

# The building of a single information space and the elimination of administrative barriers under the enlargement of the Eurasian Economic Union

**Abstract**—One of the most currently important objectives of the Eurasian Economic Union integration is to develop the scientifically founded procedures for harmonization of national legal frameworks in point of the potential alliance partners. The building of a single information space and legal base concordance in the sphere of post-clearance customs control will provide the elimination of the barriers appeared as the consequences of economic insulation affected by the collapse of the Soviet Union. The harmonization of the post-clearance regulations based on unified information space will contribute an effective collaboration aimed at the enhancement of economic relations in the Post-Soviet space. The article presents the method of comparative analysis of national and the Eurasian Economic Union's legal and administrative law corpus related to the post-clearance regulations from the perspective of a single information space. The proposed method is based on the following grounds: international sources of legal framework, scope of the legal acts, usage patterns of the risk management, control terms, forms and conditions, inspection results, performers and subjects of post-clearance control. The method approval and evaluation was realized for recent participants (such as Armenia and Kyrgyzstan) and prospective allied members (such as the Republic of Tajikistan) of the Eurasian Economic Union. The research results are premised on the generalization and arrangement of changes in post-clearance customs control, which were in process upon the entering of the Russian Federation, the Republic of Kazakhstan and the Republic of Belarus into the Customs Union.

**Keywords**—single information space; social networking; customs regulations; communication channels; comparative analysis; administrative barriers; the Eurasian Economic Union.

## I. INTRODUCTION

### A. Introduce the Problem

In the current conditions of globalization and international integration the world is more unified than ever else. Economic, political and cultural interaction between the different states enhances. Statistics show sustained expansion of international exchange of goods, services, production factors. Accordingly, the development of the cooperation rules as a process of administrative and legal groundwork for economic integration emerges full blown. It is commonly known that since September 1993 the Russian Federation, the Republic of Kazakhstan, the Republic of Belarus, the Kyrgyz Republic and the Republic of Tajikistan had been planning the establishment of the Customs Union before the Customs Code of the Customs Union became operational in the territory of three member-states (Russia, Kazakhstan, Belarus) on July 6, 2011 [1]. Since the ratification of the customs relationship between

three partners, the efficiency of the collaboration was confirmed by the received benefits for the economies of the Customs Union members and the intentions of former Soviet states to join this community [2]. The Eurasian Economic Union was enlarged via including Armenia and Kyrgyzstan January 1, 2015. Tajikistan claims to be a member of the Eurasian Economic Union over the next while.

However, there are difficulties in the harmonization of the integration regulations in the consequence of isolation of national legal and administrative frameworks for customs activities [3]. To solve this problem it is necessary to find “the pinch points” in the national legislation and to harmonize them in the accordance with the legal provisions of the Eurasian Economic Union. At the present stage, this approach is a common practice for many geopolitical and economic international alliances. A remarkable example of the barriers eliminating in administrative and regulatory framework harmonization is the European Union. Despite the challenges that are addressed to the European Union in the conditions of the development of regulatory functioning model for countries with different economies, politics and culture, at least eight states are on the way to joining the European Union [4]. These processes indicate that at the present stage of the economic relations developing economies tend to integrate into large profitable cooperation than compete with each other alone. Therefore, it is relevant to search for the methods of legal frameworks harmonization taking into account economic, political and cultural distinguishing features of the partners.

Each branch of customs activities is complicated and specific. Consequently, to solve the problem of administrative and legal frameworks harmonization it is reasonable to apply the sectoral integration of techniques focused on the barriers identification according to the different branches of customs regulations (customs clearance, post-clearance control, tariff regulation, logistics, classification of good, statistics etc.) can be applied. The set of the techniques integrated by the customs branches will form the unified methodological administrative and legal framework based on the Kyoto Convention that provides the general principles of the harmonization process.

### B. Objective

The purpose of the study is to develop the determination techniques for national administrative and regulatory barriers that hindered the Eurasian Economic Union's integration in the sphere of post-clearance control. The authors attempt to combine the analysis of both European and Eurasian integration experience within the framework of the Kyoto Convention.

### C. Method and Research Design

In order to achieve the research objective it is necessary to complete consistently the following tasks. Primarily, it is required to evaluate the relevance of the post-clearance control system that is operated in the Eurasian Economic Union to the main provisions of the Kyoto Convention. Subsequently the authors attempt to consider and classify Belarusian and Kazakhstani experience of the national legal renovation in the sphere of post-clearance control on the basis of academic and research sources related to the accession these republics to the Eurasian Economic Union. The following research stage is the development of a method for the identifying the administrative and legal specifics of national post-clearance regulation which prevent the integration into the Eurasian Economic Union. The final research stage suggests testing the method on the ground of the regulatory framework of Kyrgyzstan as the recent participant and Tajikistan as the main potential member of the Eurasian Economic Union.

## II. THEORETICAL FRAMEWORKS AND LEGAL SOURCES

The international exchange of goods and services increases. Expanding goods traffic imposes additional obligations connected with the homeland security observation on national customs authorities. In that context customs control becomes increasingly important in the field of customs legislation enforcement and state budget replenishment by means of customs payments [5, 6]. One of the prospective directions of customs compliance modernization is the development of post-clearance control that provides simplification and expedition of customs procedures due to the risk-management, the selectivity and the building of a single information space [7, 8].

A separate chapter of the Revised Kyoto Convention as the main international act of the simplification and harmonization of customs procedures is devoted to customs control based on audit and system of risk-management [9]. Customs post-clearance control provides a means of the efficient use of customs services resources, customs compliance, the establishment of favorable conditions for international economic activities.

Currently the post-clearance control system of the Eurasian Economic Union is in transitive state. On the one hand, renouncing the customs inspections and all-inclusive customs control places it in close quarters with Kyoto principles. On the other hand, the substandard interdepartmental interaction hinders the implementation of risk-management and audit methods. International source of the regulatory framework and methodology of administrative regulation in the sphere of post-clearance control in the Eurasian Economic Union is the Kyoto Convention.

Customs post-clearance control is carried out in the Member States on the basis of the Customs Code of the Customs Union and national legislation. Since the entry into force of the Customs Code of the Customs Union, the Member States use the above-mentioned document to the post-clearance control. However, in addition to the Customs Code of the Customs Union, a Member State has the right to use national regulations that governed before joining the Customs Union and which do not contradict the Customs Code of the Customs

Union. Therefore, the compositions of regulatory legal acts for each Member State are unique and not unified.

In the Russian Federation, customs authorities realize post-clearance control guided by the following legal acts:

- The Federal Customs Regulation Act of the Russian Federation, Section 3, Chapter 19, which is dedicated to customs control as a whole, and post-clearance control.
- Order of the Russian Federal Customs Service “About the confirmation of the Development Concept of post-clearance customs control”. This concept defines the goals, objectives, as well as the direction of the effective mechanism of customs post-clearance control in the present conditions until 2016.
- Order of the Russian Federal Customs Service “About the confirmation of the model regulations in the area of post-clearance customs control” which directly regulates the activities of customs authorities in the field of customs post-clearance control as well as allocates responsibilities of departments.
- The Constitution of the Russian Federation. Realization of the customs post-clearance control should be based on the principles of the Constitution.
- The Federal Accounting Act.

Regulatory support of customs post-clearance control in the Republic of Kazakhstan includes the following regulations:

- The Customs Regulation Code of the Republic of Kazakhstan. Section 3, Chapter 20 is devoted to the customs control. The Customs Regulation Code does not become invalid due to the entry into force of the Customs Code of the Customs Union. It is constantly updated and regulates relations in the field of customs at the national level, without contradicting the Customs Code of the Customs Union. The Customs Regulation Code contains complete information on the customs post-clearance control: the goals, objectives, methods and tools for implementation.
- The Conception of the reducing the stress from the customs clearance stage to the post-clearance stage of compliance in the Republic of Kazakhstan for 2013-2015. The Concept establishes the goals, objectives, as well as the direction of the effective operation of the customs post-clearance control until 2015. The concept also explains a mechanism of emphasis shift on the post-clearance control.
- The Accounting and financial statements Act of the Republic of Kazakhstan.

As for the Republic of Belarus, the legal support of customs post-clearance control, in addition to the Customs Code of the Customs Union, is complemented by two acts:

- The Customs Regulation Act of the Republic of Belarus. Section 3, Chapter 17 of the Act includes statements about customs control in general. Enactment 120 includes objects, principles of customs control.

Enactment №136 regulates the conduct of cameral customs inspection. It is important that the Customs Regulation Act does not regulate the realization of the on-site customs inspection.

- The Accounting and financial statements Act of the Republic of Belarus.

Guided by the results of the study of the above legal acts, we can conclude that methods, principles, forms and content of the customs post-clearance control in the member states of the Customs Union are uniform, while holding accounting and reporting is unique for each state.

In the member states of the Customs Union the structure of the customs authorities, which are responsible for the post-clearance control, is specific for each country. Consequently, subjects of customs post-clearance control are different.

Thus, in the Russian Federation, at the level of the Federal Customs Service, the subject of customs post-clearance control is the Head Department of the post-clearance control. In the Republic of Kazakhstan, at the level of the Customs Control Committee of the Finance Ministry, it is the Department of the post-clearance control. In the Republic of Belarus, at the level of the State Customs Committee, it is the Department of the realization of the post-clearance control. Activities of all these Departments are aimed at similar purposes (detection, prevention, suppression of administrative offenses by means of customs post-clearance control). The main challenges facing these offices have the same strategic functions. These functions include coordinating and monitoring the activities of departments of customs post-clearance control involved in the development of normative legal acts in the direction of activity, assess the effectiveness of the customs control [10].

Subjects of post-clearance control (downward in the hierarchy of customs authorities of each of the member states of the Customs Union) are departments and special organizations performing tactical and operational tasks. Responsibilities of these departments are very similar. Among them we can mention customs post-clearance control, the identification of non-compliance with customs legislation, the use of risk management system.

Despite the difference in the structure of the customs authorities of the member states of the Customs Union, in terms of the functional approach, the subjects of customs post-clearance control in the three countries have common goals, objectives and functions. The risk management system, used in the three countries to the post-clearance control, is presented in the form of a model to comprehensively assess the possible risks through risk profiles, which are available in a single information field.

Checking residents in the member states of the Customs Union are persons connected with transporting goods, including carrying out foreign economic activity, as well as persons belonging to the customs infrastructure (customs representatives, owners of temporary storage warehouses). The two forms of customs post-clearance control are customs inspections - cameral inspection and on-site inspection [1, 11]. The results of the customs post-clearance control are presented in the form of acts of cameral or on-site inspection. Terms of

the post-clearance customs control are common for the member states of the Customs Union. The cameral customs inspection is perpetual; the duration of the on-site inspection shall not exceed two months, but may be extended by one month.

The analysis of legal sources leads to the conclusion that in the member states of the Customs Union the national legal framework of the post-clearance control is preserved besides the Customs Code of the Customs Union. In the Republic of Kazakhstan the National Customs Code is valid and is constantly updated. Laws related to financial statements, on fundamental points (objectives, scope, the scope of the law, the objects of accounting and its organization) are similar; however, there are provisions specific to the state. For instance, monetary value account of the objects and the clearance of primary accounting documents, the form and content of accounting registers are individual in each state of the Customs Union. Among the specific points in the Accounting Act, we should also mention the national accounting standards, which are developed on the basis of international standards (IFRS - International Financial Reporting Standard, IAS - International Accounting Standards). Member states of the Customs Union provides almost unified legal framework for effective post-clearance customs control.

In the early stages of the Customs Union integration, there were some difficulties in carrying out post-clearance customs control. First, there was no uniform approach to its implementation. Secondly, there were different forms, methods and tools of control. However, the situation could not be called critical due to the fact that the basis of legislation to hold post-clearance control was the principles of Kyoto Convention. Nowadays, the legal gaps in the implementation of customs post-clearance control in the member states of the Customs Union are overcome. Clear evidence of this is the latest version of national legal acts regulating the relations in this area. Today post-clearance control in the three countries held uniformly in terms of forms, methods and tools for its implementation.

Based on the experience of overcoming legal and regulatory gaps in the implementation of customs post-clearance control in the Customs Union, it is possible to develop a technique that would allow countries wishing to join the community integration as soon as possible to unify the legal framework that governs the issue.

### III. RESULTS AND DISCUSSION

#### A. *Technique to overcome legal and regulatory gaps in customs administration*

Technique to overcome legal and regulatory gaps in customs administration at the introduction of the integration in the Eurasian Economic Union suggests the following stages.

1) *To study the regulatory legal sources governing the specific area of customs administration in the community integration;*

2) *To consider regulatory legal framework regulating the issues in the state, join the community;*

3) Identify the fundamental aspects and principles for the implementation of specific activities within the community integration, and in the state, which will join the community;

4) Investigate tools, mechanisms, methods of implementation of the activity of the two actors;

5) Expand the legal sources of international character, which is based on the normative legal framework governing the integration issue in the Customs Union, on the one hand, in the state, to join it, on the other hand. If the legal framework of each actor is based on uniform international sources, degree of commonality legislation could be considered acceptable;

6) Carry out a general comparative analysis of normative legal sources, tools, methods and mechanisms for the implementation of the activity;

7) Identify the differences in the implementation of activities and their impact on the degree of unification;

8) Develop recommendations for overcoming regulatory legal gaps.

**B. Testing of methods on the regulatory framework in Kyrgyzstan and Tajikistan**

The recent member state of the Eurasian Economic Union is the Republic of Kyrgyzstan [12]. The date of accession was 1 January 2015. The Republic of Tajikistan is the strongest challenger to join the Eurasian Economic Union [13]. Let try the recommended method of overcoming regulatory legal gaps on the example of countries joining the Customs Union. Since the legal framework governing the activities of this trend has already been given, let us consider a similar base in Kyrgyzstan and Tajikistan.

Regulatory support activities in the field of post-clearance control in the Kyrgyz Republic include:

- Customs Code of the Kyrgyz Republic.
- Post-clearance customs control instruction.
- Customs inspectors' responsibility regulation in the area of customs formalities and control.
- The International Convention on the Simplification and Harmonization of Customs procedures (Kyoto Convention).

Regulatory support activities in the field of post-clearance control in the Republic of Tajikistan include:

- Customs Code of the Republic of Tajikistan.
- Customs audit as a form of customs control Regulation Act of the Republic of Tajikistan.
- The Republic of Tajikistan Ratification of an accession to the International Convention on the Simplification and Harmonization of Customs procedures (Kyoto Convention).
- Act of the Republic of Tajikistan "About the administrative inspection of business entities".

- Operational-Investigative Activity Act of the Republic of Tajikistan.

Following the designed algorithm we will make a comparison for several reasons to develop a better comparison of the customs authorities in the field of customs post-clearance control and organize the data obtained in the course of analysis.

The legislative framework governing the activities of customs authorities in carrying out post-clearance control was the first comparison base. The criterion was chosen as the basis for comparison of the legal framework with the Customs Union is the legal framework of the Republic of Kyrgyzstan and Tajikistan, since the presence of specific regulations (regulations, which indicates the existence of specific areas of administration, firstly, and, secondly, on the basis of these acts performed all subsequent analysis).

Using the Risk Management System in the post-clearance control was the second comparison base (see point 1 in Table 1). This criterion was chosen as the basis for establishing the fact of the Risk Management System action proposed by the Kyoto Convention, as evidence of a uniform international framework for the implementation of such activities. Implementation of the Risk management under the post-clearance customs control is in full extent in Kyrgyzstan and Tajikistan.

Forms of customs post-clearance control (point 2 in Table 1) was the third aspect. The criterion was chosen as the basis for comparing the degree of unification of methods and tools for implementation of customs post-clearance control. Customs control with the use of audit methods was used in the Kyrgyz Republic before joining the Eurasian Customs Union. In the Republic of Tajikistan forms of the post-clearance customs control are the same as in Customs Union members: customs cameral and on-site inspections.

TABLE I. COMPARATIVE ANALYSIS OF THE PARTICULAR CHARACTERISTICS OF CUSTOMS POST-CLEARANCE CONTROL IN THE CUSTOMS UNION MEMBERS, THE KYRGYZ REPUBLIC AND THE REPUBLIC OF TAJIKISTAN

	Customs post-clearance control in states of Eurasian region		
	Customs Union members	The Kyrgyz Republic	The Republic of Tajikistan
Implementation of the risk management	To the full extent	To the full extent	To the full extent
Forms of the post-clearance customs control	Customs cameral and on-site inspections	The use of audit methods	Customs cameral and on-site inspections
Terms of the post-clearance customs control	Cameral inspection is not limited in time. On-site inspection term should not exceed two monthes but it may be prolonged for one month	Post-clearance control term should not exceed 30 working days	Cameral inspection is not limited in time. On-site inspection term should not exceed 30 consecutive days but this term may be prolonged for 30 consecutive

	Customs post-clearance control in states of Eurasian region		
	Customs Union members	The Kyrgyz Republic	The Republic of Tajikistan
			days

The base performance of customs post-clearance control and the result of the forms of customs post-clearance control were considered for comparison purposes directly into the documentation of the implementation of post-clearance control. In the Customs Union member-states cameral customs inspection may be provided without special Act and the inspection decision is necessary for the on-site customs inspection. In the Kyrgyz Republic document to follow customs control is necessary. In the Republic of Tajikistan documents to follow cameral and on-site customs inspections are necessary.

In the Kyrgyz Republic the statement of post-clearance control is based on the document which follows customs control. In the Republic of Tajikistan results are documented in the forms of Cameral inspection Act and On-site inspection Act.

Terms of the post-clearance control (point 3 in Table 1) and the audited entity were chosen for comparison of formalities to be followed in the countries under consideration. In the Kyrgyz Republic post-clearance control term should not exceed 30 working days. In the Republic of Tajikistan cameral inspection is not limited in time. On-site inspection term should not exceed 30 consecutive days but this term may be prolonged for 30 consecutive days.

In the Kyrgyz Republic post-clearance control subject is anyone who has obtained the right to use the special simplify customs formalities or anyone who is concerned with the customs infrastructure. In the Republic of Tajikistan post-clearance control subject is anyone who provides international trade activities or who is connected with the goods transported across the customs border or anyone who is concerned with the customs infrastructure (customs brokers, owners of temporary storage warehouses etc.)

In the Kyrgyz Republic post-clearance control performer is Post-clearance customs control and Risk management Department. In the Republic of Tajikistan post-clearance control performer is Customs control and inspection department.

#### IV. CONCLUSION

According to the research results presented via the comparative Table, the main principles, forms and methods of the post-clearance customs control in the Eurasian Economic Union and in the potential members of the Union are corresponded. However, the legal and theoretical frameworks of the post-clearance control are largely unified with the Customs Union standards in the Republic of Tajikistan than in the Kyrgyz Republic. Pointed changes in the Kyrgyz national

customs legal framework will enhance the degree of commonality of the Customs Union members the in the field of post-clearance control. Russian Customs Service actively assists to Kyrgyz customs agencies with the movement into the Customs Union operation. Thus, the suggested analytical technique allows to inquire into a particular direction of the customs management from different points of view and to develop the recommendations for the building of a single information space and for eliminating the administrative barriers and legal dissimilarities in the sphere of the economic and customs Eurasian integration.

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