

Barviankova Yana Sergeevna

Belarusian State University

The research Advisor: Tararyshkina Lubov Ivanovna, PhD in Economics, Associate Professor

CROSS-BORDER E-COMMERCE IN THE EAEU: CURRENT STATE AND NOVELTIES IN REGULATION

Research Field:

A secure business environment for economic development

Cross-border e-commerce involves commercial activity between entities in different countries. They make a transaction online, make an international electronic payment and deliver goods, the process starts and ends in different countries. The most common forms are cross-border B2C and C2C e-commerce. Indeed, it provides a window of opportunity for small and medium-sized enterprises to develop trade links with foreign agents, for individual consumers to meet specific needs, which diversifies imports, and promotes innovation.

As regards goods crossing the customs border, this trade format poses new challenges for customs services: processing of large volumes of parcels (including small packages), law enforcement, risk management, fair and efficient collection of duties and taxes.

In the Eurasian Economic Union (EAEU), it is worth noting that e-commerce took an upturn during the pandemic in 2021 and later when restrictive measures (economic sanctions) aimed at Belarus and Russia came into force. Close to the time of their introduction in 2022, the volume of electronic sales fell heavily due to the exodus of European traders. However, adaptation mechanisms of both countries made it possible to offset exclusion from some global value chains, and largely so with the help of e-commerce. That was facilitated primarily by raising temporarily the de-minimis threshold. That meant goods for personal use valued at 1,000 euros or less and weighing 31 kg or less can be imported duty-free by carrier or in international mail, in luggage by all modes of transport, except by air, or on foot (currently e-commerce goods are not distinguished from international mail or express cargo). The aforesaid measures were reviewed every six months and have been extended twice (recently until October 1, 2023, except for the Republic of Armenia). The design of such regulations is aimed at preventing shortages of critical import goods. For example, the All-Russian public organization of small and medium business "OPORA RUSSIA" in March 2023 put a proposal to the national government to extend the increased thresholds, as citizens and entrepreneurs continue to buy foreign goods in this manner, some simply do not enter the country as part of commercial shipments, for instance, automobile spare parts.

Decriminalising parallel imports was another way of making up for losses in products supply: in the Russian Federation that took place in May 2022, in the Republic of Belarus – in 2023. The are rules drawn up by the Ministry of Industry and Trade of Russia on the inclusion of brands in the list of goods allowed for parallel import. They imply that it's possible to violate the intellectual property rights of only those entities that themselves significantly undermined the situation by stopping deliveries or by other means. In Belarus, in fact, similar methods of importation were also used, including through Russian marketplaces, before they were approved de jure. The State Customs Committee of the Republic of Belarus temporarily excludes items essential for the domestic market from the national register of intellectual property. As of April 23, 2023 the registry does not include such brands as Apple, Bosch, Whirlpool, DJI, Canon, Grohe, Ikea, Pampers, Dada, Huggies, Finish and others¹. Repeatedly, representatives of e-commerce platforms have stated that the price for such imports has increased by 20 percent or more. Since goods are no longer delivered from stocks in Belarus, delivery time has increased significantly. The issue of combating counterfeit goods arises; however, according to the Federal Customs Service of Russia, there has been no increase in counterfeit products compared with the usual level of detentions.

Formalising the institution of e-commerce in the EAEU has been underway since October 2020. The concepts adopted at that time were clearly laid out in 2021 with the launch of a pilot project in the field of foreign e-commerce in member states. As part of the project, the institute of e-commerce operator was practically applied for the first time in the EAEU. For example, such operators in Belarus were “Belpochta”, “Beltamozhservice”, “Ruzekspeditsiya”, “China Merchants CHN-BLR Commercial and Logistics Company”. Operators submitted a declaration for express consignments and a statement on the release of goods (before the declaration is submitted) to customs authorities in respect of e-commerce goods, the documents were filled out with the relevant specifics. The scope of the experiment was widened in March 2023 at the suggestion of Belarus, which in turn allowed for automatic cease of customs control of goods when the customs procedure of customs warehouse is finalised. In general, the legislation provides for both sale of goods from customs warehouses and direct delivery to the consumer.

In August 2022 a draft Protocol on Amendments to the Treaty on the Customs Code of the Eurasian Economic Union² concerning the regulation of e-commerce was published. The

¹ Таможенные органы Республики Беларусь [Электронный ресурс]. – Режим доступа: <http://www.gtk.gov.by>. – Дата доступа: 23.04.2023.

² О проекте Протокола о внесении изменений в Договор о Таможенном кодексе Евразийского экономического союза от 11 апреля 2017 года [Электронный ресурс] : распоряжение Коллегии ЕЭК, 16 авг.

draft stipulates the application of a customs declaration for e-commerce goods, obligatory conditions for inclusion in the register of e-commerce operators, rights and obligations of e-commerce operators. When an operator declares goods, customs duty is to be paid in accordance with the customs procedure of release for domestic consumption. When goods are declared by individuals, customs duty is calculated and paid prior to the release of goods at a unified rate. The Eurasian Economic Commission determines this rate depending on the category of goods, quantity or weight. In addition, the Eurasian Economic Commission establishes standards for duty-free import of goods by natural persons, categories of goods to which the new rules will not apply (for example, vehicles, alcohol, tobacco products), etc.

Approval of the draft is expected after its reviewal by member states. However, in the Kyrgyz Republic, for example, the experiment with the participation of an e-commerce operator and the placement of goods in a bonded warehouse did not begin until March 2023.

The release of e-commerce goods in an EAEU member state involves payment of VAT in the country of destination, which is consistent with international rules. However, such norms are not fully implemented in reality. In the tax legislation of Belarus, the collection of value added tax (VAT) on the electronic distance sales of goods from foreign organizations and individual entrepreneurs was established on July 1, 2022. Kazakhstan and Armenia adopted a similar measure, but the latter as late as in December last year, before that there was no VAT on e-commerce goods. Work is underway on draft amendments to the Treaty on the EAEU with regard to the collection of indirect taxes in the framework of e-commerce in order to meet international standards and avoid double taxation, as was the case with Russian marketplaces in Belarus and Kazakhstan.

Taking into account the development of new business processes, the World Customs Organization has outlined the Framework of Standards for Cross-Border Electronic Commerce (revised in 2022)¹. Let us assess correspondence of measures implemented in the EAEU with these recommendations. One of the leading principles of the WCO Framework of Standards provides for the *submission of advance information on e-commerce goods*, which would solve the key issue of exchanging standard electronic data on goods between customs, other government agencies and businesses. It is too early to envisage advance information on e-commerce goods in the EAEU, but, for example, in Belarus, it is the ePASS electronic goods passport bank that facilitates goods promotion, including in foreign markets. The data bank is

2022 г., № 132 // ЭТАЛЮН. Решения органов местного управления и самоуправления / Нац. центр правовой информ. Респ. Беларусь. – Минск, 2016.

¹ Framework of Standards on Cross-Border E-Commerce [Electronic resource] // World Customs Organization. – Mode of access: [wco-framework-of-standards-on-crossborder-ecommerce_en.pdf](#). – Date of access: 23.04.2023.

based on assigning a unique code to each commodity (there are already more than 11 million of them)¹. Users of the information are both end consumers (via a mobile application that reads a product's barcode) and trade agents, logistics operators (the passports contain information on the Harmonised System code, weight, size, storage conditions, certificates of conformity, etc.). It is important that the information is stored exactly as submitted by the manufacturer or importer, disallowing flaws and errors. The system is able to operate on the “single window” principle and to bring us closer to automatic filling-in of electronic documents and their exchange by the system.

Speaking of *facilitation and simplification of procedures*, a corresponding form of declaration will be applied in the EAEU. Automatic release of low-risk goods is already applied. This framework standard also implies the expansion of authorized economic operator system. For example, some express carriers in Japan, Korea, the US and the EU, postal operators in the EU and Guatemala, and marketplaces in the EU and China have already obtained AEO status in e-commerce. Such AEOs enjoy certain benefits, participate in international programs for mutual recognition.

Fair taxation for e-commerce in terms of VAT is to be implemented in the EAEU by 2024. Import customs duties for individuals will be established only after the Customs Code has been amended and the corresponding acts of the Eurasian Economic Commission have been adopted. *Security* in customs affairs is ensured by risk management. However, ways of determining risk factors and areas are classified, as are expected changes in them. Now almost 100% of international mail goes through X-ray machines in the places of international postal exchange, there is control of purchases shipped to one address or one person. *Public awareness and capacity-building* in the EAEU is carried out through the activities of the high-level working group on cross-border e-commerce and its divisions. *Evaluation and analysis, application of advanced technologies*, and *partnership* are actually implemented in the EAEU, but will be more developed once the institutional framework for e-commerce is fully reviewed and approved by member states.

¹ Банк данных электронных паспортов товаров – ePASS [Электронный ресурс] // Государственное предприятие «Центр Систем Идентификации». – Режим доступа: https://ids.by/index.php?option=com_content&view=article&id=95&Itemid=26. – Дата доступа: 23.04.2023.