

The Court of the EAEU issued a positive Advisory Opinion on goods subject to quota

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Background

As you may be aware, local entrepreneurs imported agricultural products from third countries under reduced customs duty rates within the limits of the tariff quota on the basis of import licenses issued by the Ministry of National Economy. These licenses were valid through 31 December of the year of import, and, where expiry date was approaching (for deliveries at the end of the calendar year), the importers filed preliminary customs declarations prior to arrival of goods, and released thereof after their arrival, including after the date of license expiry.

In 2015-2016, the customs authorities of the Republic of Kazakhstan imposed significant amounts of additional customs duties and taxes during audits of the importers of agricultural products subject to quota due to allegedly improper use of the preliminary customs declaring procedure.

The customs authority was of the position that the use of a license after its expiry was not legitimate and, accordingly, applied standard customs duty rates to imported goods, increasing customs duties and taxes due by the importers twofold.

Advisory Opinion of the Court of EAEU

As a result of pre-trial settlement of the dispute, with direct participation of our customs team, a solution was reached to address the issue to the Court of the Eurasian Economic Union on behalf of the Ministry of National Economy.

In November 2016, the Court of the Eurasian Economic Union issued an advisory opinion, which supported the validity of reduced customs duty rates within tariff quotas for goods customs cleared based on a preliminary customs declaration, after the license expiry date, provided physical import of goods took place before such expiry date.

The decision of the Court EAEC is available on the official website of the EAEC Court.

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