

EUROPEAN COMMITTEE UNDER THE GOVERNMENT
OF THE REPUBLIC OF LITHUANIA

**Evaluation of the Consequences of
Implementation of Regulation 2913/92/EEC and
Regulation 2454/93/EEC
Specifying the Provisions of Its Implementation**

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Research report

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1. SUMMARY

Regulation of the European Council (EEC) No. 2913/92 enforced the uniform Community Customs Code (general regulations); Regulation of the European Commission (EEC) No. 2454/93 specified the provisions of its application (detailed regulations). These legal norms are mandatory and are directly applied in all member states. The EU Customs Code and provisions relating to its application are the general legal basis of the Customs Union.

The work is aimed at carrying out a comprehensive evaluation of the consequences of implementation of Regulation 2913/92/EEC and Regulation 2454/93/EEC specifying the provisions of its implementation.

The main statements of the work were formed after performing an analysis of Lithuanian legal acts, having questioned experts and upon examination of the statistical data on the customs activity:

1. Transposition of the EU Customs Code and the provisions relating to its application into the Lithuanian legal system will call forth structural changes in the Customs legal basis.
 - Norms of Regulation No. 2913/92 are reflected in the Law on Supplements and Amendments to the Articles of the Customs Code of the Republic of Lithuania, which has been already adopted by the Seimas of the Republic of Lithuania and will come into force from 1 June 2002.
 - Provisions of Part II of the Customs Code of the Republic of Lithuania, possessing national uniqueness and regulating the activity of the Lithuanian Customs Office, will be transposed as a separate law, the draft of which has been already prepared.
 - Provisions of Regulation No. 2454/93 will not be transposed as a separate legal act, but will be implemented in the entire scope of legislative acts, i.e. in the form of resolutions of the Government of the Republic of Lithuania, provisions, rules, and methods. Some part of them has been prepared, while others shall be prepared and approved until 1 June 2002. Certain parts of Regulation No. 2454/93 (e.g., establishment of free warehouse) have been distinguished by politicians and they were awarded a higher level, i.e. that of law.
2. Transposition of Regulation No. 2913/92 and provisions relating to its application into Lithuanian Customs legislation should not cause essential problems, this is rather a technological question. Their need and effect depend mostly on how successful will be the harmonization of the totality of the rules and the general legal system of Lithuania and its separate elements, regulating different fields of business and groups concerned, economic interests of the state and business entities. These issues belong to the field of other departments (Ministries of Finance, Economy, Transport, Environment, and Agriculture).

3. Harmonization of the laws, regulating the Customs activity (especially, legislative acts) is the sphere of priority, on which the general success of preparation for work in the Customs Union depends.

This conclusion is also approved by the generalized opinion of the groups concerned and business entities.

Statements that the main legal acts of Lithuania are adjusted with the EU Customs Code and its application provisions do not mean that their requirements are fully identical. Regulations No. 2913/92 and No. 2454/93 do not prohibit the national customs offices to apply additional requirements, restrictions, if they do not contradict the EU customs legal provisions. This opportunity is being made use in Lithuania, thus even the harmonized legal acts contain additional restrictions. Their existence is due to the following main reasons:

- Both in Lithuania and neighbouring eastern states (Russia, Ukraine, Belarus), with which sufficiently intensive foreign trade is going on, business standards and environment (corruption, shadow economy, criminogenic situation) differ from the standards of the EU states to a considerable extent.
- Lack in the competence of customs officers does not allow fighting against violations of customs order with the use of other means.
- Comparatively poor equipping of customs checking posts with modern technical control measures.

Elimination of these national “specific features” from the customs legal basis is most probable after 2004, after Lithuania’s membership into the EU.

4. At the moment the Lithuanian Customs organizational system is constituted of the Customs Department under the Ministry of Finance of the Republic of Lithuania, the Customs Information Systems Centre, the Customs Training Centre, the Customs laboratory and 10 territorial customs offices being under the subordination of the Customs Department. From 2003, after the implementation of the territorial customs reform, it is foreseen to leave only 5 territorial customs offices.

Under the subordination of the territorial customs offices are: 22 cargo posts, 58 customs checking places, 23 road posts, 15 railway posts, 4 air posts, 3 sea port posts, 3 river harbour posts.

Road posts are established:

- 7 on the border with Latvia;
- 4 on the border with Russia (Kaliningrad Region);
- 10 on the border with Belarus;
- 2 on the border with Poland.

After Lithuania’s membership into the EU, the borders with Russia and Belarus will become the external EU border, and the borders with Latvia and

Poland – the internal border, where customs checking will not be effected and 9 posts will have to be restructured for other needs.

With the reduction of traditional customs checking volumes, it is necessary to make inventory of the need of customs offices and their units, to optimize their number. A new layout plan of customs units should be prepared until July 2002.

5. The implementation of the Customs Code and provisions relating to its application in terms of time and localization will affect separate areas at a different degree. The strongest effect at the preparation stage will be felt by the Customs system, somewhat weaker by the State Tax Inspectorate (tax administration will be subject to changes) and by the Department of Statistics (the procedure for collection and processing of data for drawing up foreign trade balance sheets will change).

6. According to the works foreseen by the Customs Department and additional expenses, preparation for the Customs Union membership will cost LTL 186,845.9 thousand to the state budget.

The major part of costs, LTL 138,466.0 thousand, or 74.1% of the general requirement of extrabudgetary funds, will be needed for the protection of customs posts at the future external EU borders, sea and air ports, and the free zone customs office.

The considerable part of funds, LTL 43,157.2 thousand, will be required for the establishment of the criminal customs institution, and for the development of the Customs Information Systems Centre (CISC) and the Customs Laboratory – LTL 43,157.2 thousand or 23.1% of the total requirement of extra funds.

7. Special attention should be focused on the fact that Customs Office while strengthening the performance of separate functions (tariff regulation, control and surveillance, external audit, tax and administration) plans to achieve this without increasing of the staff number, but rather by their redistribution. The planned number of the redistributed staff for 2002–2003 (including new staff of the criminal service and of the general agricultural policy department) will make 327 positions. This will cause an increase in the additional training and requalification costs.

For acquisition of additional equipment LTL 38,851.0 thousand (20,8%) will be needed, for professional training LTL 1,453.0 thousand (0.8%) of the amount of pre-accession costs. It is these trends that are related mostly with the activity efficiency of the officers (labour efficiency) and the requirements for quality improvement preparing for work in compliance with the EU Customs standards, therefore the additional requirement of officers according to the trends foreseen will be covered on the basis of staff redistribution and requalification.

In the opposite case, upon the accession into the EU and with the volumes of checking becoming reduced, a reduction in the number of the staff within the augmented preparation period would have a more socially painful effect, would cause negative economic (the scale of the service benefits would

increase) and psychological (discharge from work would be related to the EU membership) consequences.

8. In assessing the opinions and evaluations of the groups concerned and business representatives from the standpoint of accession to the EU, it is noted that they do not lay stress on more serious negative consequences, the expectations are positive and optimistic.

On the other hand, it is evident that business representatives are not interested seriously enough in business changes on the EU common market, they lack time for following them and responding to the changes to be made in the Lithuanian Customs legislation and system functioning, therefore it is probable that after the accession into the EU quite a considerable part of them due to the lack of knowledge in the European customs laws and experience will suffer serious medium term adaptation difficulties, and their business will suffer negative consequences.

9. In the opinion of business representatives, the most important aspects of restructuring of the customs system are considered to be:

- Legal normative base (here the necessity of coordination and increase of stability for lower level legal acts, resolutions and orders, is especially stressed);
- Raising of technical level of customs offices, especially as concerns the more rapid development of information technologies (rejecting unnecessary written documents);
- Increase of professional management (decision-making) and changing of approach to fair business.

10. After Lithuania's membership into the EU and with the implementation of the provisions of Regulations 2913/92 and 2454/93 of the Community, essential changes are probable in respect of the principle of free movement of goods in the internal market of the EU member states. Already at the moment Lithuanian export and import to the EU countries account for 45.8 %, to the candidate countries 17.2 % and to other countries 37.0 % of the total import and export of Lithuania (according to the data of the Department of Statistics of January – October 2001. This means that trade volumes regulated by the Customs Code will reduce by almost two thirds. Simultaneously, the customs control requirements at the external EU borders will also increase considerably, since the gap of different excise tariff prices for goods subject to excise duties (tobacco, alcohol, oil products) will increase significantly and therefore threat of smuggling will augment simultaneously.

11. Reduction of trade flows within the sphere of the Customs Code regulation will cause the following essential changes:

- The work volume of the Customs Department and the services under its subordination in the traditional fields of activity (preparation of documents, accounting, physical checking of cargoes) will reduce. The role of new areas of customs activities (external audit, prevention of

violations, application of risk analysis models, etc.) and the share of the said functions will increase;

- Business entities, exporting or importing goods to/from the EU countries, will not experience costs or inconveniences, which have been formed due to the application of customs procedures;
- At the State Tax Inspectorate a new procedure of accounting for trade with the EU countries should be created;
- At the Department of Statistics the EU internal trade data and accounting system should be created.

Changes resulting from changing the size of customs and other duties and the procedure of collection have not been analyzed in this study.

12. After conducting an analysis of the general customs documents within 1999 – January – September 2001, it was established that 86-88 % of the number of the completed general import documents are documents intended for import from the EU and candidate countries and 64 – 49 % of the general export documents are intended for export to the EU and candidate countries.
13. Reduction in the volume of work of customs services will especially affect customs posts on the border of Poland and Latvia. Currently, 156 officers work at the border posts of Lithuania – Poland, and 189 officers at the border of Lithuania – Latvia. Since the state borders with the said countries will become the internal borders of the EU countries, only the occasional checking procedure is possible at these posts. Taking into consideration the fact that in most cases the officers are from the local population, this may increase the level of unemployment in these localities. Functional changes, redistribution of the staff positions will increase the requalification and training costs. In addition, it is probable that not all the customs officers will be able to adapt themselves to new requirements, therefore the fluctuation of staff may increase with all ensuing social – economic consequences.
14. Upon evaluation that at the moment high inadequacy exists as regards the loading of territorial customs offices and that their work volumes will reduce still more with Lithuania's membership into the EU, as well as the foreseen computerization of operation, in the authors' opinion, it is expedient, without reducing the progress rates as regards territorial customs restructuring reform, to update in the progress of work: its scale upon evaluating the opportunities for the application of Estonian experience in Lithuania.
15. After evaluating the reduction of foreign trade volumes regulated by the Customs Code, it is predicted that the number of customs agents may decrease by approximately 200 people. This will not cause considerable negative social consequences, since these are highly qualified persons, who already at present most often adjust their business with other services (e.g. insurance broker's services). In addition, high probability exists that their services will be used by other EU countries carrying out trade with eastern states, since the specific

features of their customs activities is hardly understandable to the representatives of the civilized economy.

16. It is possible to forecast that advantages provided by the trade with the EU countries upon entering the EU will be experienced by 17,000 – 20,000 of Lithuanian business entities. This impact will be manifest in:
 - Faster delivery of cargoes due to the unnecessary physical checking of a cargo;
 - Simpler preparation of accounting documents;
 - The possibility to use the customs services of the EU countries;
 - No need of financial guarantees.
17. These factors will increase competitiveness of Lithuanian business entities, since prices of part of goods and services in the markets of the EU countries will become lower due to the reduction of transport and customs control costs, they will increase the attractiveness of Lithuania as a transit country, through which goods will be transported from the EU countries to the CIS countries due to simpler customs control positions.
18. Costs, formed due to time expenditures when crossing the state border of Lithuania and the future internal borders of the EU and drawing up documents at customs services, constitute LTL 556 million annually, on the average. This reduction in costs will be felt by business entities, importing or exporting goods to the EU countries. Expenses, experienced because of the preparation of customs documents, with the change of the procedure for trade with the EU countries, may reduce by LTL 650-700 million per year, this accounting for 2.3 % of the total declared annual import and export value.
19. Business entities, which will be involved, are involved in export to the EU countries, will have the annual economic effect amounting to LTL 374.9 million, this making 2.8 % of the total declared export value. Business entities, which will be involved, are involved in import from the EU countries will experience the annual economic effect amounting to LTL 301.1 million, this making 2.0 % of the total declared export value.
20. The manufacturing industry will experience the major effect among business entities. The major part of the value of exported goods among separate branches of the said industry, not taking into account oil product production, belongs to the apparel making industry – 21.0 %, foodstuffs and beverage production - 11.2 %, production of textile articles – 10.6 %, chemicals and chemical industry 9.7 %, woodworking, except furniture production, 7.2 %.
21. For foreign trade accounting between the EU countries, a special intrastate service should be created in Lithuania. Intrastate control will be conducted by

way of selection. An annual foreign trade limit is foreseen and the enterprises that have not reached it are released from filling in of an Intrastate declaration. It is established that not less than 98.5 % of the total export and import should be accounted. It is predicted that it will be needed to question 10,000 business entities, which will trade with the EU countries. The implementation of Intrastate system will require LTL 3.5-4 million per year.

22. In the opinion of business representatives due the membership into the EU and the customs Union:
 - the need for forwarding services will extend, especially in servicing cargo flows to the East;
 - new market niches for customs warehouses, free zones, import-export terminals will appear;
 - cargo transportation and trade with the EU states will become simplified and faster;
 - the alignment with the EU states (as a condition of competition) will call forth technological progress;
 - the EU requirements and standards, the obligation to follow them will accelerate the restructuring of the Customs system.

23. Special attention should be focused on the fact that business representatives are not sufficiently consistently involved in analyzing the specific features of the changes in customs activities, therefore it is probable that with Lithuania's membership into the EU, the gaps in the legal knowledge and experience in respect of the European customs law will be expressed, and they, no doubt, will have negative consequences for their business.

24. An important problem to be faced by the Lithuanian customs system after the membership into the EU is the lack of qualified specialists, especially in the field of tariff and non-tariff regulation of the EU customs law. The kernel of such specialists is concentrated at the Customs Department, which carry the main load (in most cases too high to be realistic) of preparation work, while their material interest is decreasing, and we therefore forecast that in the short-term perspective the intensive brain drain to the local and foreign business entities may start.