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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

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Amendments to the Customs Code necessary for the introduction of the common transit regime (NCTS) were adopted

Law of Ukraine No. 2510 dated August 15, 2022, "On Amendments to the Customs Code of Ukraine and other legislative acts of Ukraine regarding certain issues of implementation of Chapter 5 of Section IV of the Association Agreement between Ukraine, and the European Union, the European Atomic Energy Community and by their member states."

The Verkhovna Rada of Ukraine adopted amendments to the Customs Code of Ukraine for unification with EU customs legislation and international conventions. In addition to many advantages and simplifications, the changes introduce effective feedback between businesses and customs. The adopted Law provides the following:

1. Bringing the provisions of the Customs Code of Ukraine into compliance with the EU customs legislation for the introduction of NCTS.

2. Optimization of the Authorized Economic Operator (AEO) program in Ukraine, through:

⇒ simplifying AEO access to the program;

⇒ access to simplifications for enterprises without obtaining AEO status (authorized receivers, senders, general guarantees).

3. The possibility of applying simplifications of the "issue procedure by location" and "simplified declaration" at authorized objects.

4. Changes in the approach to guaranteeing and requirements for guarantors (banks, insurers, independent financial intermediaries), the possibility of issuing guarantees for all customs procedures.

5. Updating the decision-making system by customs authorities and introducing new opportunities for business during the submission of applications and decision-making by customs authorities:

⇒ new Procedure for consideration of enterprise applications and decisions by customs bodies;

⇒ improvement of the procedure for appealing the decisions of customs bodies and new opportunities in administrative appeals;

⇒ improved mechanism for applying the principle of "the right to be heard".

6. Introduction of the end-use procedure and establishing reduced (up to 0%) duty rates on imported goods that will be used for their intended purpose, including finished goods production.

7. Improving electronic document flow and work of electronic services of customs authorities, etc.

The presentation of changes to the Customs Code can be found at the link https://bit.ly/3AUWLl5

Source: https://bit.ly/3x3pvqC

Ukraine has joined the Conventions on the common transit procedure and the simplification of formalities in trade in goods

Law of Ukraine No. 2555 of August 30, 2022, "On Ukraine's Accession to the Convention on the Common Transit Procedure"

Law of Ukraine No. 2554 of August 30, 2022, "On Ukraine's Accession to the Convention on the Simplification of Formalities in Trade in Goods

The Verkhovna Rada of Ukraine adopted the Laws by which it joined the Convention on the Common Transit

REGULATORY LEGAL ACTS THAT ENTERED INTO FORCE



Procedure (NCTS) and the Convention on the Simplification of Formalities in Trade in Goods, which will enter into force for Ukraine on the first day of the second month after the submission of the official accession document.

Already on August 31, 2022, after the signing of the specified laws by the president, the Ukrainian side handed over to the European side a package of necessary documents for joining the Conventions. Thus, from October 1, 2022, the international application of NCTS will begin in Ukraine with a full exchange of information between Ukraine and other participants of the Convention. We will remind that, about a year ago, Ukrainian entrepreneurs had the opportunity to use the relevant system at the national level in a test mode.

In short, the NCTS Convention regulates the joint transit mechanism, which allows goods to be moved in transit between the contracting parties under one transit declaration, and the Convention on the Simplification of Formalities in Trade in Goods regulates the use of the Single Administrative Document form.

The adoption of these laws is the result of the multi-year and multi-stage work of a large number of people, officials, experts, representatives of specialized business associations, customs brokers, public organizations, and individual entrepreneurs in the direction of creating a system in Ukraine that will allow Ukrainian businesses to use the joint transit procedure, which used by 35 countries that are parties to the conventions: 27 EU countries, 4 EFTA countries (Iceland, Norway, Liechtenstein, Switzerland), Great Britain, Turkey, North Macedonia, Serbia.

It is one of the measures for the implementation of the Association Agreement between Ukraine and the EU, which is considered today in the broader context of meeting the requirements for Ukraine as a candidate for EU membership.

Ukraine's joining the NCTS and the possibility of its international application, together with the program of the authorized economic operator and the system of customs simplifications, is the main tool for the rapid passage of goods through customs while maintaining security at the border. After Ukraine joins the NCTS, Ukrainian business will be able to use the advantages and simplifications that business has in the 35 member countries of the Convention, moving goods in the mode of common transit, and work according to the principle of "one vehicle - one declaration - one guarantee." It should reduce corruption risks and, at the same time, reduce the time for passing customs procedures.

Ukrainian businesses had the opportunity to use NCTS procedures in the national mode for about a year. During this time, the State Customs Service, experts, business associations, and international technical assistance projects took an active part in improving the relevant procedures and making the necessary changes in the current legislation.

It is worth noting that several transit systems will operate in parallel in Ukraine. In particular, the Carnet TIR will be used alongside the NCTS.

For reference: according to the State Customs Service, as of July 2022, the necessary technical functionality provided by the joint transit regime has been deployed in Ukraine, and staff training has been carried out. More than 1,100 traders, about 4,500 customs employees, and more than 5,500 declarations have already been registered in the system. 13 companies have been assigned the status of the financial guarantor. The provision of special transit simplifications to Ukrainian enterprises has begun.

Source: https://bit.ly/3x4FNzz
https://bit.ly/3euz2jP
https://bit.ly/3KSLaHG

The government approved the procedure for receiving humanitarian aid from donors to meet energy needs

Resolution of the Cabinet of Ministers of Ukraine No. 824 of July 22, 2022, "Some issues of receipt, distribution, use, and accounting of humanitarian aid to meet energy needs under martial law"



It defines the procedure for receiving humanitarian aid to meet energy needs (hereinafter - aid) from donors, its storage, distribution, and transfer by aid recipients (hereinafter - recipients) to its holders under martial law and within 150 calendar days from the date of its termination or cancellation.

In order to receive aid from donors, aid holders, which can be economic entities regardless of the form of ownership, operating in the electric power, nuclear industry, coal industry, peat mining, oil and gas processing complex, military administrations, as well as enterprises, institutions, organizations classified as critical infrastructure facilities and in need of urgent restoration of electricity and/or gas supply send a paper or electronic request to the Ministry of Energy using the form posted on the official website of the Ministry of Energy.

Based on the requests received from holders, the Ministry of Energy conducts an analysis of their priority, taking into account the criteria defined in the regulation and summarizes the received requests regarding the need for assistance, and submits a list of relevant needs to donors.

After the Ministry of Energy receives a notification from donors regarding the readiness to transfer aid to holders, the Ministry of Energy identifies potential holders and agrees with them on the need for assistance. By sending a letter, the Ministry of Energy informs donors and recipients about the distribution of aid and its subsequent transfer to holders.

Source: https://bit.ly/3ATWgHY

The government approved the procedure for partial compensation of the interest rate on export credits

Resolution of the Cabinet of Ministers of Ukraine of August 23, 2022, No. 943 "On approval of the Procedure and conditions for partial compensation of the interest rate on export credits"

The document approved by the government defines the procedure, conditions, and mechanism for the use of funds provided by the Ministry of Economy in the state budget under the program "Financial support for exporters," which are directed to partial compensation of the interest rate on loans granted under foreign economic agreements (contracts) concluded with business entities - Ukrainian exporters (export credits). The resolution will enter into force on January 7, 2023, simultaneously with the entry into force of Law of Ukraine No. 2154 of March 24, 2022, "On Amending Certain Laws of Ukraine on Ensuring the Effective Functioning of the Export Credit Agency."

To receive partial compensation of the interest rate on an export credit, a business entity - a Ukrainian exporter - must meet the following criteria:

⇒ the borrower is a resident individual entrepreneur or legal entity whose participants (founders) are resident individuals or legal entities, including public associations of persons with disabilities,

the ultimate beneficial owners (controllers) of which are resident individuals;

⇒ the borrower is registered on the territory of Ukraine (except temporarily occupied territories);

⇒ bankruptcy proceedings have not been opened for the borrower, it is not in the process of liquidation;

⇒ for a newly created business (startup), the borrower must have a business plan for the implementation of the project (execution of a foreign economic agreement (contract), for the implementation of which an export credit is drawn;

⇒ the borrower is not classified as a legal entity or individual subject to special economic and other restrictive measures (sanctions).

Compensation is provided through authorized banks that have signed a corresponding memorandum with the Ministry of Economy and the private joint-stock company "Export Credit Agency" (hereinafter - ECA). Compensation is provided to borrowers only under the condition of ECA export credit insurance. Compensation is provided to borrowers for accrued and paid interest for the use of export credits in the current year in the amount of 1 (one) discount rate of the National Bank effective on the date of interest accrual, but not higher than the amounts provided for in credit agreements, reduced by five percentage points.

Compensation is subject to interest rates for:

⇒ short-term contracts (loans) used to replenish working capital;

⇒ medium-term contracts (loans) involved replenishment of working capital, purchase of basic means of production, and expenditure related to the fulfillment of the terms of a foreign economic agreement (contract), in particular at the stage of production of goods (works, services);

⇒ long-term contracts (credits) involved the purchase of basic means of production, equipment for the production and processing of goods, services, construction and reconstruction of production facilities related to the fulfillment of the terms of a foreign economic agreement (contract), in particular at the stage of production of goods (works, services).

More information at the link.

Source: https://bit.ly/3D4nfDm

The government eased restrictive measures on the export of rye and mineral fertilizers

Resolution of the Cabinet of Ministers of Ukraine of July 26, 2022, No. 832 "On Amending Appendices 1 and 5 to Resolution of the Cabinet of Ministers of Ukraine of December 29, 2021 No. 1424"

Taking into account the changes in the current economic situation in Ukraine, the government has eased restrictive measures on the export of rye and mineral fertilizers by making regular changes to the list of goods whose export and import are subject to licensing and quotas for 2022. Rye (code 1002 UKT FEA), nitrogen fertilizers (code 3102 UKT FEA), phosphatic fertilizers (code 3103 UKT FEA), potash fertilizers (code 3104 UKT FEA), and chemical mineral fertilizers containing two or three nutrients (code 3105 UKT FEA) are excluded from the list of goods whose export is subject to licensing in accordance with established quotas.

Taking into account zero established quotas for the export of these goods, their deliveries abroad were prohibited.

At the same time, these items are included in the list of goods whose export is subject to licensing. It is a relaxation of restrictive measures on the specified goods. Exporters must obtain a license for mentioned products export, which is a liberalization of the existing measures.

Source: https://bit.ly/3AUWo9Z



The NBU has made changes to the instructions on the procedure for currency supervision of banks on residents' compliance with deadlines for operations on export and import of goods

Resolution of the National Bank of Ukraine No. 143 of July 12, 2022, "On Amendments to the Instruction on the Procedure for Currency Supervision of Banks on Observance by Residents of Deadlines for Operations on the Export and Import of Goods"

Responding to the situation in the country, the National Bank of Ukraine (NBU) made changes to the Instruction, which regulates the procedure for currency supervision of banks for compliance by residents with the deadlines for operations on export and import of goods, approved by the Resolution of the NBU Board of January 02, 2019 No. 7.

It is provided for the possibility of the resident using an "improved electronic signature" when certifying copies of documents in electronic form, which are created by scanning the original document on paper and certified by a qualified electronic signature (for legal entities - the signature of an authorized person) under the Law of Ukraine "On electronic trust services". This is a certain simplification when it is not possible to use a qualified electronic signature.

The advanced electronic signature is an improved form of electronic signature designed for use by ordinary citizens for convenience and mobility of the latter. It is the most common type of signature that replaced the old version. More than 90% of citizens use it. Its important feature is a file or a regular flash drive. It is convenient for the daily activities of individual entrepreneurs or when using such official applications as Diya. This electronic signature represents a complex matrix of combinations of the owner's electronic data held by the government by a cryptographically unique combination of the advanced electronic signature file with the private key directly associated with the person signing the document. It makes it possible to identify the citizen and detect violations this signature may be associated with.

In addition, the NBU expanded the list of information that banks submit to the NBU, following the Rules for the organization of statistical reporting. This list is supplemented by item 8, according to which information is submitted to the NBU about the occurrence of force majeure circumstances in the resident's operation of export and import of goods.

Source: https://bit.ly/3D9odhL



It is proposed to allow preferential customs clearance of those vehicles for which a preliminary customs declaration was submitted before July 1

The Draft Law of Ukraine "On Amending Chapter XXI "Final and Transitional Provisions" of the Customs Code of Ukraine regarding the expiry of vehicle tax Benefits," registration number 7532-1, dated July 11, 2022

Initiator: Member of Parliament of Ukraine

Publication date: July 11, 2022

Draft Law of Ukraine, "On Amending Clause 69 of Subsection 10 of Chapter XX "Transitional Provisions" of the Tax Code of Ukraine regarding the expiration dates of exemptions from taxation of vehicles and goods"

Initiator: Member of Parliament of Ukraine
Publication date: July 11, 2022

The purpose of the draft laws is to enable Ukraine's citizens to complete the customs clearance of vehicles upon importation into Ukraine's customs territory using previously granted tax preferences, for which a preliminary customs declaration has already been submitted by July 1, 2022.

It is proposed temporarily within 30 days from the date of entry into force of the Law of Ukraine "On Amending Chapter XXI "Final and Transitional Provisions" of the Customs Code of Ukraine regarding the termination of the tax benefits for vehicles" to exempt passenger cars their bodies, trailers and semi-trailers, motorcycles, vehicles intended for the transportation of 10 people and more, vehicles for the transportation of goods imported by citizens into Ukraine's customs territory for free circulation with the use of tax benefits that have been in effect since the Law of Ukraine "On Amending the Tax Code of Ukraine and other Ukraine's legislative acts regarding the improvement of legislation for the period of martial law" came into force, and whose customs clearance has not been completed.

The relevant benefits will not apply to vehicles originating from or imported from the Russian Federation, the Republic of Belarus, and the temporarily occupied territories of Ukraine. The draft law also proposes to establish that this law enters into force on the day following the day of its publication, but not earlier than the day of entry into force of the law of Ukraine on amending Chapter XXI "Final and Transitional Provisions" of the Customs Code of Ukraine regarding the termination of vehicle tax benefits.

These draft laws require simultaneous consideration and adoption.

Source: https://bit.ly/3ql3HTD

https://bit.ly/3euYndJ



October 1, Ukraine begins the international application of the common transit regime

On September 5, 2022, during the meeting of the Ukraine-EU Association Council, an important historical decision for Ukraine was announced on the possibility of joining international customs conventions from October 1 of this year. They are the Convention on the Common Transit Procedure (NCTS) and the Convention on the Simplification of Formalities in Trade in Goods.

This important event was preceded by a purposeful customs policy and the consolidation of the efforts of the government and business with the support of international partners for the introduction of the Electronic Transit System for the Operation of the Common Transit Regime (NCTS) in Ukraine.

According to the results of the work in June this year of the final Evaluation Mission of EU experts to study Ukraine's readiness to join the mentioned Conventions, Ukraine's achievement of the necessary progress and readiness to join these Conventions were recognized.

The customs office will have the opportunity to exchange information with colleagues from 35 countries, which will contribute to the objectivity of customs formalities. The domestic business will enjoy the benefits of simplified declaration of goods and acceleration of their customs clearance. The officials noted that the Ukrainian customs is ready for this: the staff has been trained, the software has been adapted, and possible scenarios have been worked out with other participating countries. Joining Ukraine the common transit system is considered an important step towards future full membership in the EU.

According to the Ministry of Finance of Ukraine, using NCTS at the national level, the State Customs Service tested almost 150 scenarios of readiness to work with NCTS at the international level. More than 1,100 traders have registered in the system. It means that people began to actively use the system at the national level. More than ten companies have been granted the status of financial guarantors. More than 7,000 declarations of the T1UA type were issued, and two authorizations for transit simplifications were obtained.

For reference: the Common Transit Convention unites 35 Contracting parties, which have introduced uniform rules for the declaration and control of transit movements of goods using a common IT product (NCTS). Signatory Convention countries: 27 EU countries, 4 EFTA countries (Iceland, Norway, Liechtenstein and Switzerland) and 4 other countries (United Kingdom, Turkey, North Macedonia and Serbia).

NCTS provides an opportunity to establish an exchange of information at all stages of customs clearance of goods using electronic messages in real time and to increase the effectiveness of the use of the risk analysis mechanism.

Joining the Common Transit Convention and the use of the NCTS system will allow Ukraine to: introduce the exchange of customs information, move goods under a single customs declaration between participating countries, and introduce special transit simplifications.

Ukraine started applying NCTS in November 2020 – initially in pilot mode, and from March 17, 2021, the stage of national application of NCTS began.

Source: https://bit.ly/3eyO9co
https://bit.ly/3TRf1UQ



Ukraine joined the EU "Customs" program

On September 5, 2022, an agreement was signed between Ukraine and the EU on Ukraine's participation in the "Customs" program for cooperation in the customs sector.

Ukraine's joining the program of cooperation with the EU on customs issues "Customs" is a necessary step for deepening cooperation between Ukraine and the EU in the customs sector, especially in the conditions of Ukraine's acquisition of the status of a candidate for EU membership.

The program will help to create a modern Customs Union, which puts the interests of business and citizens as the basis by:

⇒ increasing the exchange of information and data between national customs administrations;

⇒ support of customs authorities in protecting the financial and economic interests of countries, in particular in the correct collection of customs duties, import VAT, and excise duties;

⇒ development of better risk management strategies to protect the financial interests of countries participating in the program;

⇒ further promoting trade growth.

Ukraine's participation in the "Customs" program will make it possible to use all the advantages of this Program regarding cooperation between customs administrations:

⇒ development and strengthening of IT potential, including the development and operation of European electronic systems;

⇒ establishing a network of contacts by direction with colleagues from other countries;

⇒ access to documents on customs issues (instructions, recommendations, explanations, methodologies, etc.);

⇒ exchange of knowledge and best practices between the customs authorities' workers of the participating countries;

⇒ research and innovation activity.

Shortly, the State Customs Service will determine the national coordinator of the Program, which will allow active work to begin in the relevant areas.

Source: https://bit.ly/3cQEVYu



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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.

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