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Authorized Economic Operator: Status in the Customs Union

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It is widely known that the conditions of eligibility for simplified customs clearance and the application procedures for this, such as the release of goods prior to submission of customs declarations and the storage of goods in warehouses owned by the goods' proprietors, were changed as of July 1 in response to the establishment of the customs union between Russia, Belarus and Kazakhstan and adoption of the customs code of that union.

Pursuant to the code, special simplifications may be granted only to an Authorized Economic Operator, i.e. a legal entity established in accordance with the legislation of a member country in the customs union, responsible for certain requirements and included on a special register.

The AEO institution has existed in the European Union since Jan. 1, 2008, and is based on principles stipulated in the International Convention on the Simplification and Harmonization of Customs Procedures of 1973 (Kyoto Convention), to which Russia acceded in November with Federal Law No. 279-FZ, dated Nov. 3, 2010.

In Europe a broad range of entities is eligible for the aforementioned preferred status — among them, manufacturers, importers, exporters, brokers, transporters, intermediaries and distributors as well as others engaged in foreign trade. The customs union legislation establishes, however, that AEO status may be granted only to direct foreign trade participants — that is, importers and exporters.

Pursuant to the code, AEO status will be granted by customs authorities to a legal entity through its inclusion on the Register of AEOs. One of the conditions for being eligible for the Register of AEOs is the provision of a payment guarantee of customs duties and tax contributions with an amount of no less than 1 million euros ($1.32 million), as well as some

other requirements, although for certain foreign trade participants manufacturing and/or exporting goods exempted from export customs duties, the threshold is established at 150,000 euros.

The procedures for acquiring AEO status are stipulated in the national legislation of each member country of the customs union. As regards Russia, according to draft federal law on customs regulation in the Russian Federation, which will supposedly enter into force on Jan. 1, 2011, applications for AEO status are to be reviewed by customs authorities within 90 days.

The code establishes a transitional period (till Jan. 1, 2011) for companies currently using the special simplified procedures, during which they will be entitled to use the procedures granted to them earlier without their inclusion on the Register of AEOs. It is noteworthy that the above possibility will remain even after Jan. 1, if the companies involved inform the Federal Customs Service about their intent to be included on the Register of AEOs.

As regards the list of special simplifications granted to an AEO, it generally complies with the list of special simplified customs clearance procedures established in the Russian legislation that were effective till July 1. It should be mentioned, however, that the foregoing draft federal law, unlike the Customs Code of the Russian Federation, includes a detailed description of simplifications such as the delivery of imported goods to an AEO warehouse without interacting with an internal customs authority. Such a standard stipulated in the federal law on customs regulation may be very helpful for the AEOs that organize the provisional storage of goods in their own warehouses.

It should be mentioned that AEOs will not be entitled to apply special simplifications on the importation of certain goods that have been specified by a resolution of the customs union commission, for example excisable goods subject to marking.

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