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WTS Customs Newsletter

Editorial

Dear Reader,

We have finalised the second edition of our global customs newsletter. The articles you will find are from all over the world and reflect the typical issues that we see discussed internationally.

In Brazil, measures have been taken to further simplify customs and tax handling by reducing bureaucracy. At the same time, steps have been taken to combat fraud. Both are developments that we see in a number of various countries in the world; they are also a result of COVID-19. Digitisation is constantly developing and there is a will to facilitate matters. You will also read this in both articles from our colleague Paolo Dragone from Italy.

Brexit remains an issue. The significance of this for Portugal is reported by our colleagues from VdA.

Recent changes in China are also covered. From the different aspects mentioned in the article, I would like to particularly draw your attention to the E-clearance option for Dual-Use Goods.

Free Trade Agreements have a long history. More and more FTAs are entered into around the globe. One of the recent FTAs reached was the one between Vietnam and the EU. Our colleagues from WTS Vietnam explain in their article how it was implemented in Vietnam.

When it comes to compliance standards in the field of customs, programmes like the AEO are frequently applied. Recent developments in Ukraine in this regard are explained by my colleague Ivan Shynkarenko.

Our colleagues from Turanzas in Mexico have sent us three articles for this edition. While reporting on new complexities in connection with the classification of goods and the US-Mexico-Canada-Agreement (USMCA), there is also very interesting news about a new Free Zone in Chetumal which offers duty exemptions for production in that zone.

As you, dear readers, can see, customs is high on the agenda in many countries of the world. It is inevitable for companies to try to keep an overview of global developments. We hope that our newsletter assists you in your efforts.

Kind regards, Kay Masorsky
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Brazil

Customs Controls to Curb Red Tape

Although Brazil is commonly known for its bureaucratic proceedings, it should be noted that in the customs and tax areas it has developed state-of-the-art controls which ensure compliance with legal regulations and speed up processes, making transactions fast and transparent.

For customs purposes, since 1997 all transactions are registered in the Integrated Foreign Trade System (SISCOMEX), which is a digital system developed to record and process imports and exports, eliminating the use of paper forms and stamps.

The SISCOMEX is mandatory for every import or export, being accessible to the Brazilian importers and exporters, and also to customs and tax authorities, the Brazilian Central Bank (for foreign currency exchange controls), among other authorities. In this system, transactions are registered by the importer/exporter, enabling the request for relevant licences, customs and tax audits, and tax payments, among other features.

The SISCOMEX has been consistently improved since its creation, becoming more digital and integrated with other tax and regulatory systems.

2017 saw Brazil set up new export and import regulations to rationalise procedures and eliminate redundancies, by instituting the Single Export Declaration ("*DU-E*"), and the Single Import Declaration ("*DU-IMP*"), which have been gradually implemented. Such controls allow stakeholders to provide information about their transactions in a centralised manner to all government agencies, avoiding multiple requests and wasting time and money.

DU-E and DU-IMP are connected with the Brazilian electronic invoicing and tax bookkeeping, which enables faster and safer transaction registry, precise tax controls, and transparency.

Furthermore, Brazil has taken several measures to reduce the bureaucracy that companies usually face when engaging in international trade, such as:

- in 2015, it joined the World Customs Organization (WCO) Authorized Economic Operator programme, which grants benefits to registered stakeholders with regard to the facilitation of customs procedures, in Brazil or abroad, such as the priority analysis of the transactions, reduced time for formal inquiry answers, the reduction of thorough customs inspections, among others;
- in 2016, it addressed the use of the ATA carnet (Istanbul Convention, 1990), which allows for much faster temporary admissions and exports based on a standardised document globally recognised; and
- the Convention Abolishing the Requirement of Legalization for Foreign Public Documents ("Apostille Convention", The Hague, 1961) was introduced in 2016. These measures can simplify some procedures related to the import of goods subject to previous licensing.

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As a result, according to the World Bank's ranking *Doing Business 2015*, 61 hours for exports and 51.1 hours for imports were required for border compliance in Brazil. In the 2020 edition of the ranking, those figures fell to 49 hours for exports and 30 for imports (source: https://www.doingbusiness.org).

Although there is room to evolve, especially regarding the relationship between customs/tax authorities and importer/exporters, it is evident that Brazil has been making substantial efforts to optimise its customs controls, to reduce red tape, and to make international trade faster and more transparent.

Brazil

Brazil issues regulation to combat customs fraud

Brazil has always taken heavy measures against the non-compliance with tax and customs regulations, especially by applying heavy penalties. To this effect, the customs authorities, sometimes accompanied by the federal police, are known for carrying out rigorous inspections to check the compliance with all applicable rules.

In this context, the Brazilian Federal Revenue Service (RFB) issued Normative Instruction 1986/2020 to address the inspection procedures used to combat customs fraud. Although combatting customs fraud is nothing new, this important regulation updates procedures governed by the 2006 and 2011 rules.

Normative Instruction 1986/2020 provides for broad customs' audit powers, which may be carried out before the goods are subject to custom clearance, during such proceedings, and even afterwards, provided that the statute of limitations applicable is respected.

Based on this, the customs authority, among other measures deemed necessary, may:

- perform due diligence of inspected intervening parties or related third parties, including for the collection of documents and information;
- request a technical report to identify and quantify the imported goods, and their prices abroad;
- verify the veracity of the declaration and the authenticity of the certificate of origin of the goods, also by requesting that the importer or exporter present supporting documentation about the location, operational capacity and manufacturing process for the production of the imported goods;
- request the importer, exporter or other intervening party in the transaction presents information about the financial movement;
- require the importer, exporter or any other intervening party to present the accounting records;
- request that the company proves the origins, availability of the resources necessary for the practice of transactions; and
- propose the submission of a request for information to the customs administration of the country of any of the parties involved in the transaction if there is a treaty for that purpose.

Moreover, the RFB regulated procedures for the retention of goods for up to 120 days, as well as for the seizure of goods, when there is evidence of customs fraud.

Customs fraud in Brazil is strongly combated and subject to heavy penalties. Accordingly, based on the procedures established by Normative Instruction 1986/2020, if the customs fraud is confirmed, the liable parties may be subject to consequences such as: seizure of goods; tax assessments; administrative sanctions (for example, suspension or revocation of the right to engage in foreign trade); tax representation for criminal purposes; and representation for declaration of unfitness of registration in the National Register of Legal Entities (CPNJ).

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Combatting customs fraud is to be taken seriously, and thus such procedures are considered to be good news. Nevertheless, investigations should aim at identifying and punishing actual customs fraud rather than punishing legal interpretation diversions or mistakes made by importers and exporters.

China

Major updates in China Customs

Administration Measures on Processing Trade Goods

China's General Administration of Customs (GAC) has revised the Administration Measures on Processing Trade Goods. In the latest revision, Article 6 for mortgaged goods has been changed from *"without permissions from the customs, the processing of trade goods cannot be mortgaged"* to *"after obtaining the customs' approval and completing the relevant procedures, the processing of trade goods can be mortgaged"*. This revision reflects the fact that China customs has changed its attitude on the mortgage of processing trade goods from negative to positive – giving the manufacturer an extra means of re-financing under the COVID-19 pandemic.

Administration Measures on Import/Export Tax Exemption and Reduction

21 December 2020 saw the GAC issue the Administrative Measures on Import/Export Tax Exemption and Reduction (GAC Circular No.245), which became effective on 1 March 2021, replacing its 2008 version.

The major revisions to the Administration Measures are as follows:

- Simplify the procedure for tax exemption and reduction application;
- Shorten the supervision period for tariff-exempted/reduced goods from 5 years to 3 years (except ships, aircrafts and motor vehicles);
- Delete "pledge" from the usage scope of tariff-exempted/reduced goods;
- Add a penalty (maximum RMB 10,000) for failure in reporting company changes to the customs;
- Include companies' follow-up management of import tax exemption/reduction goods in the customs credit rating system.

Customs Implementation Rules on Duty Exemption for Encouraged Catalogue (2020 Version)

The Industry Catalogue for Encouraged Foreign Investment (2020 Version) ("2020 Catalogue") was implemented as of 27 January 2021, and replaces its 2019 version. The new catalogue contains a total of 1,235 items, with 127 items added (65 new items on the national list and 62 new items on the regional list) and 88 items modified.

Following the roll-out of the 2020 Catalogue, China customs recently re-clarified the duty exemption policy related to the catalogue. For foreign-invested projects covered by the catalogue, the self-use equipment (and the accompanying technology, supporting parts, and spare parts) imported within the project's total investment can be exempted from the customs duty. However, these imports will still be subject to import VAT.

It is recommended that Chinese importers evaluate whether their investment projects fall within the scope of the 2020 Catalogue, and assess whether their imports are subject to customs duty exemption.

E-Clearance for Dual-Use Goods

For some time, importers and exporters of dual-use (civil/military) goods have had to submit a printed version of the relevant licences and other documents for customs declaration. As of 1 January 2021, China customs has offered an option to adopt e-clearance, which allows customs declaration information and relevant licences to be stored and transferred electronically, and then automatically reviewed by the customs. This reform has greatly improved customs clearance efficiency and has reduced labour costs for the importers and exporters at the same time.

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Italy

Simplifications for authorisation to the "approved place for export"

In commercial practise the ex-works state to the sale of goods intended for export as a delivery term agreed between the seller and the buyer is frequently applied; this condition provides that the seller is only required to make the goods available to the buyer in its own company and it is the buyer who takes care of the transport of the same outside the EU territory.

In this situation, Italian exporters often encounter considerable difficulties acquiring proof of the exit of the goods required by national legislation for the recognition of the tax benefit of VAT exemption on exports. This is because customs formalities are often handled by the buyer in a Member State other than that in which the companies are established, i.e. outside Italy.

In fact, custom formalities are often handled directly by the Customs Office for the exit of the goods from the European territory, skipping the Customs Office for the export in charge according to the establishment of the exporter.

Other delivery conditions, such as the FCA Incoterms (free carrier), allow the seller, who is required to complete the export customs formalities, to easily acquire the required tax documentation.

A customs scheme that adapts very well to the adoption of the condition of delivery with FCA Incoterms is that of the "approved place for export".

The authorisation to use the "approved place for export" procedure allows the presentation and availability for checks of Union goods destined for export in a place other than customs, therefore following the electronic submission of the customs declaration to the competent customs office, the goods are made available by the operator for any physical visit selected by the customs control circuit – at the approved site.

There are obvious benefits with the "approved place for export" together with an FCA Incoterms when the approved place for export is the seller's warehouse. In fact, in this case, the seller has full control of the export procedure, and the goods which have been cleared for export can leave the warehouse directly towards the Custom Office of exit from the European territory.

To facilitate export operations, due to the Covid-19 pandemic, with Circular 49/2020 dated 30 December 2020 the Italian Customs Authorities has allowed the presentation of an application for the authorisation for the "approved place for export", with a request for a simplified inspection.

In particular, the operator can submit a plan and technical report, drawn up by a qualified technician, regarding the place to be authorised, and the office can proceed with the verification on a documentary basis of the suitability of the place for the required fiscal security requirements without carrying out the physical inspection prior to the issuance of the authorisation.

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For this purpose, it will be sufficient to submit a specific form prepared by the Customs Agency.

Italy

Simplified procedure for relief from the import duties of reimported goods

As part of the initiatives adopted by the Customs and Monopolies Agency (ADM) to support economic operators, the possibility of streamlining the process relating to reintroduction activities for the release for free circulation of previously exported goods was recognised. Art. 203 of Regulation 952 of 2013 (UCC) provides for the exemption from import duties for goods that, after being initially exported from the territory of the Union, are reintroduced there and are declared for release for free circulation. This relief is granted if the goods are reintroduced in the state in which they were exported.

This implies that at the time of re-importation of these goods, it is possible to request the relief from import duties of the reimported goods by presenting a copy of the export declaration and other suitable documentation to make it possible to check the identity of the goods to be imported with those previously exported and to demonstrate that they have been reintroduced in the state in which they were exported.

For companies operating in the e-commerce sector with certain requirements, a simplified procedure for relief from the duties of reimported goods has been introduced.

Two lists have been established at the Customs Department called, respectively, "RETRELIEF *(Returned goods – Relief from import duty")* and *"e-commerce* RETRELIEF *(Returned goods – Relief from import duty"),* in which subjects who carry out the free reintroduction of previously exported goods, following online direct sales transactions, can be enrolled. Registration lasts one year.

The subjects admitted to this regime are divided into two categories depending on whether they make online sales with or without the use of online e-commerce platforms or marketplaces. The former group is registered in the *"e-commerce* RETRELIEF *(Returned goods – Relief from import duty")* register, the latter in the "RETRELIEF *(Returned goods – Relief from import duty")* register.

Subjects who make sales through the marketplace can request registration in the aforementioned register if they carry out a minimum number of 50 reintroductions per month; while for those who do not use marketplaces, a minimum number of free reintroductions per month is not required for registration.

As for the other subjective requirements, these are substantially identical for both groups of operators and are represented by:

- possession of the authorisation for customs clearance at the "approved place" as well as for the "authorised transit recipient";
- identity between the outgoing and reintroduced goods, provided that the exported goods have maintained the same state;
- identity between the declarant in the export and in the reintroduction;
- use of the EORI number and fulfilment of the criteria referred to in Article 39, letters a) and b) of the UCC;
- traceability of the single product by means of a unique identification code;
- possibility for the Customs Office to access the accounting system of the subject or the marketplace for the purposes of customs controls.

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Operators registered in the register in question will be subject to fewer checks, mainly retrospectively and on a quarterly basis, founded on the analysis of the operator's commercial documentation and accounting records.

Mexico

Changes in customs compliance regulations

During 2020 and 2021, several customs criteria and procedures were modified, so there is a new parameter to be considered in the compliance for daily import and export operations, which attend to the following:

Exportation with no sale/donation

A general rule of particular incidence for maquiladora/IMMEX companies is that the exportation of goods that are not the object of a sale or that are transferred free of charge must now mandatorily be accompanied with a specifically regulated electronic invoice, substituting the option to do so that was previously in place.

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Duration of Electronic Tax Audits

Generally, electronic audits (those carried out digitally through the electronic mailbox) should last no more than 6 months, but a two-year exception was established for foreign trade audits; an amendment limits such exceptional duration specifically to cases where information has been requested from foreign customs authorities.

Elimination of Notable Benefits for Certified Companies

For foreign trade purposes, various degrees of certification allow importing companies with temporary importation regimes, such as the IMMEX, to import without paying VAT or the excise tax on products and services. Numerous other benefits had been established as part of the certification programme, but recent amendments to the rules significantly cut back on these benefits for companies that obtain their certification or its renewal after 25 July 2020, including preferential terms for VAT refund requests, benefits and safeguards regarding Importers Roster registration, facilities to rectify customs manifests or otherwise self-correction, among various other facilities and benefits that were eliminated.

Mexican official standards

Annex 2.4.1. of the Rules and General Criteria in Foreign Trade issued by the Ministry of Economy (Annex NOM) was modified, and its most significant additions consist of:

- As of 1 October 2020, repackaged food, and non-alcoholic beverages subject to NOM-051-SCFI/SSA1-2010, must comply with a specific "front labelling system".
- Restriction of the use of children's characters, animations, cartoons, and celebrities in the labelling of pre-packaged food and non-alcoholic beverages subject to NOM-051-SCFI / SSA1-2010, as of 1 April 2021.
- The assumptions of exemption from compliance with a NOM at the point of entry to the country, in which non-commercialisation letters were normally used, were eliminated.

The Ministry of Economy has been issuing various official letters through which it defined some criteria on the field of application of certain standards that have resulted in a complexity in establishing its field of application.

Integration of new "decrementable" concepts

As of 26 February 2021, it is considered an obligation to indicate in the import customs declarations, within the "main heading", the amounts paid for "decrementable", which are defined as the payment in national currency for freight, insurance premiums, loading, unloading and others, made after the date of anchoring or mooring of the ship (maritime transport), crossing the international dividing line (land transport), or arrival at the first national airport (air transport).

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Mexico

New Framework as of 2020 & 2021

Resulting from the update to the North American Free Trade Agreement (NAFTA), on 1 July 2020 the Agreement between Mexico, the United States and Canada (USMCA) entered into force, which has 34 chapters, some of which are newly integrated (not provided before by NAFTA), highlighting the implementation of regulations related to digital trade, labour issues, anti-corruption, customs administration and trade facilitation, fast delivery shipments, joint customs clearance, among others, as well as the modification to the rules of origin, their certification and the origin review procedures.

As part of the regulatory framework of the USMCA, the Uniform Regulations and the General Rules were issued regarding the application of the provisions on customs matters of the Agreement, through which they detail and, in some cases, establish the application procedures of the provisions of the USMCA.

Additionally, on 28 December 2020, the new General Import and Export Tax Law (GIETL) came into force, through which the Sixth Amendment of the Harmonized Commodity Description and Coding System (HS) was implemented and adds to the tariff classification of products (traditionally composed of 8 digits) two additional digits that correspond to the Commercial Information Number (CIN), progressively starting from 00 to 99.

In relation to the abovementioned, on the same date, the National Notes came into force (abrogating the Explanatory Notes of the GIETL), which is the official interpretation of the GIETL Tariff and its application being mandatory to determine the correct tariff classification of the products to be imported and exported.

To adopt the updates derived from the entry into force of the USMCA, the Sixth Amendment employed by the new GIETL, as well as the incorporation of the CIN into the national tariff system, on 28 December 2020 (except for some exceptions provided for such purposes), various agreements, resolutions and decrees regarding regulations and non-tariff restrictions entered in force.

The regulations that underwent the modifications referred to are related to IMMEX and PROSEC decrees, sectorial registers, quotas, border and border strip regions, automatic import and export permits and notices, dual-use goods, mechanisms to guarantee the contributions of merchandise subject to estimated prices, Rules and General Criteria in Foreign Trade issued by the Ministry of Economy, as well as those related to the Inter-secretarial Commission for the Control of the Process and the Use of Pesticides and Toxic Substances (CICOPLAFEST), from the Medium Environment and Natural Resources Ministry and the Health Ministry, among others.

This new framework has resulted in complexities regarding the correct tariff classification of products, and in some cases, the incompatibility of criteria that should be adopted between regulations (i.e. register of importers, permits, notices, Mexican official standards). Moreover, the change in the tariff classification policy could mean that previous tariff classification consultations would cease to have any effect and new consultations must be requested.

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Mexico

New Free Zone in Chetumal, Quintana Roo

On 31 December 2020, the Decree of the Chetumal Free Zone was published in the DOF, granting an incentive to companies that commercialise goods or services in that border region. This Decree will be in effect between 1 January 2021 and 31 December 2024.

The incentives applicable through this Decree consist of the following:

- General Import Duty (GID) exemption of 100% on the definitive importation of certain goods in the region or on re-shipment to the rest of the country.
- Application of a credit of 100% of the Customs Processing Duty (CPF), which is generally .008 of the customs value of the goods, applicable to the definitive importation in the region or re-shipment of the goods to the rest of the national territory.

The Decree is applicable to individuals or legal entities that are located and commercialise goods or services in the Chetumal border region consisting of: food and groceries; self-service stores; clothing, jewellery and clothing accessories; pharmaceuticals, eyeglasses and orthopaedic articles; machinery and equipment; construction materials; restaurants; hotels, motels and other temporary lodging services; educational, medical and hospital services; cultural, sports and recreational services; automobile repair and maintenance services; real estate and machinery and equipment rental, in accordance with the catalogue of economic activities that the Tax Administration Service publishes through general rules.

Some of the requirements to apply for the registration as a "Company of the Region" for purposes of the Chetumal Free Zone, include:

- Being registered in the Importers Roster.
- Proving that sales are made within the Chetumal border region.
- Paying contributions other than GID and CPF.
- Being located at the tax domicile or the domicile indicated in the application.
- Not being included in the list of companies that carry out non-existent operations issued by the Tax Administration Service.

Once the registration has been obtained, the interested parties must comply with the requirements and obligations set forth, as if the registration is cancelled, it may not be requested within a period of up to two years.

With the publication of this Decree, an opportunity for growth and economic development is implemented for companies that have or wish to initiate import and commercialisation operations in Chetumal.

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Portugal

Brexit implications on customs

The UK left the EU on 31 January 2020, but the real changes were felt from 1 January 2021 when the transitional period came to an end and EU rules on VAT, customs and the single market ceased to apply to transactions between the EU and the UK.

The end of the free movement of goods determined that customs controls apply to all goods travelling between these territories, although a Trade and Cooperation Agreement ("Agreement") was negotiated and adopted by the parties, which has been provisionally applied since 1 January 2021 and came into force on 1 May 2021.

In a nutshell, the Agreement provides for zero tariffs on all goods traded between the EU and the UK provided the goods are originating in the other party and importers prove that their products fulfil all the rules of origin requirements.

However, customs origins must not be mistaken for the provenance or customs status of the goods, and this key distinction may create constraints which could be easily overlooked. As the relevant criteria is the customs origins of the goods and not where they were shipped from, it cannot be stated that all goods traded between the EU and the UK will be duty free.

For instance, EU goods which are imported into the UK and originating from the EU will benefit from zero tariffs. However, if those same goods are later exported from the UK and imported back into the EU, since they have originated from the EU and not the UK – i.e. the same party and not the other party – the duty-free regime will not apply (although another special regime may be considered, such as the one applicable to returned goods). Similarly, goods shipped from the UK to the EU but not originating from the UK will not benefit from zero tariffs. The Agreement provides for full bilateral cumulation between the UK and the EU, allowing EU inputs and processing to be counted as UK input in UK products exported to the EU and vice versa. However, inputs from other countries or territories may cost goods their UK/EU origin. For instance, meat processed in facilities in Portugal but obtained from animals raised in a third country will not be deemed as originated in the EU as the rule for meat products requires that the animals are wholly obtained. This is especially impactful since a relevant portion of EU exports into the UK are food products and these are generally subject to high rates of customs duties. On the other hand, and even where the zero tariffs are applicable, economic operators are not released from complying with all customs requirements, which has been creating delays in transportation and are a significant change from the days when goods could be unloaded freely directly at the economic operators' facilities.

Also, due to the short span between the negotiation of the Agreement and its application, many Portuguese importers have not been able to request the proof of origin for their exporters or these have not been able to provide them in due time. This means that imports were subject to customs duties which may be refunded if the preference is adequately requested after importation, thus creating an additional burden on operators and workload on customs authorities.

In Portugal, both companies and tax administrations are still adapting to this new reality, and although at first glance it may seem the Agreement has come to solve all problems and re-instate a pre-Brexit scenario, the above rules have a limited scope which does not wholly cover all the scenarios with which economic operators are faced with on a daily basis.

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Ukraine

New Rules on Authorised Economic Operators Implemented in Ukraine

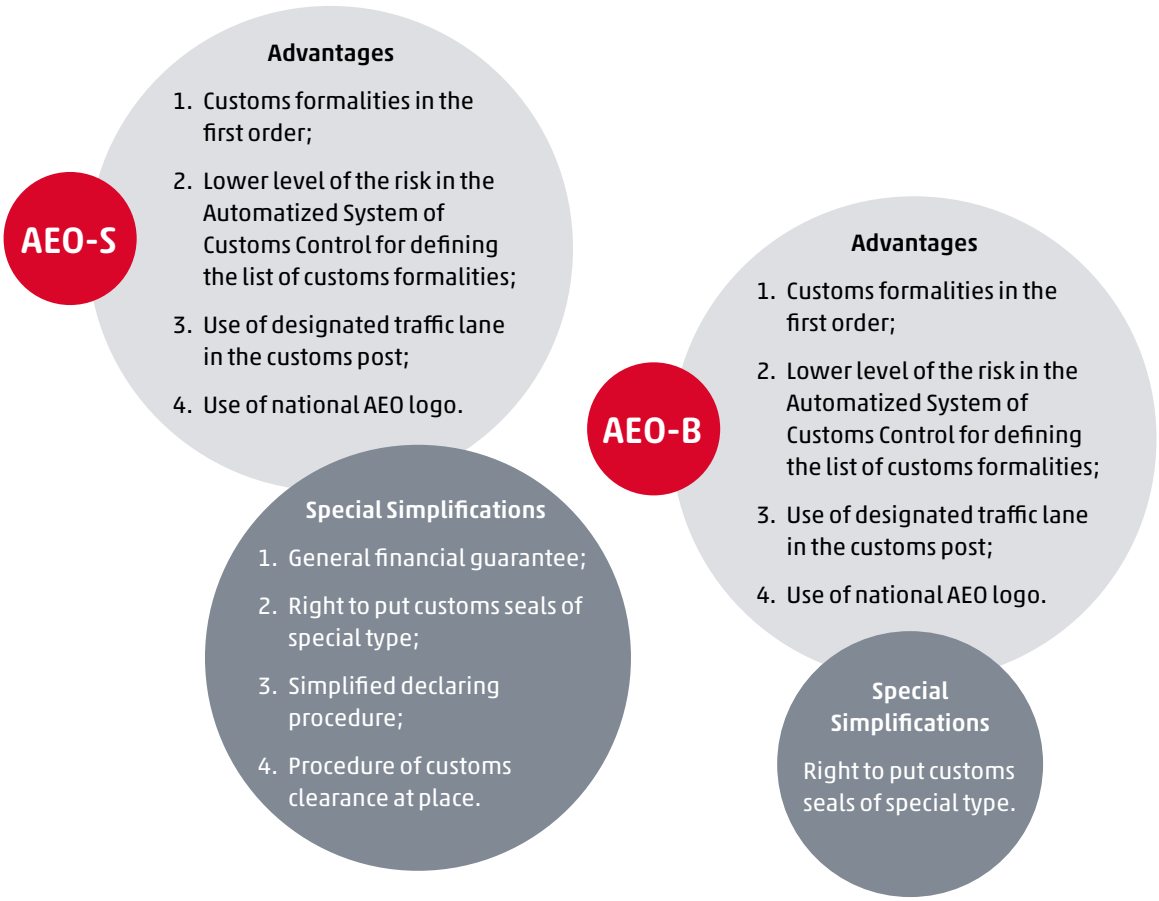
Law No 141-IX of 2 October 2019 introduced comprehensive changes to the Customs Code of Ukraine aimed at making the rules on Authorised Economic Operators (AEO) operational and bringing them in line with similar European regulations.

According to these rules there are two types of customs authorisations:
- on the entitlement to special simplifications ("AEO-S")
- on confirmation of security and reliability ("AEO-B").

These types of customs authorisation are different in terms of sets of available advantages and criteria which should be met as conditions for obtaining the status.

Companies may choose one of the authorisations or apply for both.

Advantages and special simplifications for each type of customs authorisation are described below:



The procedure of customs clearance is the most useful from amongst the special simplifications as it allows for material time and cost savings due to peculiarities of customs clearance practises in Ukraine.

Practically similar cost savings are currently achieved by applying the procedure of customs clearance under preliminary import customs declaration of type "EA". However, from 7 November 2022, this procedure will no longer be available. Hence, if no changes are implemented into the Customs Code by this date, respective cost savings will be available only for companies with AEO-S authorisation.

According to the Customs Code, the status of AEO is available for a resident enterprise that performs any role in the international supply chain (producer, exporter, importer, customs representative, forwarder, warehouse keeper).

At the same time, during the transition period (first 3 years), the customs service will consider applications for AEO-S only from enterprises that are simultaneously producers and exporters (importers). There are no such limitations for AEO-B authorisation.

To be eligible for obtaining the status, enterprises should comply with criteria established by the Customs Code. The criteria slightly differ depending on the type of AEO and are as follows:

AEO-S	AEO criterion	AEO-B
✓	Compliance with tax and customs legislation requirements and also absence of prosecution	✓
✓	Proper accounting system, documentation and transport documentation system	✓
✓	Stable financial condition	✓
✓	Ensuring practical standards of competence or professional qualifications of the responsible official	✗
✗	Compliance with safety and reliability standards	✓

In July 2020, the Cabinet of Ministers of Ukraine adopted the procedural regulations which gave the "green light" for launching the authorisation. In March 2021, the Ministry of Finance reported on obtaining the first AEO status by JT International Ukraine.

Thus, the procedure for obtaining the AEO status is now fully operational in Ukraine. This authorisation may provide material advantages and simplify customs clearance in Ukraine. Hence, we encourage the business to consider this opportunity.

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Vietnam

Vietnam's implementation of the EU and Vietnam Free Trade Agreement ("EVFTA")

The EU and Vietnam Free Trade Agreement ("EVFTA") has been in force since 1 August 2020. The EVFTA is broadly recognised as a "new generation" FTA, as it covers a very wide scope of commitments and high level of commitment of Vietnam. This leads to extensive trade opportunities between Vietnam and the 27 member states of the EU.

Vietnam committed to eliminating 99.8% of all tariffs within 10 years and 64.5% of them from enforcement of the EVFTA. The EU committed to removing 99.7% within 7 years and, of this, 64.5% with enforcement of the EVFTA.

Implementation of the various regulations included in the EVFTA in Vietnam is an ongoing process. Many implementing regulations are in the process of alignment with the commitments. Some notable points are as follows:

Transition period

During the transition period of 7 years, the Generalised System of Preferences ("GSP") is applied in parallel to the EVFTA. Therefore, it must be considered, on a case-by-case basis, which scheme is providing the more advantageous conditions.

Certificate of Origin

For goods imported from the EU to Vietnam, the EU announced that the origin certification according to the provisions of Clause 1(c), Article 15, Protocol 1 of the EVFTA Agreement shall apply, whilst Clause 1(a) and 1(b) of Article 15 shall not apply. For EU exporters, the Registered Exporter System ("REX") will be the only method to certify the origin of goods under EVFTA. Specifically, the self-certification applies to exporters registered in REX or any exporter for consignments with a total value of below EUR 6,000. The self-certification should be made in commercial documents such as the invoice, delivery note, proforma invoice, or packing list.

Vietnam Customs will review the validity and authenticity of the self-certification according to commercial documents by registered exporter or by other exporters with goods of a value of below EUR 6,000. Vietnam Customs is performing the desktop validation of the REX number.

Vietnam announced the application of the origin certification specified in Clause 1 (a) Article 15, Protocol 1 of the EVFTA Agreement, which means that Certificate of Origin ("CO") Form EUR.1 will be used. In addition, a statement of origin can be made by approved exporters or any exporter for shipments with a value not exceeding EUR 6,000.

Submission of the CO

Importation submission: The CO must be submitted at the time of importation; or

*Late submission: T*he importer may register late submission at the time of importation and submit the CO within 2 years of the date of the customs declaration. The CO must be

submitted during its period of validity (12 months from the issue date). The importer must pay the MFN rate at the time of importation and then request the refund after submission of the CO.

Some key information on the CO

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khuu.thanh.quy@wtsvietnam.com

The *country of origin* in the CO must be shown as "EU" or "European Union" and not display an EU member country. If the CO shows the name of an EU member country, it is not valid under the EVFTA.

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If the commercial documents in which the self-certification is produced include both goods not originating in the EU and goods originating in the EU, the self-certification is valid provided that the other information in the documents is correct.

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About WTS Global

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