

# CUSTOMS REGULATIONS AND TARIFFS IN CENTRAL ASIA

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Customs authorities of the Republic of Tajikistan attach great importance to maintaining stable trade, attracting investment and expanding foreign economic relations in Central Asia, including programs supporting regional cooperation.

Their main goals include:

- ▶ Maintaining international and national security and respect for nations' sovereign right to choose their own national customs systems;
- ▶ Building international relations on a legal basis to avoid exploitation of less developed economies by more industrialized nations and prevent political pressurizing;
- ▶ Opting for international relations free of arbitrary practices and illegal embargoes, boycotts, as well as of trade, customs, credit and technological blockades;
- ▶ Contributing to the rebuilding of international economic relations on the basis of respect for state and economic sovereignty, equal and mutually beneficial cooperation, creating conditions facilitating international collaboration and mutual assistance in the field of customs relations.

In legal terms, customs cooperation should be based on:

- ▶ The principle of banning any actions, direct or indirect, aiming to prevent states from exercising their economic sovereignty;
- ▶ The elimination of customs barriers and working for the consolidation of a new international economic order based on true justice, sovereign equality of national economies, interdependence, common interests, mutual and equal benefits of customs cooperation among all countries regardless of their economic or social systems;
- ▶ The ever-growing expansion and liberalization of international trade built on the universally accepted most-favored nation treatment;
- ▶ The contribution to economic growth of the developing countries and bridging the economic gap between the industrialized and developing nations in order to strengthen the economic sovereignty of the developing countries;
- ▶ Equal access granted to nations so that they can enjoy the benefits of the international division of labor contributing to a wide and multilateral exchange of goods while observing the equality of all forms of ownership on the basis of enjoying benefits from historically developed forms of economic internationalization;

- ▶ The improvement of organization mechanism of international customs cooperation within the framework of organizations or conferences of universal, continental or sub-regional format as a means of insuring lasting peace, raising living and economic sovereignty standards;
- ▶ the Nonquota principle.<sup>1</sup>

The 25<sup>th</sup> session of the United Nations General Assembly (1970) adopted the International Development Strategy, which contemplated a number of international measures aimed at accelerating the economic growth of the developing countries and strengthening their customs relationships.

In this respect, the development of principal legal orders designed to simplify and coordinate customs operations was very important. Including:

- ▶ The customs warehouse legal order, which allows for storing goods of any kind;
- ▶ The drawback duty order, which envisages the return of pre-paid or deposited customs payments (except customs-clearance charges) during the import of goods provided they are to be exported after processing. That is to say, provided the goods processing order is duly observed in the customs area;
- ▶ The legal order covering temporary imports and storing goods subject to re-export (keeping intact), which is governed by a customs procedure whereby imported goods to be further taken away from the customs area are granted provisional exemption from customs payments. Issues regarding the simplification and coordination of customs operations within Central Asia are under jurisdiction of such authorities as the CAEU (Central Asian Economic Union) and EEC (Eurasian Economic Community).

The following issues should be considered at the regional level:

- ▶ The transfer and authentication order (customs declaration for goods subject to computerized processing);
- ▶ The employment of universal procedures when determining goods customs value either on the basis of the price paid or the price payable;
- ▶ The working out of a methodology of goods customs value determination;
- ▶ The study of member countries' national laws regarding the customs valuation methodology. The revised customs valuation methodology forbids the use of the importing country's internal wholesale prices as a base for customs valuation;
- ▶ The drafting of a recommendation regarding the use of national codes, which allows the employment of a two-lettered alphabetic code identified by the **MOS** 31 international standard as the Alfa Country Code – 2 **MOS** to designate countries during the international exchange of data, etc.

The Government of the Republic of Tajikistan is holding intensive bilateral and multilateral negotiations over concrete conditions of joining WTO. In the first place emphasis is laid on a package of tariff concessions from Tajikistan and the opening of its domestic markets to WTO member nations. The refusal of Western powers to recognize Tajikistan as a

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<sup>1</sup> This principle is very important for Tajikistan's foreign economic strategy as it grants the republic preferential treatment in the markets of the industrialized nations.

market economy remains a serious barrier for it to join the world trade community and WTO. Although customs duty rates are generally rather low, import tax rates and consequently protectionist measures dominating foreign trade regulation create obstacles barring this republic from joining the WTO.

To boost foreign trade and simplify customs duties collection procedures the Tajik government adopted a resolution "On Customs Tariff in the Republic of Tajikistan," No. 187 of April 30, 2002, which imposes uniform 5-per cent customs duties.

Actually, of all the problems this country may run into as a result of its joining the WTO the most complex and manifold set of bottlenecks is concentrated in the sphere of service trade, currently governed by the General Agreement on Trade in Services (GATS). It is part of an accord package underlying WTO activities. By a service the GATS means any commercial service offered on a competitive basis. Services purchased by government authorities to meet their own needs are not covered by the GATS at present. Generally, any legal or natural person may be recognized as a service supplier. The agreement covers such services as transport operations of any kind, tourism, building, education, information transmission, health service, banking and insurance as well as the entire spectrum of business services.

In accordance with GATS recommendations, service supplies by Tajikistan may take various forms:

1. From the territory of the Republic of Tajikistan to the territory of any other country or, in other words, trans-border trade in services. Services may be offered in transport or communication sectors.
2. Services supplied to foreign consumers within Tajikistan (for example, foreign tourism).
3. Through commercial representation of Tajikistan's legal entities in any other country (for example, a trade delegation).
4. Services supplied by natural persons of the Republic of Tajikistan on the territory of a foreign country (like employment of Tajik citizens by construction projects abroad).

Service trade frequently takes the shape of trade in goods accompanied by international capital flows, that is direct investments or human resources. In this context, the expansion of trade in services can bring Tajikistan to a growth of trade in machinery and equipment as well as to closer investment cooperation.

Considerable liberalization of trade in services, though, can help financially powerful foreign companies, whose activities do not always comply with Tajikistan's national interests, significantly strengthen their positions in isolated sectors of this republic's service market. Remarkably, sectors that come under intensive attacks by foreign countries include temporary limits on foreign investment in Tajikistan's banking and insurance business ranking as the most profitable sectors in modern business. Foreign companies are also strengthening their positions in other service sectors, such as international automobile transportations, telecommunications, auditing, etc. That's why the rather stringent commitments Tajikistan undertook while joining the GATS may have a detrimental effect on its economic growth. All goods or service flows passing across Tajikistan are coordinated by customs authorities and must meet certain customs requirements like customs rules and tariffs.

In 1997, Tajikistan became an official member of the World Custom Organization (WCO). Regionally, Tajikistan is part of the European group that includes 43 countries. In cooperation with CIS customs services Tajikistan makes active efforts to translate into life a line of its own as a nation belonging to the European region on the basis of the specific and

interrelated economic, political and social interests as well as common geographic and linguistic factors.

Early in 1999, the WTO General Council officially notified Tajikistan that the Republic of Tajikistan had joined the following conventions:

1. Convention on the temporary importation adopted on June 26, 1990, in Istanbul, and Appendices thereto: A, B-1, B-2, B-3 and B-5.
2. WTO's international convention on mutual administrative assistance for the prevention, investigation, and repression of customs offenses adopted on July 9, 1997, in Nairobi and the annex on assistance in countering traffic in illicit drugs and psychotropic substances.
3. Single Convention on Narcotic Drugs adopted on March 30, 1961, as amended by the Protocol of 1977.
4. Convention on Psychotropic Substances adopted on February 2, 1971, in Vienna.
5. Convention on the Contract for the International Carriage of Goods by Road (CMR) concluded on May 19, 1956, at Geneva.
6. Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention) concluded at Geneva on 14 November 1975.
7. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances adopted in 1988 in Geneva.

The Customs House and Ministry of Transportation and Road Facilities Management of Tajikistan have started developing a top-priority program to determine the extent of Tajikistan's involvement in the TRASECA project (assistance to trade, customs clearance procedures and goods dispatching) – a European Union initiative. The project's overall goal is to facilitate EU assistance to eight countries of the Transcaucasian and Central Asian regions in building a multi-modal transport corridor to link Europe to Transcaucasia and Central Asia. The corridor should operate in close contact with international customs, trade and transport facilities to provide uniform services throughout its length. The signing of the Railroad Transport Coordination Treaty and of the Agreement on Cooperation in Transit Transport Coordination by the presidents of Azerbaijan, Georgia, Turkmenistan and Uzbekistan was one of the project's phases.

The 1990 Temporary Import Convention makes it mandatory for Tajikistan to employ A.T.A. carnets. This means that the Istanbul Temporary Importation Convention enforced the General Annex (Appendix A – temporary importation, ATA carnets, Annex I-1 covering goods intended for demonstration during shows, fairs and the like events) considering goods groups specified in appendices. According to Tajikistan's customs rules these goods are classified as duty-free if imported temporarily, and so the application of ATA carnets is thought to be a further guarantee that temporary importation rules will be observed. A small number of countries have joined the Convention thus far, and this circumstance may be used by customs authorities to gradually improve ATA carnet-use controls and to advance coordination between the Chamber of Commerce and Industry of Tajikistan and the International Bureau for Chambers of Commerce - both acting as guaranteeing agencies with regard to ATA carnets.

Exchange of information on every field of concern for national customs authorities throughout the Great Silk Road is a factor contributing to the ongoing integration processes. The improvement of the region's customs pattern should go hand in hand with the development of information infrastructure and fitting customs points with

telecommunications and computer techniques. A common automated information system coupled with standardized information technologies is perhaps the only conditionality for:

- ▶ Obtaining prompt information on goods and vehicle flows across the frontiers of the Central Asian countries;
- ▶ Accelerating and facilitating goods traffic across the territories of the Central Asian countries;
- ▶ Ensuring safe goods haulages;
- ▶ Preventing illegal traffic of goods.

In order to improve information technologies it is necessary:

- ▶ To develop a normative document specifying uniform approaches to information technologies to be applied by customs control bodies when monitoring goods and vehicle flows across the borders of the Central Asian countries;
- ▶ To sign a joint agreement on the organization of an exchange of information among Central Asian customs authorities on goods and vehicle traffic;
- ▶ To set uniform hardware and software standards for the automated information system throughout the Central Asian customs authorities;
- ▶ To standardize normative and reference information;
- ▶ To create standardized information technologies.

Improvements in regional trade will require that we implement a number of measures facilitating trade and paving the way to a transit from once rigid controls of international transport to a liberal and up-to-date trade environment. The customs service of the Republic of Tajikistan, which represents one of the organizations controlling trade flows, will play the leading role in this transition.

In our view, any program of reform must include a regional component: assistance to customs authorities in handling issues that can facilitate regional trade across Central Asia. These programs must be based on a package of consultations on politics, technical aid and earmarked development loans aimed at giving an impetus to reform.

Kazakhstan, Kyrgyzstan and Tajikistan are members of the Eurasian Economic Community (EEC) also comprising Russia and Belarus. This regional community includes a Board of the Heads of EEC Customs Authorities.

Kazakhstan, Kyrgyzstan and Tajikistan are also members of the Commonwealth of Independent States with a Board of the Heads of CIS Customs Authorities operating within the framework of this regional association.

Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan establish one more regional group known as the Central Asian Economic Community.

The fourth group is the Shanghai Cooperation Organization (SCO), which consists of Kazakhstan, China, Kyrgyzstan, Russia, Tajikistan and Uzbekistan.

Within the framework of the EEC and CIS Boards of the Heads of Customs Authorities, Tajikistan has signed a number of inter-governmental documents. Specifically, in the format of the EEC Board of the Heads of Customs Authorities Tajikistan has enforced internal procedures based on the following documents:

1. Agreement on Uniform Conditions of Transit across the member nations of the Customs Union (22 January 1998).
2. Protocol on the simplified procedures of customs clearance for goods not intended for production or any other commercial purposes, and natural persons' currency flows across customs borders of the member nations of the Customs Union (22 January 1998).
3. Agreement on ensuring a free and equal right for natural persons to cross borders of the member nations of the Customs Union and transport goods and currency (24 November 1998).
4. Protocol on customs controls signed by the member nations of the Customs Union (8 December 1998).
5. Protocol on customs clearance of goods transported under customs control signed by the member nations of the Customs Union (8 December 1998).
6. Protocol on cooperation among the customs authorities of the member nations of the Customs Union in the area of internal security (8 December 1998).
7. Agreement on the simplified customs clearance procedures for goods flows across the member nations of the Customs Union (September 24, 1999).
8. Protocol on amendments to the 22 January 1998 Agreement on Uniform Conditions of Transit across the member nations of the Customs Union (October 26, 1999).
9. 9. Protocol on customs control over goods and vehicle flows among customs authorities of the member nations of the Customs Union (February 17, 2000).
10. Protocol on the procedures and standard amount of foreign currency allowed for free carriage in cash to third countries by natural persons of the member nations of the Customs Union (May 23, 2000).
11. Protocol on customs controls over re-export of goods carried from the member nations of the February 26, 1999 Customs Union and Common Economic Area Treaty to third countries (May 22, 2001).
12. Protocol on uniform approaches to the application of information technologies during customs control over the movement of goods and vehicles across the borders of the Eurasian Economic Community member nations (December 19, 2001).
13. Protocol on the organization of the exchange of information on the movement of goods and vehicles among customs bodies of the member nations of the Eurasian Economic Community (December 19, 2001).

In a centralized planned economy the customs service used to perform the following basic functions:

- ▶ Control of movement, including checking and monitoring import, export and transit shipments movement.

- ▶ Countering traffic of illegal goods, including tracking and seizure of illegal imports or exports.
- ▶ Collecting revenues, including creation of an agency responsible for collecting import and export customs duties.
- ▶ The customs service did not play any visible role in the promotion of trade as import and export controlling powers were vested in other government-run organizations.

In a more liberal economy customs functions changed so as to:

- ▶ Contribute to the development of trade by stimulating trade activities thus helping get more earnings.
- ▶ Collect revenues through a specially created agency for collecting import and export duties and taxes like VAT.
- ▶ Counter traffics of illegal goods by taking control and seizure measures preventing illegal imports and exports, including narcotics, cash, etc.

It should be noted that most radical was the change of the controlling function, which tended to impede trade, into the function of facilitating trade and partnership between customs services and trading communities. The customs services that have operated in this region until recently were not ready to assume this progressive responsibility mainly due to the deeply rooted faith in the traditional structures, legislation and procedures. Apparently, the persisting attitudes and approaches are not fully compatible with the changed trade environment. As a market economy gains momentum this discrepancy between the imperatives of trade and the kind of support that the customs services can provide to them now will be more and more visible. It is a universally accepted fact that revenue collection, specifically in the Central Asian region, is as important a function as one aimed at facilitating trade since this approach provides for the significant part of a yearly national budget. This revenue, though, will be impossible to obtain as long as customs practices keep blocking greater volumes of legal trade. Thus, collection and trade promotion functions appear to be closely interrelated.

As a rule, the regional customs services do not have a clear strategy specifying a distinct vision of goals or guidelines or underlying organization principles. Clinging to ex-Soviet legislation, methods and operational patterns throughout Central Asia tends to create, both within the region and outside, the image of an organization “looking back” at the way the customs used to operate in the past instead of “looking forward” to realize the way to work in the future. This is evident in the very few serious changes in the nature and methods of services that customs bodies have offered over the last decade.

The customs bodies’ long-term objective is to reform customs patterns and services to enable them:

- ▶ To stimulate trade expansion in the region;
- ▶ To obtain extra earnings through a rise in trade;
- ▶ To tighten controls preventing illegal trade.
- ▶ This objective cannot be achieved other than by ;
- ▶ Creating a trustworthy, up-to-date and reliable customs pattern meeting international standards;

- ▶ Adopting new procedures aimed at improving activities and helping reduce transport expenses incurred by the trading community.
- ▶ Using new technologies to improve controls and ensure service transparency.

Despite difficult conditions and lack of access to financial sources, the Central Asian governments have achieved sizeable successes in their efforts to establish viable customs authorities. They agree, though, that there are a number of factors hindering the consolidation of a professional customs organization meeting the world's strictest standards.

Barriers to modernizing and improving customs bodies in the region can be:

- Institutional
- Procedural
- Technical
- Financial.

It should be noted, though, that the existing import, export and transit procedures remain too complex and opaque. Moreover, there are repeated inspections failing to increase earnings or seizures. In some of the countries, transit procedures take more time than movement of import or export does – a serious constraint of transit trade.

The subject matter of these inspections and the volume of procedures they involve represent key procedural problems on the border. All of the countries continue to undertake all-out inspections of the vehicles, thus adding to the transit idle time on the border. In addition, most borders have at least six different authorities operating separately instead of acting in concert as befits a well-coordinated border service. In defiance of the Kyoto Convention, these procedures remain too complex and lengthy.

Direct interaction between a trader and a customs body is still the weak point of the centralized customs clearance process. The existing methodology requires the presence of the trader's agent (declarant) and involvement of the trader himself during the customs clearance process. It is commonly believed as an essential condition for both of them to produce additional documentation, be present at an all-out inspection and provide answers to all questions that may arise. The enormous number of tariff classifications and duty rates combined with direct involvement often bring both sides to a necessity of bargaining fraught with delays and extortion. The absence of post-customs inspections reflects the fact that all decisions must be made there and then and cannot be rechecked for accuracy later on.

Standardizing rules and procedures related to customs clearance and control on the external frontiers of EEC member nations will be an issue of immediate importance following the repeal of customs controls on the internal borders of the Community. The EEC must work out a standard approach to customs regulation covering contacts with third countries.

To this end, it must develop:

- ▶ A customs regulation agreement;
- ▶ The procedure for coordinating customs and other government authorities controlling the movement of goods and vehicles across the customs border ;
- ▶ Standard procedures for customs valuation and traffic controls;
- ▶ The procedure for presenting goods, transports and documents thereof to customs control authorities;
- ▶ Customs clearance procedures applicable for goods carried by various vehicles ;
- ▶ Controls over goods subject to tariff or tax privileges and preferences;

- ▶ Procedures for identifying a country of goods' origin;
- ▶ Uniform customs clearance and control procedures in relation to goods subject to export control.

As mentioned above, Kazakhstan, Kyrgyzstan and Tajikistan are member nations of the EEC (the successor of the Customs Union). Potential hardships arising during updating their legislations and bringing them in line with international accords lie in the need to remain within the limits of the Union membership guidelines. Kyrgyzstan has amended its legislation to comply with WTO requirements, whereas the other countries and China still have to do so.

Two fundamental laws govern customs business in the region's countries: "On Customs Business" (Customs Code) and "On the Customs Tariff".

Common customs law should serve as a legal foundation for customs functioning throughout the region, for which purpose it is necessary:

- ▶ To create a standard legal and normative framework for customs business;
- ▶ To develop structures as required by the Customs Business Agreement while taking special care to ensure coordination by customs bodies and describe powers granted to integration controlling agencies on the customs front;
- ▶ To instruct regional customs bodies to work towards adopting an agreement on the simplification and harmonization of customs procedures as provided for by the 1973 Kyoto conference and the 1999 Amendment Protocol thereto.

The Uniform Customs Tariff Agreement should envisage:

- ▶ A phased work on developing a uniform tariff policy, a mechanism of coordination and application of uniform customs duty rates;
- ▶ Streamlining and specifying major elements, methods and resources needed to establish a uniform tariff policy, standardized system of tariff privileges and preferences for maintaining trade with third countries.

Another challenge confronting most Central Asian countries is a lack of well-trained lawmakers among customs staff. As a result, the wording of the proposed bills undergoes considerable changes after being studied and approved by other ministries. In some cases, a bill originally meeting international conventions may be set at variance with these conventions or have a very slight resemblance to the initial intentions of the customs body after being amended.

The existing procedures cause delivery delays harmful for regional trade. As mentioned above, carriers and traders include losses they incur during these delays in the goods value structure thereby increasing imported goods prices and making exports less competitive. Also, there are instances of mismanagement, like a great number of empty runs to Europe. Despite the existing imbalance of natural traffic, carriers choose to come back empty rather than half-loaded because they do not feel like wasting their time and money on customs examinations.

The existing procedures require more staff, especially in remote border points. As mentioned above, customs authorities have to deal with a lack of well-trained personnel and considerable turnover of staff. Many customs houses are undermanned thus being unable to follow the proscribed lengthy procedures. All operations are performed manually – a factor responsible for traffic delays, overtime work of the staff and, accordingly, lower efficiency.

The trading community sees the existing procedures as the main but easily surmountable barrier to the progress in regional trade - a circumstance that was specifically

highlighted by all technical aid programs. Nevertheless, none of the Central Asian countries has ever seen any serious change in this sector.

Legal constraints impede regional trade by making material and technical supplies far costlier due to the countries' inability to launch important reforms to modernize customs procedures. Reliance on a rigid legal framework makes the customs system insensitive to the changing requirements of the trade sector. One can say that the customs business is seriously lagging behind trade – a sector, in which various countries have put in place sweeping reforms to give a boost to foreign trade.

Customs authorities agree that they need to adapt to complexities caused by the changed market situation. Organizations that have recently emerged in Central Asia display greater competence thus signaling that they are ready to make serious steps towards improving professional standards in their efforts to create customs authorities having prestige both among the general public and trade community. Problems that need to be immediately addressed include a considerable turnover of staff, frequent administrative reshuffles and low wages – factors arising from inadequate interpretation of legislation and normative acts, arrears in wages and outflow of earnings. It is imperative to strengthen customs capacities so as to enable them to work out their own programs of internal reform.

The basic standard set for information technologies to be used by modernized customs bodies is that these technologies must help develop an Automated Customs Clearance System. Kazakhstan, for example, has made significant efforts towards implementing processing packages, even though failing to comply fully with up-to-date customs standards – largely because it lacks deal-processing transparency.

Another key sphere of the proposed information technologies covers a transit control system that might make goods accompaniment practice and complex transit documentation unnecessary. The accompaniment of goods raises transportation costs while hampering effective employment of well-trained customs personnel. The TRASECA project targeting border-crossing procedures throughout Central Asia gives consideration to the idea of creating information technologies at border points to improve data collection.

Quality communication remains the major constraint for all customs authorities across Central Asia despite significant investment made specifically in Kazakhstan and China. Poor communication between remote secondary borders and their regional centers remains a serious challenge in these countries. This problem is especially urgent in Kyrgyzstan and Tajikistan, where there is a lack of communication between borders and regional offices or sometimes between regional offices and their headquarters. This situation could be substantially improved by providing customs bodies with satellite communications, state-of-the-art radio units and modems.

The effect expected from the reform in customs bodies may be summarized as follows:

- ▶ Improved regional cooperation in offering customs services;
- ▶ A consolidated, up-to-date, efficient and well-structured customs pattern;
- ▶ Existence of a comprehensive system based on information technologies accelerating customs clearance and supervision procedures and permitting more efficient employment of well-trained personnel by centering on aspects of potential risk;
- ▶ A streamlined transit scheme reducing transport expenses and excluding traffic delays on the border;
- ▶ An improved communication system linking customs offices with each other and providing access to new technologies, specifically to those used by frontier check-points;
- ▶ Well-equipped retraining centers;

- ▶ A great number of up-to-date border facilities capable of data processing at an improved level;
- ▶ Support to the proposed joint programs in dealing with problems that have yet to be settled.

The ongoing world economic processes can be generally described as a conflict between two trends: globalization and regionalization. Remarkably, the two trends contain both positive and negative potentials. In this context, the Central Asian countries have a fairly challenging task to accomplish: attempt to maximize the advantages and minimize the disadvantages while making strategic and tactical decisions.

The Central Asian countries' principal line towards expanding their presence in the world market is immediately connected with the impending all-out technological reequipment necessitated by extremely deteriorated basic production assets in all sectors. While addressing this problem the countries, in our view, should display true pragmatism because the reequipment process gives a good opportunity for implementing efficient specialization based on clear-cut labor division and cooperation.