

Dealing with new trade barriers in the Eurasian Economic Union

Starting from 1 January 2015, Russia enters into a new era of economic integration: the Agreement for the Establishment of the Eurasian Economic Union enters into force. The Agreement will result in numerous changes, including changes to the system of anti-dumping protection.

Starting next year, the Eurasian Economic Commission (EEC) may impose an anti-dumping duty without waiting for the results of an anti-dumping investigation; in theory, this will prevent potential damage to local producers caused by the import being “dumped”. To date, the Commission never spontaneously imposed duties; the Commission first had to prove that below market prices for imported goods were injuring local manufacturers and threatening to injure them or preventing their economic growth.

In recent years, the number of Anti-Dumping duties imposed has increased dramatically: from just a few in 2010 to almost 25 by the end of 2014. The total amount of anti-dumping duties collected from importers was 2,7 and 3,4 bln rubles in 2012 and 2013, respectively, and the amount is growing. For the affected companies the cost of an imposed duty is, however, much higher than the actual amount collected by the authorities, and may have a disruptive effect in the market. This is due to additional spending in the course of the investigation, e.g. costs for litigation, reputational damages and possible discontinuation of business.

For an importer, it is highly advisable to thoroughly self-analyze/assess the potential for an anti-dumping claim not only when starting to import into the Eurasian Economic Union, but also when calculating overall tax and customs burden of the import. In addition, a self-analysis/assessment should be conducted to ensure that an importer is fully aware of the potential anti-dumping consequences of a decrease in prices, which may be perceived by the EEC as increasing the dumping margin.

If an anti-dumping investigation commences, it is important to anticipate potential requests from the EEC to disclose confidential pricing information. Current experience shows that the failure to provide relevant information may result in unexpected findings and the imposition of anti-dumping duties by the Commission.

In 2015, the legislative and economic environment will cause importers to rethink their strategies. Some importers will shift their supply chains and decrease market share. Others will try to maintain or increase market share by lowering prices, but in this case the importer must be aware of potential anti-dumping challenges. One thing is evident: the changes in the Eurasian Economic Union will impact both importers and local manufacturers; it is time prepare for these changes - being unprepared is a risky strategy.