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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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INTRODUCTION

The period of martial law was declared according to the Decree of the President of Ukraine № 64 of February 24, 2022, due to the military aggression of the Russian Federation against Ukraine and was marked by the adoption of a significant number of regulations, including ones within customs and related fields. It happened due to the need to transfer Ukraine's economy to martial law working conditions.

Legal acts were adopted online in a limited time, which often affected their quality. The state had to make quick, effective decisions that would respond to current challenges and changing situations. It could negatively affect the quality of documents and the unpredictability of the consequences of their adoption. It resulted in repeated changes to the same acts, which have negatively affected their understanding by key stakeholders and have caused confusion in their application.

Within martial law, government officials paid considerable attention to updating the procedure for importing humanitarian aid to Ukraine and introducing and updating the list of critical imports.



The government has amended the list of critical imports

Resolution of the Cabinet of Ministers of Ukraine of May 7, 2022, № 554 "On amending the appendix to the resolution of the Cabinet of Ministers of Ukraine of February 24, 2022, № 153"

Under martial law, the Ukrainian Government on February 24, 2022, introduced a list of critical imports and recommended to the National Bank of Ukraine to ensure cross-border foreign exchange payments for imports of goods from this list. The list was introduced with the beginning of martial law to save state currency resources and ensure the possibility of purchasing the most necessary goods, the import of which is critical to the livelihood in Ukraine. The first version of the document included 30 commodity items under four signs of the Ukrainian classification Commodity nomenclature outwardly to economic activity. The list included oil and oil products, coal, medicines and medical devices, generators, tires, paper, eggs, corn, and some other goods.

The list has been constantly updated following the realities of the time from the moment of its adoption until now. It has been amended **more than 16 times.**

The list of critical import goods has been constantly updated and expanded. Recent changes have begun to include certain services important for the Ukrainian economy or the military sector.

The Government Resolution of May 7, 2022 made a number of changes to the list. Silver compounds, silver nitrate, epoxides, epoxy alcohols, epoxy phenols, and epoxy ethers and their halogenated, sulphonated, nitrated, or nitrosated derivatives and organic derivatives of hydrazine or hydroxylamine were excluded from the critical import goods list. The position "complex cyanides" was replaced by cyanides, cyanide oxides, and complex cyanides. Some services and goods also were added.

At the same time, the list was supplemented with such items:

- services for repair and maintenance of liquid crystal devices and lasers; repair and maintenance services for instruments and apparatus for automatic adjustment or control; services and software for suppliers of machines and devices for soldering or welding with or without the possibility of cutting, etc.; pharmacovigilance services for medicines for foreign markets; services for conducting or monitoring clinical trials on medicines for foreign markets; services for examination, certification, validation, laboratory tests of medicines;
- payments under license agreements, including royalties;
- works and services on modernization of the equipment, commissioning works, maintenance, synchronization, check of functioning of the equipment after replacement of spare parts;
- services related to the participation of Ukraine's residents in tenders outside Ukraine, including services related to the registration of Ukraine's residents and contracts signed with Ukraine's residents on state commodity exchanges of other countries;
- participating in the furniture exhibition, Poznan (Poland), May 16 – 19, 2022.

The list was also supplemented with such items: vegetable plants and strawberries; copper, chromium, and zirconium ores and concentrates; precious metals in the colloidal state; isotopes, their organic or inorganic compounds; photographic film in rolls and film for instant photography in rolls; monofilaments, rods and shaped profiles with a treated or untreated surface; windows, balcony doors, and their frames and trim made of softwood; wood cellulose of soluble grade; roof tiles, tiles, slabs, bricks, and similar items: other; tableware and kitchen utensils, other household and toilet items of porcelain: tableware, kitchenware.

Source: http://surl.li/ceiyu



The government has identified checkpoints for the movement of vehicles purchased by Ukrainian citizens outside the country

Decree of the Cabinet of Ministers of Ukraine of May 3, 2022, № 354-r "Movement of certain vehicles across the customs border of Ukraine"

As a result of the significant load on checkpoints due to the large number of cars moving by Ukrainian citizens to the customs territory of Ukraine, the Government has determined the list of checkpoints across the state border for the movement of vehicles purchased outside the customs territory of Ukraine by Ukraine's citizens.

The following checkpoints are defined:

- a border checkpoint for the international passenger road "Ustyluh,"
- an international checkpoint for the road "Hrushiv,"
- an international checkpoint for the road "Maliy Berezniy."

The decree is designed to reduce queues at other checkpoints across Ukraine's state border and to systematize the procedure for importing cars into Ukraine. But there are already proposals to expand the list of relevant checkpoints.

Source: http://surl.li/cejbb



It is proposed to introduce simplifications for excisable products

Draft Law of Ukraine "On Amending the Tax Code of Ukraine and Other Legislative Acts of Ukraine to Reduce the Load on Business within Martial Law"

Registration date: № 7374 of May 13, 2022

Initiator: Members of Parliament of Ukraine

The draft law is aimed at simplifying the work of business under martial law.

The vast majority of retail sector businesses apart from selling food to the general public is selling excisable goods such as alcohol and tobacco and may also have their own imports of these goods. According to the draft law authors, the stated restriction on the application of the single tax system of 2% for the import and sale of excisable goods does not allow retail companies to switch to the single tax system. And in case of transition, such a payer faces losses in respect of excisable goods branded by stamps that were exported outside the customs territory of Ukraine and affixed to imported excisable goods before the transition to the single tax. To avoid losses incurred by shops that imported their excisable products, it is proposed to provide the opportunity to transfer the right to import excisable goods to other businesses that have not switched to a single tax. Based on the single tax system, after the end of martial law, the taxpayer will have on balance the goods that he buys while working on the single tax and will not receive a tax credit on them. Therefore, there is a proposal to eliminate the double taxation of VAT. Thus, the draft law proposes:

- Cancellation of the tax liability from the excise tax on lost excisable goods, if such goods are destroyed (lost) during martial law imposed by legislation.
- Permission to import and sell on the territory of Ukraine by economic entities excisable goods marked with excise tax stamps, the purchase, and export of which as temporary export was carried out by other economic entities that switched to a single tax of 2% within the martial law or state of emergency on the territory of Ukraine and within six months after its termination or cancellation.
- For goods/services, non-current assets purchased by the single taxpayer of the third group from VAT payers during martial law, not sold on the date of return to the general taxation system, tax liabilities are accrued by Article 187 of the Tax Code.

Restrictions on legal requirements that may be verified during actual martial law inspections.

Extending to all employers the right not to pay a single contribution for employees called up for military service in the Armed Forces of Ukraine.

Source: http://surl.li/cejbb



It is proposed to equate the theft of humanitarian aid with treason

Draft Law of Ukraine "On Amending the Criminal and Criminal Procedure Codes of Ukraine on Equating the Theft of Humanitarian Aid to Treason with Confiscation of Property"

Registration date: № 7384 of May 17, 2022

Initiator: Members of Parliament of Ukraine

It is proposed to increase the responsibility for embezzling humanitarian aid, charitable donations or gratuitous aid, including its illegal use for profit under martial law.

It is proposed that the sale of goods (items) of humanitarian aid or the use of charitable donations, gratuitous assistance, or other transactions or actions (including inaction) to dispose of such property for personal or third parties profit and enrichment committed in significant amounts, should be punishable by imprisonment for a term of three to seven years with or without confiscation of property.

The same acts committed repeatedly or by a group of people after conspiracy, or by an official using official position, or on a large amount will be punishable by imprisonment for a term of seven to ten years with deprivation of the right to hold certain positions or engage in certain activities up to three years and confiscation of property.

Other qualifying features of this crime are also suggested, such as acts committed by an organized group or on a particularly large amount and acts committed during a state of emergency or martial law.

Actions are considered to have been committed in a significant amount if the total cost of humanitarian aid exceeds the non-taxable minimum income of citizens by 350 times or more; in a large amount - if it exceeds the tax-free minimum income of citizens by 1,000 times and more; in a particularly large amount - if it exceeds the non-taxable minimum income of citizens by 3,000 times or more.

Source: http://surl.li/ceqpk

Additional measures to implement the common transit regime in Ukraine

Draft Law of Ukraine "On Amending the Customs Code of Ukraine on Certain Issues of Implementation of Chapter 5 of Chapter IV of the Association Agreement between Ukraine, the European Union, the European Atomic Energy Community, and their Member States"

Registration date: №7420 of May 31, 2022

Initiator: Cabinet of Ministers of Ukraine

The draft law is designed to implement European customs practices in Ukraine, prepare national legislation for organizational procedures for Ukraine's accession to the Convention on the Common Transit Procedure of 20 May 1987 and Ukraine's participation in the New Computerized Transit System (NCTS), used by the contracting parties to the Convention.

The draft law proposed to unify the rules provided by the Customs Code of Ukraine on obtaining the financial guarantor status, ensuring payment of customs duties, obtaining authorizations of simplifications "general guarantee," "general guarantee with a reduction of the basic amount by 50%," "general guarantee with a reduction of the basic amount by 70%," "guarantee waiver" with the requirements embodied in the Convention; and allow simplification for all reliable enterprises, not just authorized economic operators.

The procedure for reviewing taxpayers' complaints by administrative means is being improved. For example, the jurisdiction for reviewing complaints was determined; the possibility of filing a complaint in electronic

form was introduced; the rights of the complainant and complaint procedures were determined; a mechanism similar to that operating in the EU was introduced on issuing decisions by customs authorities through regulating the rights and obligations of customs officials and enterprise officials when considering the application of the enterprise.

It provides the right to be heard: the opportunity to submit written objections and appropriate justifications if the customs authority intends to take a decision unfavorable to the enterprise.

The end-use procedure is prescribed, when foreign goods can be released for free circulation in Ukraine's customs territory at reduced import duty rates established by the Customs Tariff of Ukraine.

The guarantees are provided for the difference between the amount of import duty determined at full rates of the Customs Tariff of Ukraine and the amount of import duty determined at reduced rates of the Customs Tariff of Ukraine, which covers risks related to non-compliance with end-use conditions.

Source: http://surl.li/cejci



The first permit to use specific transit simplification in the NCTS has been provided in Ukraine

On May 16, 2022, by the State Customs Service decree, the first permit to use special transit simplification, "general financial guarantee," was granted to enterprises in Ukraine. Thus, the process of obtaining special transit simplifications by enterprises under the common transit procedure (NCTS) has started in Ukraine.

The general financial guarantee in the NCTS procedure is used to cover several transit operations. In this case, after the release of the total financial guarantee reserved amount part, such amount becomes available for subsequent transit operations.

The use of a general financial guarantee is the main way to guarantee transit movements in the EU and other NCTS member countries.

Ukrainian businesses that use NCTS, in addition to the "general financial guarantee," can also receive such important transit simplifications as "authorized consignor" and "authorized consignee."

More about transit simplifications - in the infographic of the State Customs Service: http://surl.li/cejdo

The stage of national application of NCTS is underway in Ukraine. The special transit simplifications received now, during the national application of the NCTS, will be valid in the future, during the international application of the common transit regime, which is expected to begin in 2022. **Source:** http://surl.li/cejdo

The Committee of the Verkhovna Rada of Ukraine on Finance, Tax, and Customs Policy declared the work of the State Customs Service unsatisfactory

At the meeting on May 18, 2022, the Committee of the Verkhovna Rada of Ukraine on Finance, Tax, and Customs Policy heard by video conference the report of the State Customs Service of Ukraine leadership on the organization of customs under martial law in Ukraine.

Based on the results of the meeting, the committee decided to declare unsatisfactory the activity of the State Customs Service of Ukraine during martial law due to:

- the queues at checkpoints, which complicate the delivery of humanitarian goods and logistics for Ukrainian exports;
- insufficient control over compliance with the rules for the movement of currency values across the customs border of Ukraine;
- unsatisfactory organization of the fight against illegal movement of goods across the customs border of Ukraine.

Members of parliament also cited the facts of abuse, such as attempts to import non-humanitarian goods into the country as relief consignments and illegal movement of large amounts of currency. In addition, cases of misuse of goods stored in customs warehouses and transferred to the needs of the Armed Forces were identified.

It is also recommended to amend the Decree of the Cabinet of Ministers of Ukraine "On the movement of certain vehicles across the customs border of Ukraine" of May 3, 2022 №354-r to increase the number of checkpoints across the customs border of Ukraine, through which the vehicles purchased outside the customs territory by Ukraine's citizens can move and checkpoints on the border with the Republic of Moldova and Romania. Additionally, it is recommended to

take organizational measures aimed at eliminating queues at checkpoints across Ukraine's state border, increasing the capacity of checkpoints, including the increase in the number of customs clearance units' personnel at such checkpoints, reducing weight restrictions for vehicles moving through the existing checkpoints for road transport, located on the state border with EU countries. And prepare and approve relevant regulations, if necessary.

According to parliamentarians, the work of Odesa, Zakarpattia, and Volyn customs is the worst, and it is recommended to make personnel decisions here.

Source: https://t.me/getmantsevdanil





The declarants got the opportunity to submit an electronic application for invalidation of the electronic preliminary declaration (EE)

The State Customs Service of Ukraine has added a new service to the Personal Cabinet on the Unified State Information Web Portal: "Single Window for International Trade."

From the beginning of June 2022, declarants can submit an electronic application for invalidation of an electronic preliminary declaration (EE), which was previously issued automatically. Cancellation is also carried out automatically and is possible only for those preliminary declarations, according to which the goods have not yet been imported into Ukraine.

Source: http://surl.li/cejdm

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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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