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Kulinich I. A. Customs Administration of Electronic Commerce

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The development of e-commerce opens the way to the international market for a large number of small and medium-sized businesses that previously did not have this opportunity because of the significant costs of foreign economic activity (hereinafter referred to as - FEA). At the same time, this comparatively new phenomenon requires adequate customs administration mechanisms, since in such conditions customs bodies face a large number of small suppliers and buyers, which at times increases the intensity of customs operations and the risk of import of banned or restricted goods. In addition, there are options for avoiding customs payments, mainly VAT, due to the possibility of fragmentation of batches, each of which falls under the non-taxable minimum of customs duties and taxes. This also negatively affects the domestic budget.

On 10 January 2011 Belarus acceded to the International Convention on the Simplification and Harmonization of Customs Procedures (hereinafter referred to as the Kyoto Convention), with commitments on Special Annex A, Special Annex B, Special Annex C, Chapter 2 of Special Annex D, Special Annex E, Special Annex G and Chapters 1 and 4 of the Special Annex J to the Convention.¹⁰⁷ The accession of Belarus to the Kyoto Convention should give an additional impetus to the development of official relations between customs and business, to help overcome the closedness of customs regulation and to stimulate joint work to improve customs legislation and practice of its application.

The Customs Code of the Eurasian Economic Union (hereinafter referred to as the CC EAEU), which came into force on January 1, 2018, is largely based on the principles of the Kyoto Convention. The Republic of Belarus recognizes the priority of universally recognized principles of international law, which is one of the main features of the rule of law. In accordance with the Kyoto Convention, it is necessary to organize strict compliance with the norms of the CC EAEU, and the implementation of its provisions¹⁰⁸. But the various volumes

¹⁰⁷О присоединении Республики Беларусь к Международной конвенции об упрощении и гармонизации таможенных процедур: Закон Респ. Беларусь от 16.11.2010 №194-З// Нац. реестр правовых актов Респ. Беларусь. – 2010. – № 290. – 2/1746.

¹⁰⁸ Eurasian Economic Commission [Electronic resource]: – Mode of access: www.eurasiancommission.org/. – Date of access: 27.02.2018.

of commitments adopted by the EAEU member states create difficulties that lead to conflicts in many economic spheres, in particular in the field of electronic commerce.

The term 'e-commerce' is being used more often and has varying definitions all over the world. Customs Administration defines e-commerce as follows: all transactions concluded digitally through a computer network, such as the Internet, and which result in physical goods flows subject to customs formalities.¹⁰⁹

Indeed, e-commerce is developing rapidly. However, the huge increase in online purchases creates problems for customs in terms of ensuring the security of the supply chain, protecting the public and collecting duties and taxes. The intensive growth in the volume of Internet trading is accompanied by an increase in the number of goods moved in small packages, parcels, etc. For these categories of goods, customs administration in a generally established procedure is inefficient and creates difficulties for both FEA participants and customs authorities.

Besides the traditional global players, the Internet provides those market participants who were formerly conducting their business on a local or regional level with easy access to global markets. New applications, platforms and services are making e-commerce more accessible and easier to navigate, thereby lowering the entry barriers into this type of business. Among these are mobile applications and remotely delivered services – for example, microwork which enables e-commerce sites to manage small tasks, such as translating text, tagging an image and modifying content.

Data quality – the accuracy and completeness of data – is another key issue for risk management, security controls, admissibility checks and other decisions to be taken by border control authorities. Many clients sending international items are occasional shippers, and are often not fully conversant with the requirements of data quality. Missing, illegible, incomplete or otherwise incorrect information in a declaration may affect the risk analysis, and the efficient processing, clearance and release of goods by Customs leading to delays and additional costs.¹¹⁰

An example of how governments can help transactions in electronic commerce, developing new concepts that also facilitate government tasks, is the introduction of electronic Customs (e-Customs).

¹⁰⁹ Manzoor A.E – Commerce: An Introduction/ A. Manzoor. – Saarbrücken: Lambert Academic Publishing, 2010 – 432 p.

¹¹⁰ WCO Study Report on Cross-Border E-Commerce [Electronic resource]: World Customs Organization. – Brussels. – 2017. –Mode of access:http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/activities-and-programmes/ecommerce/wco-study-report-on-e_commerce.pdf. – Date of access: 27.02.2018.

In the e-commerce environment, when the supply chain and its various actors are e-enabled, there is a growing need for moving towards e-Customs, which will support and facilitate the clearance of ever increasing shipments, thereby ensuring effective control and efficient collection of revenue.

Revised Kyoto Convention of The World Customs Organization (hereinafter referred to as WCO)- the Information and Communication Technology Guidelines– provides details on how Customs can use information and communication technologies to enhance program delivery and move towards a more electronic environment. Moreover, the WCO recently developed the ‘IT Guidance for Executives’ and is currently engaged in mapping its IT related tools and instruments to provide further support to ‘Digital Customs’. The most obvious applications which some Customs administrations are already implementing include:

- e-processing – a paperless environment;
- e-payment of duties and taxes;
- e-duty calculator;
- mobile-enabled services;
- e-refund and returned goods;
- inspection at operator’s facility, transfers and other agency inspections;
- de minimis related measures and threshold for simplified clearance procedures.¹¹¹

E-commerce may be seen as an opportunity for Customs to constantly reassess and accordingly realign and adapt their processes with simple, consistent, transparent, nondiscriminatory and enforceable trade rules and procedures, providing more reliable, predictable and speedy clearance, while ensuring compliance with various regulatory requirements. E-commerce is indeed a data rich environment that demands equally strong data capabilities. Customs would need to create an operating model that captures big data from across the industry ecosystem. Customs could also endeavour to move beyond the electronic processing of declarations, collections of duties and taxes, and risk-based controls, to embrace a more digital environment – one that uses technology and trends to help increase efficiencies. Predictive analytics capabilities and Customs-to-Customs international cooperation networks, together with partnerships with private stakeholders, may enable Customs to move from controls on non-compliance to, possibly, the timely prevention of illicit trade whilst providing enhanced facilitation to legitimate trade.¹¹²

¹¹¹ International convention on the simplification and harmonization of customs procedures [Electronic resource]: [done at Kyoto on 18 May 1973] // World Customs Organisation. – Mode of access: <http://www.wcoomd.org>. – Date of access: 27.02.2018.

¹¹²Facilitating e-commerce// World Customs Organisation. – 2015. – №78. – p.32–36

The formation of the EAEU, the entry into force of the CC EAEU requires the customs service of the Republic of Belarus to develop its information technologies, taking into account the need to organize information interaction with the customs services of Kazakhstan, Russia, Armenia, Kyrgyzstan and the Eurasian Economic Commission and also effective interaction with the customs bodies of the member states of the European Union.

Different levels of development in terms of IT infrastructure and Internet usage will require an increased effort from all parties, and will, in particular, call for more effective coordination among donor countries and institutions to bridge the so-called digital divide.

Thus, taking into account the growth of transit flows, it is necessary to accelerate the modernization of information systems in order to harmonize them with the information systems of the customs services of the Member States of the European Union. The experience of introducing electronic declaration has shown that it is necessary to develop information systems also in the direction of the widest possible provision of electronic services to participants in international trade.

Кулинич И. А. Таможенное администрирование электронной торговли
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Развитие электронной коммерции открывает выход на международный рынок для большого количества компаний среднего и малого бизнеса, которые раньше не имели такой возможности из-за существенных издержек на осуществление внешнеэкономической деятельности (далее – ВЭД). В то же время это сравнительно молодое явление требует адекватных механизмов таможенного администрирования, так как в таких условиях таможенные органы сталкиваются на практике с большим количеством небольших поставщиков и покупателей, что в разы увеличивает интенсивность таможенных операций и риск ввоза запрещенных либо ограниченных к ввозу товаров. Кроме того, появляются варианты для уклонения от уплаты таможенных платежей, преимущественно НДС, благодаря возможности дробления партий, каждая из которых подпадает под необлагаемый таможенными пошлинами и налогами минимум. Это также негативно отражается на отечественном бюджете.

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