legality of the application of exemptions from the payment of customs payments. Preferential customs taxation is planned to be harmonized with EU norms. It is also planned to resume document checks at customs.

Along with increasing the customs officials' powers, the government plans to create a special unit that will respond to appeals from citizens and businesses

REGULATORY LEGAL ACTS THAT ENTERED INTO FORCE

(HelpDesk). Abuses at customs are planned to be reduced through the introduction of a unified approach to customs clearance of goods. Other proposals in the context of customs reform that the government plans to implement in the next six years include:

- establishment of exchange of preliminary customs information with other countries;
- development of common control at checkpoints

;

- increasing the salaries of customs officials to the market level, introducing a new KPI system for customs officials and IT systems for monitoring their performance;
- development of IT solutions at customs, including standardization and unification of customs clearance systems;
- equipping checkpoints with modern technical means.

Source: http://surl.li/qeuwr

DRAFT REGULATORY AND LEGAL ACTS



It is proposed to update the Tax Code of Ukraine

Draft Law of Ukraine (No. 10321 dated 12/21/2023) "On Amending the Tax Code of Ukraine on Bringing Some Regulations into Compliance with the Law of Ukraine "On the Customs Tariff of Ukraine" and Clarifying Certain Provisions"

Registration date: December 21, 2023

Initiator: Members of Parliament of Ukraine

The draft law is aimed at making technical changes to the Tax Code of Ukraine, which eliminates inconsistencies in the coding of goods to avoid complications during the administration of value-added tax, excise tax, corporate income tax, and personal income tax.

Additionally, the project proposes replacing the terminology: the concept of "main funds" with the concept of "main assets"; the concept of "statutory fund" with the concept of "statutory capital"; replacing the words "rehabilitation center" with the words "rehabilitation institution" for a clear and unambiguous interpretation of legal norms.

Also, the rate of 20% is excluded from the list of corporate income tax rates applied to non-resident incomes, which was applied to non-resident incomes for the production and/or distribution of advertising, due to exception 2 of the Code of Regulations on the taxation of such incomes.

Provisions regarding excise goods are also clarified.

Source: http://surl.li/qeuww



The Government approved the decision to terminate the Agreement between the Government of Ukraine and the Government of the Republic of Belarus on Free Trade

The Cabinet of Ministers of Ukraine approved the draft law on the termination of the Agreement between the Government of Ukraine and the Government of the Republic of Belarus on free trade and protocols thereto.

The relevant decision still needs to be approved by the Verkhovna Rada of Ukraine.

Source: http://surl.li/qeuxj

The State Customs Service has started a pilot project on post-customs control

The State Customs Service has started a pilot project on the implementation of post-customs control as one of the forms of control defined by Article 336 of the Customs Code of Ukraine. The purpose of the project is the practical implementation of the provisions of Article 337-1 of the CCU.

Conducting post-customs control consists of checking the information specified in the customs declaration and submitted documents.

The main areas of post-customs control are:

- control over the correctness of determining the tax base;
- control over the correctness of the classification of goods according to UCG FEA;
- control over the definition of the country of origin of goods;
- control over the provision of tax benefits, the completeness and timeliness of payment of customs payments;
- control over the reliability of the declaration of weight, quantitative and qualitative indicators, and technical and physicochemical characteristics of goods, which affect the level of taxation;
- control over compliance with the requirements of customs regimes defined by the CCU;
- control over the compliance of the provisions of the legislation on non-tariff regulation by FEA entities.

Post-customs control is not carried out for all customs clearances.

Post-customs control of specific customs clearances is carried out by customs based on the results of the risk management system. Also, post-customs control is possible only for customs declarations, the registration of which was completed no later than 30 calendar days before the start of post-customs control.

During the post-customs control, the customs office, which performed the customs clearance of the goods, may request documents not submitted for customs clearance but contain information that allows checking the data declared in the customs declaration.

Post-customs control is not a documentary verification of compliance with the requirements of Ukrainian customs legislation. Tax notices-decisions based on the results of post-customs control are not issued.

At the same time, the results of post-customs control are taken into account by the risk management system and during the selection of enterprises for further documentary checks.

In case of detection of errors and/or inconsistencies in the data, the customs office informs the declarant about such inconsistencies.

Source: http://surl.li/qeuxp

The 20th enterprise in Ukraine received the status of AEO

The State Customs Service issued the 20th certificate on the status of the Authorized Economic Operator (AEO) to the Wine Bureau LLC (the founder of the Goodwine network).

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

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 measures controls on goods imported by Ukrainian AEOs to the EU will decrease.

Source: http://surl.li/qeuxt



"Trade facilitation monitoring in Ukraine" is a continuation of the Monthly Trade Facilitation Monitoring in Ukraine issues, prepared by the Institute for Economic Research and Policy Consulting within the framework of the "Trade Facilitation Dialogue" project, funded by the European Union and co-financed by the International Renaissance Foundation.

The proposed Information Bulletin is a continuation of the previous one and is published within the project **"Support to the Civil Society Initiative "For Fair and Transparent Customs"** accomplished with the support of the European Union, the International Renaissance Foundation, and ATLAS Network and monitors customs reform and international trade facilitation implementation.

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.

IER's work is funded by grants, charitable contributions and technical assistance.

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