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## VERKHOVNA RADA APPROVES AMENDMENTS TO THE CUSTOMS CODE OF UKRAINE

This LEGAL ALERT from the Competition and International Trade Practice of Vasil Kisil & Partners Law Firm offers you an overview of the recent updates in the Customs legislation in Ukraine.

On 3rd November 2011 *Draft Law on Amendments to the Customs Code of Ukraine and Certain Other Legislative Acts of Ukraine No. 8130-d* was adopted by the Parliament of Ukraine.

The adopted Law introduces some principal changes to the customs legislation including:

- The introduction of a maximum time limit of customs clearance, which may not exceed 4 hours from the moment when the customs declaration has been lodged to the customs office and the goods presented for customs control;
- The possibility for subjects of foreign economic activity to conduct customs clearance in any customs office all over Ukraine, i.e. based on final destination of the goods comparing to place of state registration of importer or exporter as provided now. However, the requirement of the accreditation of importers/exporters with customs authorities is not canceled;
- The establishment of liability and penalties of customs officers for delay of customs formalities without due cause and reimbursement of expenses to businesses, which suffered losses, caused by such delays (e.g. demurrage, storage costs, etc.);
- The simplification of clearance of goods brought into the territory of Ukraine by individuals, who are be entitled to import goods duty-free, if their value does not exceed EUR 1.000 (currently this threshold is EUR 200). If the value of the goods ranges between EUR 1.000-10.000, a flat duty rate in the amount of 10% shall apply (currently flat duty rate is 20%). It is expected that such changes shall have a positive impact on the development of tourism and distant trade in Ukraine;
- The improvement of pre-arrival declaring procedures (i.e. preliminary declaring of goods before their arrival to inland customs office) which shortens time for customs formalities;
- The improvement of customs valuation procedures (e.g. defined exhaustive list of documents, based on which customs value of the imported goods is assessed as well as grounds for rejecting customs value declared by importer, etc);
- The introduction of an authorized economic operator status, which results in simplified customs procedures for its holder, performance of some customs formalities without authorization from customs authorities (however, a company applying for such status must meet very strict criteria);
- The list of temporary imported goods exempt from taxation is substantially expanded comparing to Article 206 of the Customs Code in force;
- The introduction of a risk management system and post-clearance audit procedure. Such measures are intended to extend rights of the customs authorities but at the same time to simplify customs clearance;

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- Decriminalization of smuggling of imported goods (except smuggling of weapons, cultural values, etc.). As a general rule, smuggling shall be considered as administrative offence which shall be punishable by a fine and seizure of illegal items as well as vehicles. The Law did not authorize the customs officers to conduct criminal investigations;
- Finally, subjects of foreign trade shall not be punished for minor errors or omissions in submitted declarations or documents.

If signed by the President, almost all amendments to the Customs Code shall enter into force on January 1st, 2012. It is expected that the new Customs Code shall be a great step towards the simplification of Ukrainian customs procedures and harmonization thereof with standards of the World Customs Organization. Hopefully, introduced amendments shall make Ukraine an import-friendly country allowing relatively smooth movement of goods through the customs border.

The present Newsletter is only a brief overview of some principal amendments. It must be noted that lawyers of Vasil Kisil and Partners Law Firm actively participated in the working group on elaboration of amendments to the Customs Code at the Parliamentary Committee on Finance, Banking, Tax and Customs Policy.

Therefore, if you require qualified legal advice on how the newly adopted Code may influence your business, do not hesitate to contact us.

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Please, do not hesitate to contact us for any further information on the topic of this alert or to address your other legal service needs.

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