



4 NATIONAL POLICY AND LEGISLATION IN TRADE AND TRANSIT

The main regulatory body in trade and transit is the Customs Service under the Government of the Republic of Kyrgyzstan. The Customs Code of the Republic of Kyrgyzstan dates back from the 13th of April 2004. The revision of the previous code began in 2000 when the Parliament approved the Customs Reform and Modernisation Plan (2000-2004) and the creation of a special commission dedicated to this task. The birth of the new code was also possible thanks to the help of USAID and the consultation of the ADB.

The main objective pursued by the commission in the framework of the Customs Reform and Modernization Plan was to modify the organisational structure of the customs administration in order to improve the efficiency of operations and management and bring the legislation up to date. The Ministry of Finances was therefore reorganized and a Committee for Revenue was created. Its role comprised the supervision and the coordination of activities of the Department of Customs Service (DCS) and the Department of Tax Service (DTS), which respectively used to be the State Customs Incorporate and the State Tax Inspectorate.

In 2005, the Customs Service Department was transformed into the State Customs Inspectorate under the Government of the Kyrgyz Republic. In 2007, the State Customs Inspectorate under the Government of the Kyrgyz Republic was transformed into the State Customs Committee of the Kyrgyz Republic. Similarly, the State Tax Inspectorate was placed in 2005 under the direct subordination to the Government of the Kyrgyz Republic; in 2009, it was transformed into the State Tax Service under the Government of the Kyrgyz Republic.

The new Customs Code of the Kyrgyz Republic is mainly based upon economic methods of management. It is free from provisions of administrative and criminal law, and relies on modern international practices, such as:

- the audit-based control;
- the selective inspection methods;
- the customs clearance at facilities of the persons that move goods;
- the introduction of simplified customs clearance procedures;
- the performance of customs operations using information systems and information technologies.

The adoption of the new Customs Code has become an important argument in terms of meeting the recommendations of the World Customs Organization, because it relies in many aspects on the provisions of the updated wording of the Kyoto Convention (the International Convention on the Simplification and Harmonization of Customs Procedures).

In January 2011, the Government of the Kyrgyz Republic approved the Kyrgyz Republic Customs Service Development Strategy for Years 2011 to 2013, and the related Strategy Implementation Action Plan. The Strategy provides for supporting foreign trade and encouraging export-oriented sectors of the economy, including the reform and modernisation of the customs service.

The Action Plan provides for:

- the optimisation of customs procedures (the optimisation of functions and the identification of the responsibilities on the border);
- the optimisation of the customs infrastructure (the optimisation of the placement and equipment of checkpoints);
- the improvement of the structure of the customs service;



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- the prompt customs tariff regulation;
- the provision of high-quality human resources (setting up the succession pool matching the needs of the customs service).

At the international level, several legal frameworks in the field of trade and transit were developed:

- Kyrgyzstan is a member of the World Trade Organisation since 20.09.1998.
- It is included in the Common Action Plan led by the CAREC regional trade facilitation program which aims at harmonizing and simplifying customs procedures and documentation (data, information sharing, ICT development for customs operations), developing border posts and facilities, a regional intelligence system and capacity building for regional customs organisations.
- Kyrgyzstan is part of the Transit Framework Agreement under the Economic Cooperation Organisation (ECO). Its main purposes are:
 - to facilitate the movement of goods, luggage and passengers through the respective territories of the Contracting Parties and provide all necessary facilities for transit under the provisions of this Agreement.
 - to ensure the safety of goods, luggage and passengers and avoidance of unnecessary delays during the transit traffic through territories of Contracting Parties;
 - to cooperate and coordinate the efforts of the Contracting Parties to avoid the incidence of customs frauds and tax evasion and harmonizing necessary administrative affairs dealing with transit traffic.
- A Free Trade Agreement was also established on April 1999 together with Tajikistan and Uzbekistan. Trade between the three signatories was supposed to be realized without customs duties, taxes and quantitative restrictions. However, due to political reasons, the principles of this FTA are not respected with Uzbekistan.

The Asian Development Bank keeps supporting the reform and modernisation of the customs services of the Kyrgyz Republic and Tajikistan after having initiated the 2002 Regional Trade Promotion and Customs Co-ordination Programme (based on the ADB USD 25,000,000 grant). The project is focused on elaborating a single automated information system and developing the infrastructure of the customs checkpoints. In addition, the project participants implemented the regional customs service infrastructure upgrade and development programme on the basis of the additional support provided by the ADB (USD 18,200,000).

Kyrgyzstan applies the following trade regimes toward its trade partners:

- the free trade regime with the CIS member countries;
- the most-favoured nation regime with the WTO member states;
- the preferential regime with the least developed nations.

The basic package of legal and institutional documents that govern the trade regime of the country was adopted in 1998 on the WTO accession. Since 1998, Kyrgyzstan has been supporting the liberalisation of its foreign trade regime in line with its WTO commitments.

Before 1999, the import customs duties of 10% were applied to all the imported goods in the country. The customs tariff was differentiated after the WTO accession. It is applied in accordance with the assumed commitments. The average rate of the Kyrgyz Republic Customs Tariff for all the imported goods amounts to 4.84% of the customs value; the zero rates of



customs duties cover 42% of the entire customs tariff. This customs tariff applies to imports from non-CIS countries only.

It deserves a mention that the applicable customs tariff for the imported goods is much lower than those prescribed by the country's WTO commitments. For instance, the average rate of the duty on agricultural products under the WTO commitments should have been 12.2%, but the actual rate is 8.1%. The commitment rate for industrial goods is 6.5%, but the actual rate applied is 4.1%. The reason for this is that the manufacture of export products in Kyrgyzstan is heavily dependent on the imports of required raw materials and other materials not produced within the country, such as oil products, electrical machinery and equipment, plastics and products therefrom, rubber and products therefrom, ferrous metals, ground-based vehicles, pigments, paints, fertilisers, etc. These materials and raw materials account for about 68 to 70% of total imports. For this reason, the provisions are made every year for the duty-free importation of the industrial equipment and components, and raw materials required for the production within the country², when developing the Customs Tariff for the purposes of the development of the domestic production.

Kyrgyzstan is preparing its accession to the Customs Union gathering the Russian Federation, the Republic of Kazakhstan and the Republic of Belarus, which will become the Eurasian Economic Union in the territory of which will be applied a free movement of good, capitals and labour.

² Source: Ministry of Economy and Antimonopoly Policy of the Kyrgyz Republic (www.mert.kg)