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## **The issues of ensuring regional economic security in the conditions of formation of innovative economy in the Customs Union of Belarus, Kazakhstan and Russia**

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By signing on May 29, 2014 in the capital of Kazakhstan the Treaty of establishing the Eurasian Economic Union (EAEC) the leaders of the states stated that in practical cooperation the EAEC countries will follow the norms and rules of the World Trade Organization. The document emphasizes the importance of joining all three countries to the world trading club. Thus, the declared three stages of integration: the Customs Union, the Single Economic Space, the Eurasian Economic Union have been implemented into practice. One of the features of the integration of transformations in the post-Soviet space is not only a different speed of their implementation, but also the gradual achievement of the maximum use of regional integration association of a higher level under the existing mechanisms of a lower stage of integration. The driving force behind the ongoing transformation is to ensure the economic security of the Member States and their economic interests. One of the key objectives of the Eurasian Economic Union is to create conditions for sustainable economic development of the Parties in the interests of improving the living standards of the population.

Regarding the prospects for a unified macroeconomic policy, researchers believe that the measures stipulated in the agreements and aimed at conducting coordinated macroeconomic policies, are generally oriented in the right direction, as they allow all countries to work in equal conditions. However, this equality of conditions is favorable for countries with considerable reserves of fuel-energy and raw material resources, but creates additional difficulties for countries with limited resource base and unable due to their export to solve their economic problems. Among the countries with a lack of raw materials is the Republic of Belarus. Moreover, at the moment of establishing the EAEC only Russia is a member of the WTO. Kazakhstan

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and Belarus, having not acceded to the World Trade Organization are obliged to follow its rules, i.e. without receiving preferences to perform the duties. But for the proper functioning of the Single Economic Space and the future Eurasian Union as well, the complete elimination of existing in the framework of the Customs Union exemptions and restrictions which impede the free movement of goods through the Customs territory is required. There is still an urgent issue of abolition of the principle of residency when declaring the goods being transported along with the attendant problems of Customs offences, the exchange of information between state authorities, technical regulation; introduction of the status of the goods of the Customs Union; elimination of restrictions on the movement of petroleum products, etc.

The further integration vector is to complete by January 1, 2015 the codification of international treaties that constitute the legal framework of the Customs Union and the Single Economic Space, and the creation of the Eurasian Economic Union based on this basis.

The Belarusian party proposed the Treaty of the Union to be designed in two parts: the institutional and functional. In the institutional part the legal status of the Eurasian Economic Union, its goals, objectives and principles would be prescribed; the functional part would be formed on the basis of codification of international treaties that form the legal base of the Customs Union and the Single Economic Space, the provisions of the legal framework of the Eurasian Economic community, which are still valid and do not contradict the agreements of the Member States achieved in the framework of the Customs Union and Single Economic Space.

The process of accession of the Russian Federation to the WTO is a complex and controversial. Its impact on the economy of the state will not be instantaneous. According to the estimates made by A. Kudrin, the WTO accession will give the Russian economy an additional growth of approximately 0,4% per year, or 4.3 % for 10 years. The main positive impacts should be liberalization of the economy and improvement of business environment.

The direct part of the Protocol, which determines the conditions under which Russia acceded to the WTO, includes the List of commitments on goods and the List of commitments on services. The list of commitments on services contains certain restrictions on the access of foreign officials from WTO members to this or that Russian market of services (business, financial services, transport services etc). If such restrictions are not stipulated by the Russian Federation, or if they are specified in the list, but not enshrined in Russian legislation, then according to the WTO rules two principles will have to be operated:

the principle of “national treatment”, that is, foreign people will be subjected to the same rules (private and legal, tax, procedural, etc.), as the Russian people (unless otherwise provided by the Russian federal law, which does not contradict the WTO rules and obligations of Russia as its member).

In the List of specific commitments of the Russian Federation on services, which is contained in the Annex to the Protocol of Accession to the WTO, the following restrictions of national treatment are set:

1. Russian legal entities have a preferential right to participate in the implementation of the Production Sharing Agreement in respect of exploration, development and mining of mineral resources as contractors, suppliers, carriers or otherwise under agreements (contracts) with investors;
2. Not less than 80% of all employed staff involved in the implementation of the Production Sharing Agreement, must be citizens of the Russian Federation.

This List also contains the following restriction of access to the market. In the implementation of international transportation (CPC 7211, CPC 7212), excluding cabotage, a preferential right to participate in the work on the Production Sharing Agreement as carriers is owned by Russian legal entities. This rule is applied to linear, bulk, tramp and other international transportation, including passenger.

During the negotiations on tariff issues the maximum level of import duties on all goods in commodity nomenclature of foreign economic activity was defined. The right to apply these duties the Russian Federation received following the accession to WTO. Reduction in the average level of Customs tariff will take place gradually over a period of several years after accession.

Following the negotiations on access of foreign services to the market the Russian Federation has committed itself to approximately 116 service sectors out of 155 sectors, stipulated by the WTO classification. In some cases the position of Russia provides for more stringent working conditions of foreign service providers on the Russian market as compared to the conditions laid down previously (eg. energy-related services, part of the transport services, medical services, etc.). Among the transport services aviation, which is not regulated by the WTO, should be mentioned.

The WTO does not regulate energy trading, therefore, for Russia the WTO membership has not had any significant impact in the sphere of the main budget trading positions.

In the oil and gas industry one of the main conditions of accession was to ensure the profitability of gas sales on the domestic market for industrial enterprises. Gazprom is going to the equal profitability of gas sales on Russian and foreign markets in 2015–2016. Russia has not undertaken the obligation to ensure the equal access to pipelines for foreign companies and has retained the right to regulate pipeline transportation rates. Moreover, Russia will not be able to change the formula for calculating export duties on energy; thus, the export duty on gas will remain at the level of 30%.

In metallurgy the key change was the need to revise the regime of import quotas of steel products used to protect domestic producers.

The WTO rules do not provide for the abolition of agricultural subsidies, but they simply require the introduction of a maximum threshold for government subsidies.

In the field of air transportation Russian commitments were made to cancel the payments for overflight of foreign airlines over Siberia.

In the banking sector, significant changes are not envisaged. Russia has defended its right to ensure that foreign banks do not create here their branches but only subsidiaries. The possible opening of subsidiaries of foreign banks will not affect the state of the banking system, as the foreign banks, which are interested in their presence on the Russian market, have already opened their divisions. As a rule, major international banks and insurance companies come into the country following their clients – multinational corporations.

Regarding the Customs Union of the Republic of Belarus, the Russian Federation and the Republic of Kazakhstan, it should be noted that from the date of accession of the Russian Federation to the WTO the Treaty on the Functioning of the Customs Union (signed on May 19, 2011, in Minsk) within the framework of the multilateral trading system started to operate.

The Treaty is to ensure the proper functioning of the Customs Union in the event of the accession of one or more of its members to the WTO. It was ratified by the Federal Law dated October, 19, 2011 №282-FL “On the ratification of the Treaty on the functioning of the Customs Union within the framework of the multilateral trading system”.

From the date of accession of any member of the WTO the provisions of the Marrakesh Agreement establishing the World Trade Organization have become a part of the legal system of the Customs Union. The first country acceded should inform the others and coordinate their actions to make commitments as conditions of its their accession, if they require changes in the legal system of the Customs Union. In the subsequent accession of another country to the WTO its obligations (taken as a condition for accession to the WTO) have also become a part of the legal system of the Customs Union. The actions to enter into commitments should be agreed upon with the other members of the Customs Union.

Since the accession of one of the members to the WTO the rates of the Common customs tariff of the Customs Union may not exceed the import tariff rates provided by the List of concessions and commitments on market access of goods. Exceptions to this rule are provided by the Marrakesh Agreement. But, according to paragraph 6 of the Treaty, the Party, which is not a WTO member has the right to derogate from this provision. The WTO agreements, including the commitments made by the Party acceded to the WTO and became a part of the legal system of the Customs Union, in part, where the legal system of the Customs Union and the decisions of its bodies should be adjusted in accordance with the provisions of paragraph 2.

Each newly acceded to the WTO Party should seek to form such amount of commitments, which would correspond to the maximum obligation of the country – a member of the Customs Union, the first to join the WTO. Fundamental deviations from such obligations should be agreed upon by the Parties.

In addition, the Treaty provides for the adoption of the measures by the Parties to bring the legal system of the Customs Union in accordance with the Marrakesh Agreement. Until this moment the provisions of the Marrakesh Agreement (including the obligations of the Parties

taken upon accession to the WTO) will take precedence over international treaties of the Customs Union and the decisions of its bodies.

The rights and obligations of the Parties under the Marrakech Agreement, can not be canceled neither by the decision of the Customs Union (including the court of EAEC), nor by an international agreement signed by the Parties. If the legal standards of the Customs Union are more liberal in comparison with the Marrakesh Agreement and do not contradict it, the Parties may apply such standards. Making international contracts within the Customs Union, taking and applying the acts of the Customs Union, the Parties should ensure their compliance with the Marrakesh Agreement.

The decision of the Commission of the Customs Union No. 835 "On the equivalence of sanitary, veterinary and phytosanitary measures and risk assessment" dated October, 18, 2011 came into force. According to this Decision, the CU countries should recognize the sanitary, veterinary and phytosanitary measures of other countries as equivalent, even if they differ from those of the Customs Union and (or) states – members of the Customs Union. It is possible provided that the state exporter:

Objectively proves that its measures achieve the appropriate level of sanitary and (or) veterinary protection of the Customs Union or phytosanitary protection of the state – a member of the Customs Union;

Provides the Member States of the Customs Union at their request the access for inspections, testing and other relevant procedures.

Audit procedures, certification and monitoring included into the plan or agreement can also be set. Such procedures shall be applied in respect of any measure found to be equivalent.

The decision of the Commission of the Customs Union № 810 dated September, 23, 2011 «On withdrawal in the application of veterinary measures in respect of the goods included in the Single list of goods subject to veterinary supervision (control)" defines a list of certain products included in the Single list of goods subject to veterinary supervision (control) (approved by the Resolution of the Commission of the Customs Union № 317 dated June, 18, 2010), in respect of which the competent authorities of the Russian Federation do not carry out veterinary control.

The decision of the Commission of the Customs Union No. 721 dated June, 22, 2011 "On the application of international standards, recommendations and guidelines". This Decision determines what should be used as a guide, if there are no documents of the Customs Union or national legislation operating on the territory of the Customs Union, which set binding veterinary (veterinary-sanitary) requirements for plants and plant products, sanitary, epidemiological and hygienic requirements for products of animal and vegetable origin. In this case, the standards, recommendations and guidelines of the International Epizootic Bureau, International Convention on Quarantine and Plant Protection and Codex Alimentarius Commission must be applied.

Moreover, the listed international standards are applied if the veterinary, phytosanitary, sanitary, epidemiological and hygienic requirements operating on the territory of the Customs Union, are much more restrictive than the relevant international standards, in the absence of scientific basis of risk to the life or health of humans, animals or plants.

The decision of the Commission of the Customs Union №747 dated August, 16, 2011 «On Amendments to the regulatory legal acts of the Customs Union in the field of non-tariff regulation in respect of ethyl alcohol and alcoholic beverages». This Decision eliminates paragraph 2.18 of the Single list of goods subject to prohibitions or restrictions on the import or export of Member States of the Customs Union within the Eurasian economic community in trade with third countries. This paragraph includes ethyl alcohol and alcoholic products, limited to moving through Customs border of the Customs Union on import. Respectively, the Regulation on import of ethyl alcohol and alcohol products into the Customs territory of the Customs Union has become invalid. Previously, the importation of such products was carried out on the basis of licenses issued by the competent authorities of a Member State of the Customs Union. With coming into force of Decision №747 this products will be listed only in paragraph 2 of section 2.26 of the Single list, in the number of goods, on import of which the exclusive right is established. It is applied in respect of goods originating from third countries and imported into the Republic of Belarus. The order of application of the exclusive right shall be determined under the law of the Republic of Belarus. All technical regulations developed by the Eurasian Economic Commission (currently – 32) and entered into force (27) are compatible with the WTO rules, although their adoption affects the national economic interests.

The effect of certain regulatory legal acts is partially restricted. So, on August 22, 2012 the provisions of Part 6 of Article 18 of the Federal Law №61-FL dated April, 12, 2010 “On Circulation of Medicines” began to operate. The norm establishes the rule on the period of information protection submitted by the applicant for the state registration of medicines. In respect of such information a ban on receipt, disclosure, use for commercial purposes and the state registration of medicinal products for six years from the date of such registration is imposed.

Russian Federation Government Resolution №781 dated September 15, 2011 “On Amendments to the Regulations on Patent Fees for the performance of legally significant acts related to a patent for invention, utility model, industrial design, with the state registration of a trademark and service mark, with the state registration and granting the exclusive right to the appellation of origin of goods, and also with the state registration of the transfer of exclusive rights to other individuals and agreements on the disposal of these rights “ abolishes the division between residents and non-residents for the purposes of payment of patent and other fees.

Since August 22, 2012 Russian Federation has no longer been subject to the rules of the Agreement dated December, 9, 2010 “On common rules of state support of agriculture” on the limitation of measures to support agriculture by Member States of the Customs Union. Instead, the restrictions established by the Protocol of Accession to the WTO are applied. It should

be noted that in accordance with Part 1 of Article 6 of this Agreement, the level of measures that have a distorting effect on trade, was determined as the percentage of the volume of state support of agriculture to the gross value of agricultural commodities in general. This level of measures was not to exceed 10%.

Other principles of agricultural support have been identified by the Protocol of Accession to the WTO. In Annex II to the Protocol of Accession to the WTO it is determined that the internal state support for agriculture will be limited to a fixed amount, which would gradually decrease from \$ 9 billion dollars in 2012 to 4, 4 in 2018 (Section I of Part IV “Agricultural Products: Commitments limiting subsidies of Annex II to the Protocol of Accession to the WTO”).

According to the data of Eurasian Economic Commission, the volume of foreign trade of goods of Member States of the Customs Union and the Single Economic Space with third countries in January-September 2013 amounted to 681, 2 billion dollars including export – 429, 5 billion dollars, import – 251, 7 billion dollars. In comparison with the same period of 2012 the volume of foreign trade decreased by 0, 7%, or 4, 6 billion dollars. The export of goods decreased by 2,3%, or 10, 2 billion dollars, the import increased by 2,3%, or 5,7 billion dollars. Without taking into account energy products, the value of export decreased by 7,5%, the figure for import increased by 2,9%. The balance of foreign trade was positive in the amount of 177, 8 billion. In January-September 2012, the value was 193, 7 billion.

**Table 1.3**

**The foreign trade volumes of Member States of the Customs Union and the Single Economic Space in January-September 2013 (the total value of exports of Member States of the Customs Union and the Single Economic Space (billion. dollars))**

	export	import	The balance of foreign trade	% by January – September 2012	
				export	import
Customs Union and the Single Economic Space	429, 5	251, 7	177, 8	97, 7	102, 3
including:					
Republic of Belarus	15, 4	14, 7	0, 7	64, 6	110, 7
Republic of Kazakhstan	56, 0	21, 9	34, 1	92, 7	105, 6
Russian Federation	358, 1	215, 1	143, 0	100, 7	101, 4

The volume of mutual trade in January-September 2013 amounted to 47, 5 billion, or 93, 4% compared to the corresponding period of 2012.

**Table 1.4**

**The volumes of mutual trade of Member States of the Customs Union and the Single Economic Space in January-September 2013**

		billion dol- lars USA	% by January – September 2012	Proportion in volume,%
Customs Union and the Single Economic Space		47 509,8	93,4	100,0
including those between:				
Republic of Belarus and Republic of Kazakhstan		687,4	96,3	1,4
Republic of Kazakhstan and Russian Federation	17 175,8	102,3	36,2	
Russian Federation and Republic of Belarus	29 646,6	88,9	62,4	

The decrease in the volume of mutual trade is due to a significant reduction in the supply of petroleum products from the Russian Federation to the Republic of Belarus (in January-September 2012 compared with the corresponding period of 2011, the volumes increased by 2,3 times). Without taking into account energy products the volume of mutual trade of Member States of the Customs Union and the Single Economic Space in comparison with January-September 2012 increased by 1,8%.

**Table 1.5**

**The dynamics of mutual trade of the Customs Union countries.**

	2010		2011		2012		2012 % by 2009
	billion dollars USA	% by 2009.	billion dollars USA	% by 2010	billion dollars USA	% by 2011	
the volume of mutual trade of CU	47134,6	129,1	63 100,9	133,9	68 582,2	108,7	187,8
including:							
Belarus – Kazakhstan	870,6	224,2	807, 6	92, 8	924, 8	117,2	238,2
Kazakhstan – Russia	18 128,3	142,8	22 330,6	123, 2	23 860,1	106,8	191,7
Russia – Belarus	28 034,2	119,6	39 991,6	142,6	43 824,6	109,6	186,9



For the Republic of Belarus the trade turnover with the member countries of the WTO, in comparison with January-September 2012 decreased by 15, 4 % and amounted to 57, 9 billion dollars (96, 4% of the total trade of the Republic of Belarus). The export of goods decreased by 21, 8% and amounted to 26, 8 billion dollars, the import of goods decreased by 9,1% and amounted to 31, 1 billion dollars. The negative balance of foreign trade was 4, 3 billion dollars USA [75].

**Table 1.6**  
**The dynamics of foreign trade of the Customs Union countries.**

	2010		2011		2012		2012 % by 2009 r.
	billion dollars USA	% by 2009	billion dollars USA	% by 2010	billion dollars USA	% by 2011	
The volume of foreign trade of CU with third countries	686 278,6	132,6	910 646,7	132,7	939 335,2	103,2	181,5
among them:							
CIS countries (without the CU countries)	58 354,2	139, 5	80 439,1	138,7	78 774,2	97,9	188,3
European Union	359 830,9	128,1	468 570,4	130, 2	491 124,0	104,8	174,8
APEC (with- out RF)	170 718,5	148, 6	230 940, 9	135, 3	239 933, 1	103, 9	208,8
among them:							
USA	26 219,4	125,6	34 391,6	131,2	31 546,1	91,7	151,1
China	75 477,0	150,2	107 423,1	142,3	114 381,0	106,5	227,6

Thus, the accession of the Russian Federation to the WTO has not resulted in significant and simultaneous changes in the Customs legislation of the Customs Union, since the legal framework of the Customs Union was originally designed based on the best international practices and standards of the WTO. The Treaty on the Functioning of the Customs Union within the framework of the multilateral trading system has determined the place of the WTO provisions in the legal framework of the Customs Union: it proclaims the priority of WTO Provisions in the event of a conflict with the standards of the legal base of the Customs Union and requires that the Customs the Union fulfill the conditions of accession to the WTO Member States.

We believe, that t accession of the largest member of the Customs Union to the WTO, given the resource orientation of its economy, the size of the market opening, interrelatedness and complementarity with the partners of the Customs Union should be an instrument for the

modernization of the economy, changes in the structure of foreign trade. In the future it should lead to the formation of innovative economy through the use of capacity and capability of the WTO and thus ensure the economic security of all regional associations and the States parties.

It is especially significant for the Republic of Belarus. Since the accession of Russia to the WTO, Belarus actually operates within the legal framework of the WTO, without being a part of it and not being able to use the mechanisms provided for the members of this organization to protect its interests.

An important issue of ensuring economic security of the regional grouping may be the union in its framework of national industries, developing on an innovative way, and the spheres of exchange of several states into a single economic organism functioning in a single legal and economic space, protected from the competitive sectors of the world economy by external customs, administrative and other barriers.

Definitely to create the objective conditions of the EAEC besides functioning economy, the willingness of state and political leaders of the Member States of integration association for the common goal of integration and innovation development was required, improving in this way the economic situation of the country, to go to certain limitations of national sovereignty in the economic as well as in political developments in connection with the creation of supranational government of the Eurasian Economic Union.

### **Summary**

One of the features of the integration of transformations in the post-Soviet space is not only a different speed of their implementation, but also the gradual achievement of the maximum use of regional integration association of a higher level under the existing mechanisms of a lower stage of integration. The driving force behind the ongoing transformation is to ensure the economic security of the Member States and their economic interests. One of the key objectives of the Eurasian Economic Union is to create conditions for sustainable economic development of the Parties in the interests of improving the living standards of the population. Customs Union of Belarus, Kazakhstan and Russia should be an instrument for the modernization of the economy, changes in the structure of foreign trade. In the future it should lead to the formation of innovative economy through the use of capacity and capability of the WTO and thus ensure the economic security of all regional associations and the States parties.