

Case: Wrong code of commodity nomenclature entailed additional charge by customs duty

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Situation

A foreign company branch in Kazakhstan had stocked rubber gloves for further sale in Kazakhstan. The company branch went through the customs clearance of the imported goods and paid customs duties and taxes. However, after three months a further customs inspection imposed the payment of additional customs duties and also a penalty. Considering the volume of goods, this resulted in significant extra fees.

Customs authorities' actions were lawful. According to the legislation, the customs authorities are entitled to check any operations for the period of five years and charge additional customs duties and taxes as required. Customs duties on imported goods are accrued based on the so called **XXXXXXXXXX** nomenclature code **XXXX**. In particular, according to the commodity nomenclature, rubber gloves can be of two types: "surgical gloves" and "household gloves". At first sight both of products could be designated as "rubber and elastic goods" and looked quite similar. Therefore, it was difficult to notice any differences. However, the customs duty on surgical gloves is 10%, and on household gloves - 15%. After a further customs inspection customs authorities concluded that the gloves were not intended for surgery and imposed additional customs duties charge and the penalties. In such situation, it is pointless to appeal the actions of the customs authorities, because such actions were fully lawful and reasonable.

How to avoid such situations?

What kind of actions could be taken in such cases?

Solution

The company branch could avoid such problems by taking the following precautions. Customs legislation allows obtaining a preliminary customs authority decision about the classification of goods before the customs clearance. The following procedure applies: a person submits an application, including description, characteristics, drawings and other information about the product to the customs authority and the customs authority issues a decision, which shall be binding during the customs clearance.

Recommendations

If different customs duties apply to the similar goods' classification (e.g. ambiguity in classification, goods imported for the first time), we recommend requesting a preliminary decision on classification of goods from the customs authority and using the obtained decision during the customs clearance of goods.