

## CUSTOMS UNION – FIRST YEAR OUTCOMES AND FUTURE DEVELOPMENT PROSPECTS

Efforts to establish the Customs Union within EurAsEC were carried out in accordance with the Action Plan for creating the Customs Union approved by Resolution of the EurAsEC's Interstate Council as the Supreme Authority of the Customs Union (Resolution No.1 of October 6, 2007).

So far, activities have been implemented to create contractual legal framework of the Customs Union, establish common customs tariff, introduce a single system of trade and customs regulation, sanitary, veterinary and phytosanitary control, as well as design the institutional structure of the Customs Union.

Further efforts are focused on unification of trade regimes and protective measures, as well as phased transfer of the agreed types of state control to the customs border of the Customs Union.

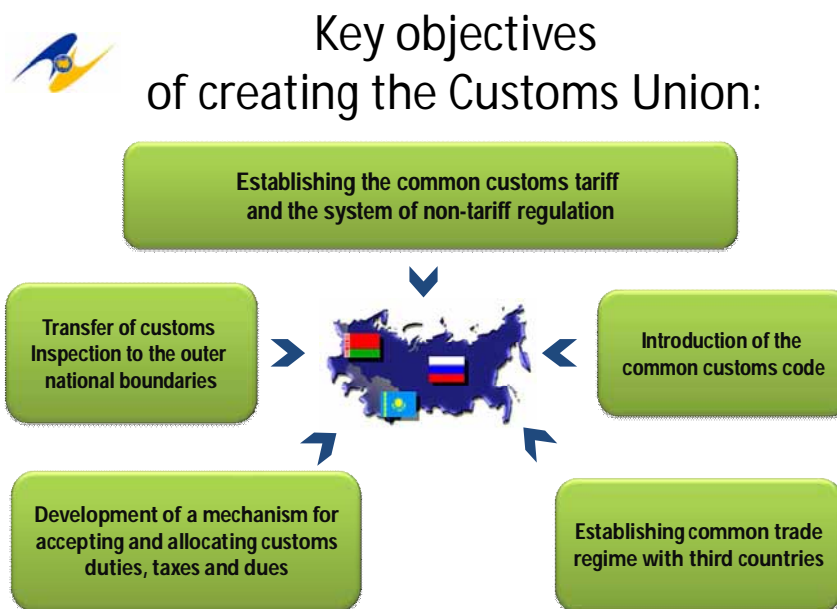


Figure 1 Key objectives of creating the Customs Union

### 1. Foreign merchandise trade regulation

On November 27, 2009, the EurAsEC's Interstate Council issued Resolutions No. 18 and 19 vesting the Commission with corresponding authority in customs, tariff, and non-tariff regulation of foreign trade in the Customs Union in accordance with the ratified international treaties.

Committee for Foreign Trade Regulation has been established by the Commission for prior review and coordination of proposals made by the Parties regarding foreign trade regulation measures. The Committee has drafted and approved regulation on submission of

corresponding proposals to the Commission with a requirement to ensure their economic feasibility.

In the area of **customs and tariff regulation** the Commission has approved common customs tariff for the Customs Union. After being authorized, the Commission approved more than thirty resolutions regarding modification of import duties, granting tariff concessions, and establishment of tariff quotas for certain types of goods originating in third countries on proposal of the Parties.

By its **non-tariff regulation** authority the Commission has approved a Single List of goods subject to bans or restrictions on importation or exportation by the Customs Union member states in the course of their trade with third countries, as well as provisions on application of appropriate restrictions. As a decision-maker in application of measures in respect of third countries with impact on foreign trade in goods within a common customs area, since January 1, 2010, the Commission has made over twenty decisions to clarify a number of sections and clauses of this common list of goods.

At the same time, there is a need to address practicability of applying non-economic prohibitions and restrictions in mutual trade among the CU member states. To this end, ongoing efforts aim to draft regulations governing circulation of certain types of commodities on the common customs area subject to different restrictive measures (hazardous waste, drugs, service and civilian weapons, special machinery, etc.) in accordance with international treaties.

With regard to the application of **measures to protect the domestic market**, the Commission has approved Provisional Rules on investigations prior to the introduction of special protective, antidumping and compensation measures, as well as submission of proposals based on the findings of investigations to the Commission.

Measures that protect domestic market are currently applied by the CU member states in accordance with the national law. The Agreement on application of special protective, antidumping and countervailing measures during the transitional period was made in order to unify and standardize such measures.

The matters of **export control** prior to the adoption of relevant international agreements are governed by the national law. The Customs Union has determined the list of relevant legal regulations to be taken in this area. The Action Plan on exercise of export control over the CU member states has been approved.

## **2. Technical regulation and application of sanitary, veterinary and phytosanitary measures**

In accordance with Resolutions No. 38 and 39 issued on May 21, 2010 by the EurAsEC's Interstate Council acting as the supreme authority of the Customs Union at the level of heads of governments, common legal framework for public health, veterinary and phytosanitary measures has become effective on July 1, 2010 in the common customs area of the Customs Union; these measures provide for the application of common lists of controlled goods and related claims, as well as a common order of their import and circulation within common customs area.


 Technical regulation and application of sanitary, veterinary and phytosanitary measures:



Figure 2. Technical regulation and application of sanitary, veterinary and phytosanitary measures

Sanitary and epidemiological, veterinary, and phytosanitary quarantine types of control have been cancelled at the Russian-Belarusian border. At the same time, 22 additional health and quarantine posts have been established at checkpoints on the Belarusian part of the customs border of the Customs Union. Since July 1, 2011, these types of controls should be abolished at the Kazakh-Russian border, as well.

Most of the legislative regulations of the Customs Union in the area of public health, veterinary and phytosanitary measures are direct action regulations. National laws of the CU member states apply only to the extent that they do not contradict these regulations.

**Application of sanitary control measures** is based on permits prepared according to the common templates recognized by all CU member states without additional confirmation of compliance. The Parties make efforts to include corresponding legal regulations of the Customs Union into their own national laws.

A total of 8,183 certificates of state registration of products according to the uniform template were issued in the Customs Union before December 2010, of which the Republic of Kazakhstan issued 48 certificates; Russia – 6,052 certificates, and the Republic of Belarus – 2,083 certificates.

Since January 1, 2011, **application of veterinary control measures** is based on permits prepared according to common templates recognized by all CU member states without additional confirmation of compliance with the uniform veterinary and sanitary requirements for products. In the Republic of Belarus and the Republic of Kazakhstan, national laws are wholly brought into compliance with the laws of the Customs Union. The Russian Federation is drafting a federal law on amendments to selected legal acts of the Russian Federation in connection with improvements of public administration in veterinary medicine.

**In the area of plant quarantine**, phytosanitary certificates are already issued in accordance with a common international template. In this case, a certificate issued in the territory of one Party is recognized in the territory of other member states of the Customs

Union. At present, competent authorities in Russia and Belarus are fully guided by the corresponding legal framework of the Customs Union. At the same time, the Russian Federation drafts a new version of the law on plant quarantine that takes into account applicable laws of the Customs Union in this area. Before transfer of phytosanitary quarantine control to the outer border of the Customs Union in the Republic of Kazakhstan since July 1, 2011, relevant Kazakh authorities are guided by the applicable national law on plant quarantine.

In accordance with decisions recently made **in the area of technical regulation**, current efforts aim to harmonize the legislation. The Parties determined a list of products, certificates of compliance for which may be issued in accordance with common templates and are recognized by all CU member states without additional confirmation of compliance. At the same time, lists of products that are subject to mandatory assessment of compliance with the established safety requirements, as determined under national laws, still remain in force.

Further unification of technical regulations in the Customs Union will be implemented through the adoption of uniform technical regulations of the Customs Union in accordance with the interstate agreement on common principles and rules of technical regulation in the Republic of Belarus, Kazakhstan and the Russian Federation, signed on November 18, 2010. The Parties draft a strategy for promotion of a common system of technical regulation, application of sanitary, veterinary and phytosanitary measures of the Customs Union for 2011-2015.

### 3. Customs regulation

The common system of customs regulation in the common customs area of the Customs Union has become operational upon effectiveness of the Agreement on the Customs Code of the Customs Union from July 6, 2010. Implementation of the Action Plan for enforcement of the Customs Code of the Customs Union is coming to a close. In accordance with the Customs Code of the Customs Union, the Parties adopted 83 regulations that come within the terms of reference of the Commission.

The Parties now work to harmonize their national laws with the Customs Code of the Customs Union.

Unification of criminal, civil and administrative laws of the CU member states related to the illegal movement of goods across the customs border is a prerequisite to effective enforcement of the legislation of the Customs Union. According to the findings of analysis of criminal law of the three states, there are different approaches to the definition of a subject of contraband, depending on its economic characteristics and scarcity in public circulation, as well as inconsistency of legislative provisions regarding the grounds for confiscation of goods that are smuggled. It is necessary to unify the definition of a subject of contraband and confiscation of property for smuggling. It is also necessary to facilitate the amendment of relevant articles of the criminal and administrative laws of the CU member states with a view to harmonize terms used in the specified branches of law in accordance with the terminology and concepts of the customs legislation of the Customs Union.

The Commission **monitors compliance with the customs legislation of the Customs Union**. According to outcomes of the law enforcement practice of the Commission for the first months of effectiveness of the Customs Code of the Customs Union, it may be noted that cancellation of customs clearance and control over goods

produced in the Customs Union transported across international borders within the common customs area, has greatly facilitated mutual trade and growth of economic activity.

In order to ensure transfer of the customs and other agreed types of control, as scheduled on July 1, 2011, the Commission decided to establish a joint group of experts from the Parties, which was assigned to assess and analyze availability of technical equipment and facilities, technical and technological capabilities, availability of necessary hardware and software at checkpoints in the territory of the CU member states, and draft model requirements for equipment and availability of technical and material facilities in buildings, premises and constructions that are necessary for the organization of customs control.

This group has monitored the actual status of seven checkpoints located on Belarusian section, 25 checkpoints on Kazakh section, and 20 checkpoints on Russian section of the outer border of the Customs Union. According to the findings of the monitoring, requirements for equipping and supplying of checkpoints in the CU member states differ from each other. To establish uniform requirements necessary for harmonization of the national laws in this area, as well as approval of the model requirements for equipment and supply of checkpoints at the outer borders of the Customs Union, and adoption of a corresponding international treaty.

#### **4. Regulation of tax and financial relationships**

**In the tax area**, the Parties have established the legal and regulatory framework for the Customs Union in the area of indirect taxation, which regulates collection of indirect taxes and allows exercising control over their payment in case of exportation and importation of goods.

CU member states make efforts to harmonize their tax laws with the international regulations of the Customs Union.

In pursuance of resolutions No. 36 of May 21, 2010, and No. 57 of November 19, 2010, issued by the EurAsEC's Interstate Council acting as the supreme authority of the Customs Union at the level of heads of governments, it was assigned to take measures to terminate bilateral agreements on collection of indirect taxes in mutual trade. Since July 1, 2010, clauses of such bilateral documents apply only to the extent that their provisions are compatible with clauses of the Agreement on principles of levying indirect taxes on exports and imports of goods, works and services in the Customs Union of January 25, 2008.

**In the area of monetary and financial relations**, Agreement on establishment and implementation of the order of entry and allocation of the amounts of customs duties in the Customs Union (other duties, taxes and charges having equivalent effect) has been in effect since September 1, 2010. In accordance with this Agreement, customs duties are paid to the common account of the authorized body of a party, in the territory of which they are payable under the customs legislation of the Customs Union, and distributed to budgets of the Parties in accordance with the established distribution standards: 4.70% for the Republic of Belarus, 7.33% for the Republic of Kazakhstan, and 87.97% for Russia.

It is planned to sign an agreement on countering the legalization (laundering) of proceeds from criminal activities and the financing of terrorism in case of importation/exportation of cash and/or financial instruments to/from the territory of the Customs Union, a draft of which is currently undergoing the domestic harmonization and approval procedures.

## 5. Communication and statistics

Protocol on the order of collecting foreign and mutual trade statistics from the CU member states and Protocol on status of customs statistics of the Customs Statistics Center of the Commission became effective on July 1, 2010. The Commission approved the common methodology of keeping customs statistics for foreign and bilateral trade with the CU member states, adopted technical specifications for the transfer of data, and approved the statistical work program for the Customs Statistics Center of the Commission for 2011.

According to the preliminary statistics of foreign and mutual trade between the CU member states over the first six months of 2011, there was a substantial increase as compared to the second half of 2010.

Total volume of **foreign** trade of the CU member states with third countries in the first six months of 2011 was USD 430.8 billion, of which exports amounted to USD 280.8 billion, and imports amounted to USD 150 billion. If compared to the same period of 2010, trade turnover increased by 34.9%, exports increased by 30.9%, and imports increased by 43.1%. If compared to the second half of 2010, trade turnover increased by 14.8%, export increased by 23.3%, and imports increased by 1.6%.

Although import growth rates exceed substantially the rates of export growth, actual increment in total value of foreign trade is to a greater extent due to the increment in the value of exports. For the Customs Union as a whole, foreign trade surplus for the first six months of this year was USD 20.8 billion more than for the same period of the last year; it increased by USD 50.8 billion if compared to the second half of the last year and reached USD 130.8 billion.

The charts below show values of foreign trade, imports and exports of the CU member states in 2008-2011:

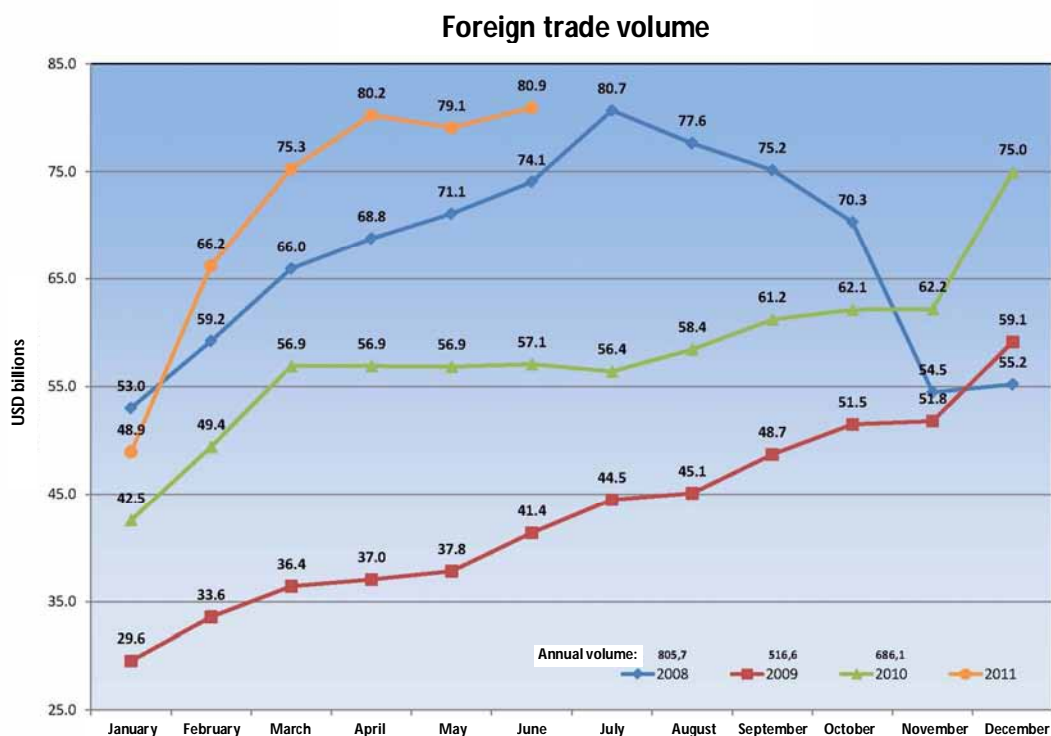


Figure 3.



Figure 4.



Figure 5.

It should be noted that this year volume of foreign trade of the CU member states is much higher than in 2009 and, most importantly, the pre-crisis year of 2008.

The share of the Russian Federation in the total volume of foreign trade of the CU member states over the first six months of this year was 83.1% (81.3% of total exports and 86.4% of imports). If compared to the first six months of 2010, shares of the Republic of Belarus and the Republic of Kazakhstan in the total volume of foreign trade increased by 1.2% and 0.8% respectively, while the share of the Russian Federation decreased by 2% due to 3.2% decrease in its share in total merchandise exports. Respective shares of the Republic of Belarus and the Republic of Kazakhstan in the total volume of merchandise exports to foreign markets increased by 1% and 2%.

The share of the Republic of Belarus in the total imports of goods increased by 1.1%, while the share of the Republic of Kazakhstan decreased by 1.1%. The share of the Russian Federation in total imports remained the same.

The chart below shows foreign trade shares of the CU member states in the total volume of foreign trade of the Customs Union over the first half of 2010 and 2011:

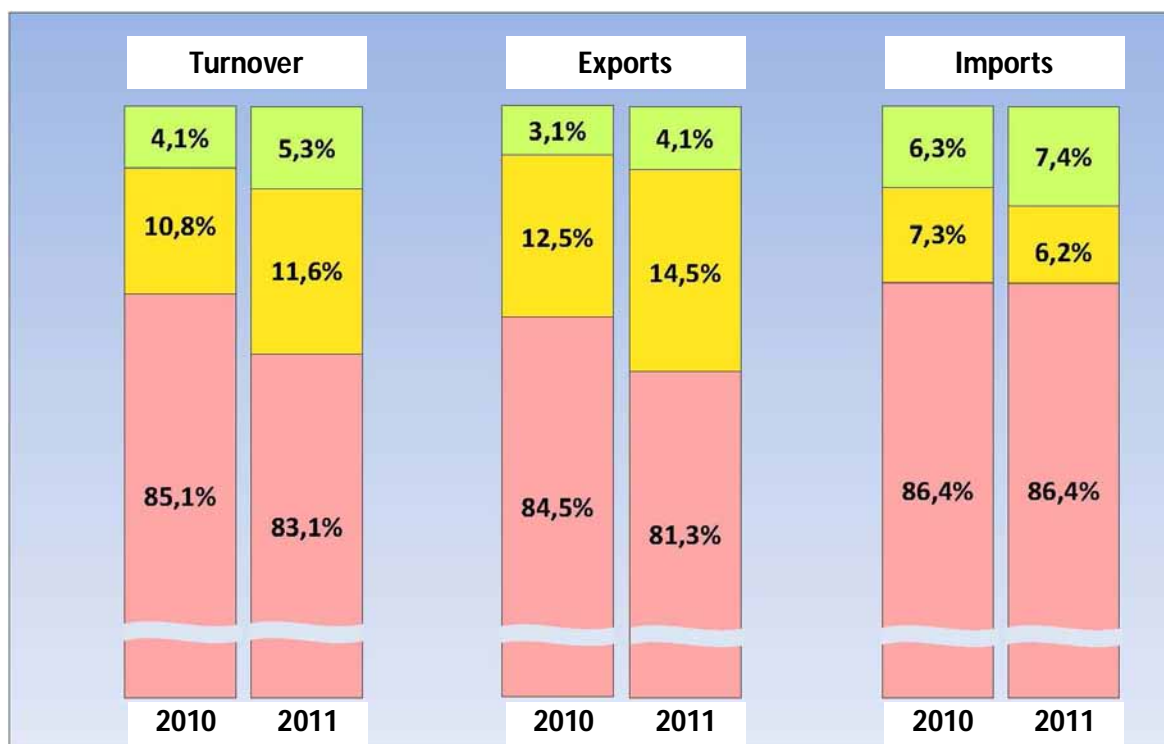


Figure 6.

The chart below shows changes in shares of the CU member states in the total volume of foreign trade of the Customs Union over the first six months of 2011 as compared to the first six months of 2010:



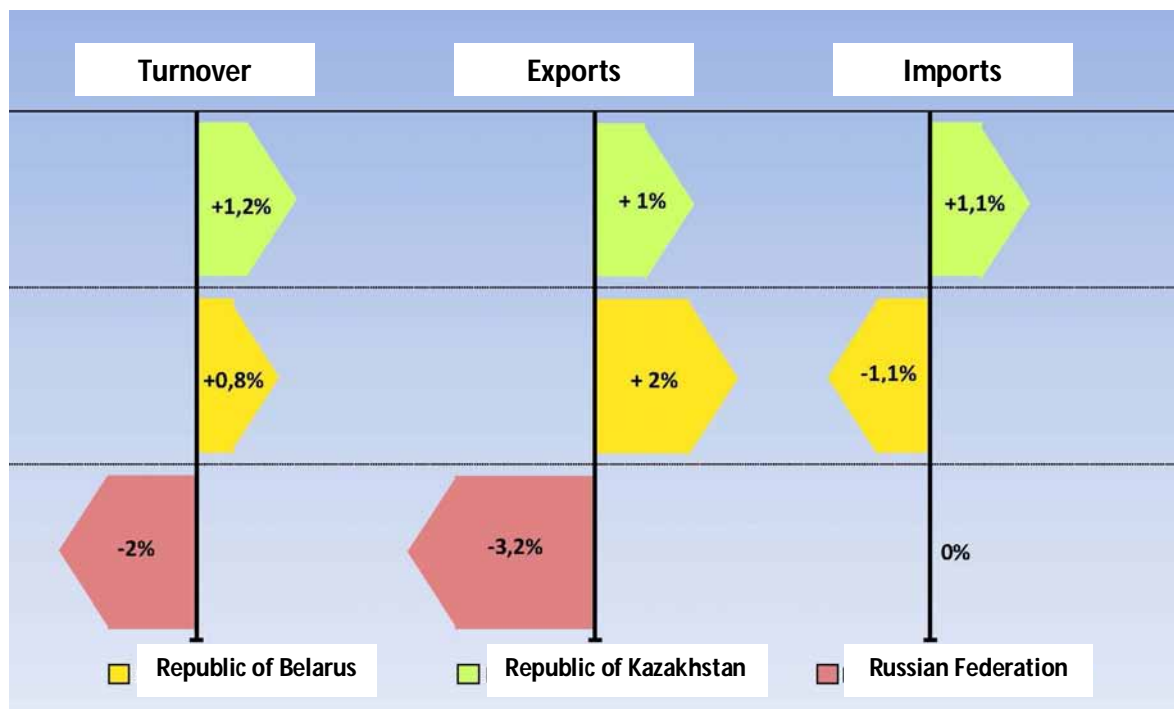


Figure 7.

The value of **mutual** trade within the Customs Union, calculated as the arithmetic sum of mutual trade between members of the Customs Union (which is consistent with approaches used by the CIS-STAT) in the first half of 2011 amounted to USD 58.1 billion, i.e. increased by 40.7% if compared to the first six months of 2010, or 15.7% if compared to the second half of 2010.

The volume of mutual trade between the CU member states, calculated as the sum of exports of each country (which is consistent with approaches used by the Eurostat ruling out the possibility of double counting of the same flow of goods) for the first six months of this year reached USD 29.1 billion, which is 39.9% higher than in the first six months of 2010, and 20.7% higher than in the second half of the last year.

In contrast to the foreign trade, mutual trade development is characterized by significant fluctuations in monthly volumes. Decrease in mutual trade volumes in April (6.9%) and June (8.6%) of this year is a drawback of trade cooperation between the CU member states. This situation is mainly due to the reduction in supply of goods to the Customs Union market by the Republic of Kazakhstan (by 22.1% in April and 19.1% in June) and the Russian Federation (6.8% and 10.9%, respectively).

The chart below shows the dynamics of changes in the volumes of mutual trade between members of the Customs Union (as a percentage of the previous month level) in 2009-2011:

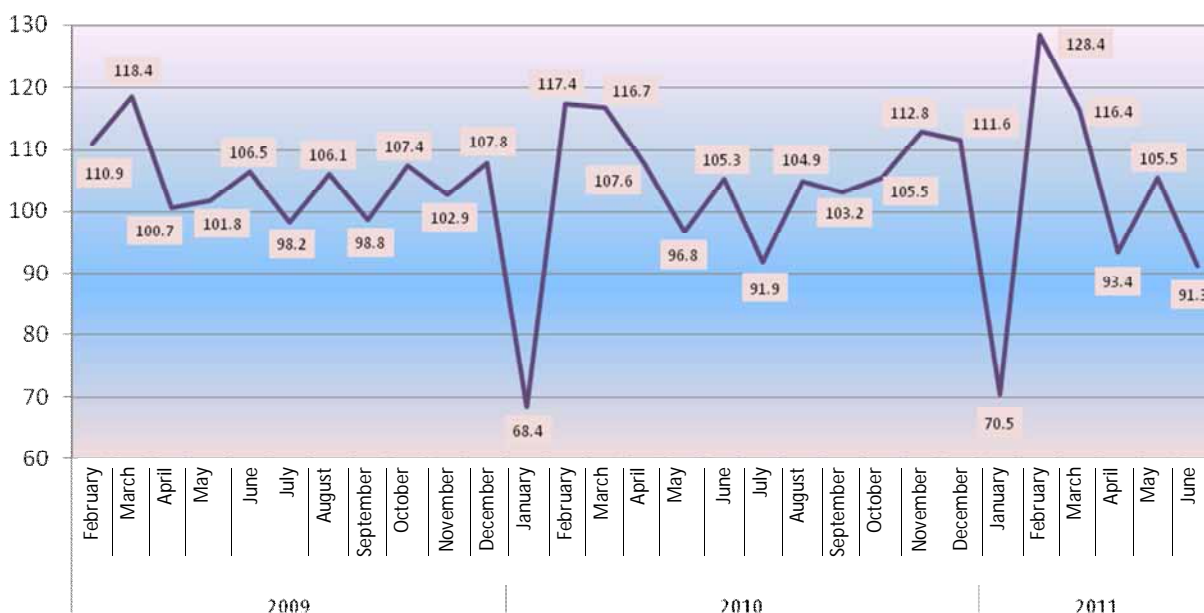


Figure 8.

The chart below shows distribution of the volume of mutual trade among members of the Customs Union in the first six months of 2011:

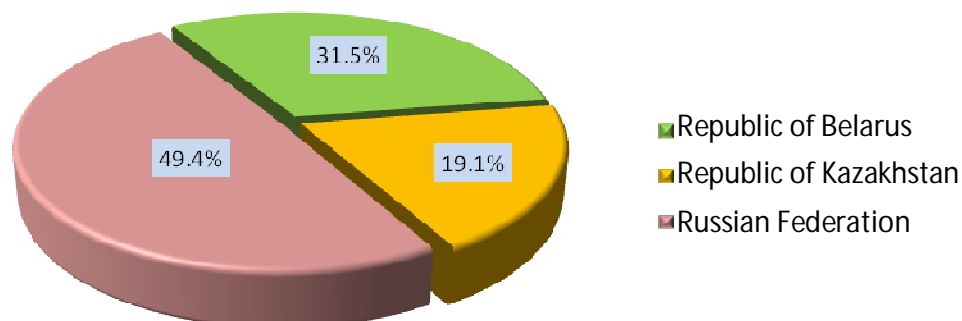


Figure 9.

According to the chart, shares of the Russian Federation, Belarus and Kazakhstan in the mutual trade turnover were 49.4%, 31.5%, and 19.1%, respectively.

Mutual trade with the CU member states is 44.7% of the total volume of foreign trade of the Republic of Belarus, 18.2% of total foreign trade of the Republic of Kazakhstan, and 7.4% of total foreign trade of the Russian Federation. Shares of third countries in the total foreign trade of the Republic of Belarus, Kazakhstan and the Russian Federation were, respectively, 55.3%, 81.8%, and 92.6%.

The chart below is an illustration of shares of mutual trade in the total volume of foreign trade of the CU member states for the first six months of 2011:

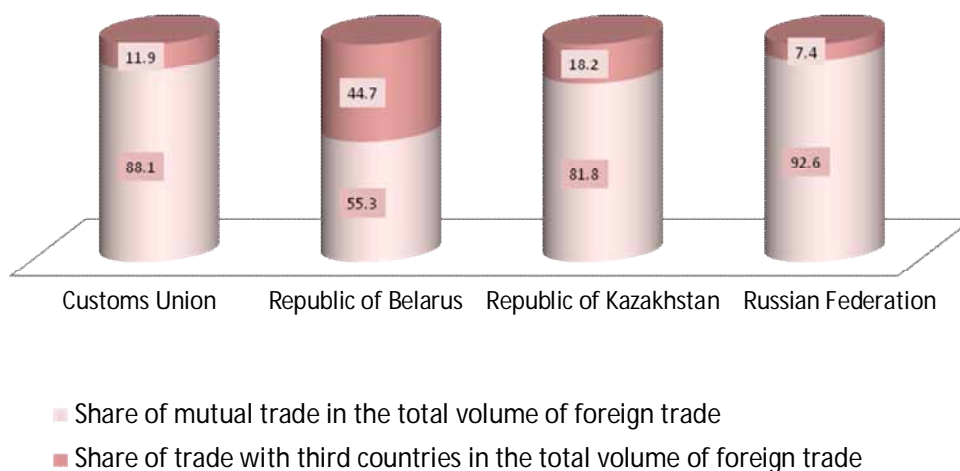


Figure 10.

## 6. Development of the Judicial System in the Customs Union

On July 5, 2010, the Interstate Council of EurAsEC adopted a new version of the Statute of the EurAsEC Court (hereinafter referred to as the Court) with a view to extend its competence to try cases within the Customs Union. According to a new version of the Statute, reference of business entities to the Court and particular features of legal procedure are determined by a separate international treaty. Draft agreement on reference of the EurAsEC business entities to the Court in disputes within the Customs Union and particular features of legal procedure has been designed; internal procedures required for approval of the agreement are now being completed. It defines the terms of reference of the Court in cases tried on application of business entities, timing of trial, the procedure and rules for filing claims by business entities, fee payment procedure, and other procedural matters.

## 7. Unification of trade regimes

Negotiations on unification of trade regimes of the CU member states are held by a Common Negotiating Delegation of the Parties with the membership approved by Resolution No. 90 of Commission on September 25, 2009, simultaneously with the directions for holding negotiations with the WTO (hereinafter referred to as the CND). This work is in accordance with the concept of harmonization of trade regimes of the CU member states within EurAsEC, as approved by Resolution No. 144 of the Commission on December 11, 2009, and subsequent resolutions of the Commission on this matter.

The existing non-preferential international trade agreements with the CU member states (including PRB) remain in force until accession of the Parties to the WTO, following which clauses of agreements with the WTO will replace these non-preferential bilateral agreements. Therefore, efforts to unify trade regimes in the CU member states are focused on countries having preferential free trade regimes with various exemptions for the CU member states.

Common position of the CU member states towards free trade regime with Armenia, Azerbaijan and Moldova has been approved after consultations held by the CND. The CND is still negotiating with the Ukraine with a view to agree on a common list of exemptions

from free trade regime. In consultation with Georgia and Uzbekistan, the CND failed to agree on the launch of quadripartite negotiations on unification of trade regimes.

Negotiations on unification of trade regimes between the Customs Union member countries and the CIS countries continue within the framework of negotiations on Agreement on the Free Trade Area of the CIS.

The Parties now complete unification of the regime of free trade with Serbia and Montenegro. Common lists of goods subject to exemption if imported from Serbia and Montenegro, as well as common rules of origin have been agreed upon in the quadripartite format.

CND continues negotiating on accession of the CU member states to the WTO. It submitted the Memorandum on the Customs Union to the WTO, including description of agreements of the Customs Union and enforcement thereof. It should be noted that negotiations on tariff commitments have been completed by the Russian Federation only. Kazakhstan needs to achieve harmonization of its tariff commitments on approximately 3,000 tariff items. In this regard, the Republic of Kazakhstan and the Russian Federation need to launch negotiations on increasing the rates of tariff commitments of the Republic of Kazakhstan on these items up to the Russian level. The Republic of Belarus might join the results of these negotiations without any additional WTO conditions.

## **8. Restrictive measures in mutual trade**

The list of various restrictive economic measures applied by the Parties in their mutual trade has been drawn up in the process of harmonizing national laws regulating restrictive economic measures in mutual trade of the Republic of Belarus, Kazakhstan and the Russian Federation. In order to ensure free movement of goods within the common market of the Customs Union, the Parties drafted agreement on free movement of goods within the common market of the Republic of Belarus, Kazakhstan and the Russian Federation. At present efforts are focused on coordination and endorsement of this agreement.

It should be noted that a number of currently effective restrictive measures in the areas related to the competition rules, public procurement, subsidies and provision of other government support measures, go beyond the scope of regulation of the Customs Union. These can be cancelled after ratification of the package of agreements on forming the Common Economic Space of the Republic of Belarus, Republic of Kazakhstan and the Russian Federation signed in December 2010.

## **9. Approaches to information technology solutions for Customs Union's IISFMT**

Pursuant to Resolution No. 61 issued on November 19, 2010 by the Interstate Council of EurAsEC acting as the Supreme Authority of the Customs Union at the level of heads of governments, customs authorities of the Parties make efforts towards the organization of efficient communication.

At the same time, it should be noted objectively that there are delays in the design, development and implementation of the Customs Union's Integrated Information System of Foreign and Mutual Trade (hereinafter referred to as IISFMT), which should serve the platform for adoption of standardized solutions that ensure efficient integration of national segments and building a common information space of the Customs Union.

By its Resolution No. 60 dated November 19, 2010, the Interstate Council of EurAsEC acting as the Supreme Authority of the Customs Union at the level of heads of government approved the Concept of establishing the IISFMT and identified competent authorities to establish its national segments. The Commission is assigned to approve the Regulations on the Coordination Council for Information Technologies under the Commission, as well as the composition of such Council. In addition, by its Resolution No. 470 of November 18, 2010, the Commission assigned its Secretariat to facilitate development and harmonization by the Parties of technical specifications for establishing the said System during the first quarter of 2011. The CU member states schedule activities for 2011 to create national integration gateways for connecting their national segments to the IISFMT.

The legal and regulatory framework that determines establishment of an integrated information system of foreign and mutual trade of the Customs Union includes:

The concept of establishing the Customs Union's Integrated Information System of Foreign and Mutual Trade;

Agreement on establishment, operation and development of the Customs Union's Integrated Information System of Foreign and Mutual Trade;

Agreement on application of information technology for communication of electronic documents in foreign and mutual trade within the common customs area of the Customs Union.

Feasibility study of the Customs Union's Integrated Information System of Foreign and Mutual Trade, as agreed by the Parties, outlines approaches to the use of the *single window* (one-stop shop) arrangements, as well as the purposes of using ICT in the Customs Union.

Figure 8 shows the design of architecture of the Customs Union's Integrated Information System of Foreign and Mutual Trade, and main components of the integration segment of the Commission.

*Creation of IISFMT aims to achieve the following goals:*

- acceleration of economic integration among member states of the Customs Union;
- efficient regulation of foreign and mutual trade within the customs area of the Customs Union;
- optimization of the customs, tax, transport and other forms of state control at the customs border of the Customs Union;
- arrangement for efficient operation of the EurAsEC's Interstate Council and the Commission of the Customs Union.

*IISFMT aims to accomplish the following key objectives:*

- establishing and maintaining a common system of reference and information on foreign and mutual trade of the Customs Union;
- formation of an integrated information structure of interstate communication of data and electronic documents in the customs area of the Customs Union;
- establishing common integrating elements and augmentable centralized information resources for the member states;

*At the same time, functions of the integration segment of the Customs Union Commission should not substitute for functions of national information systems.*

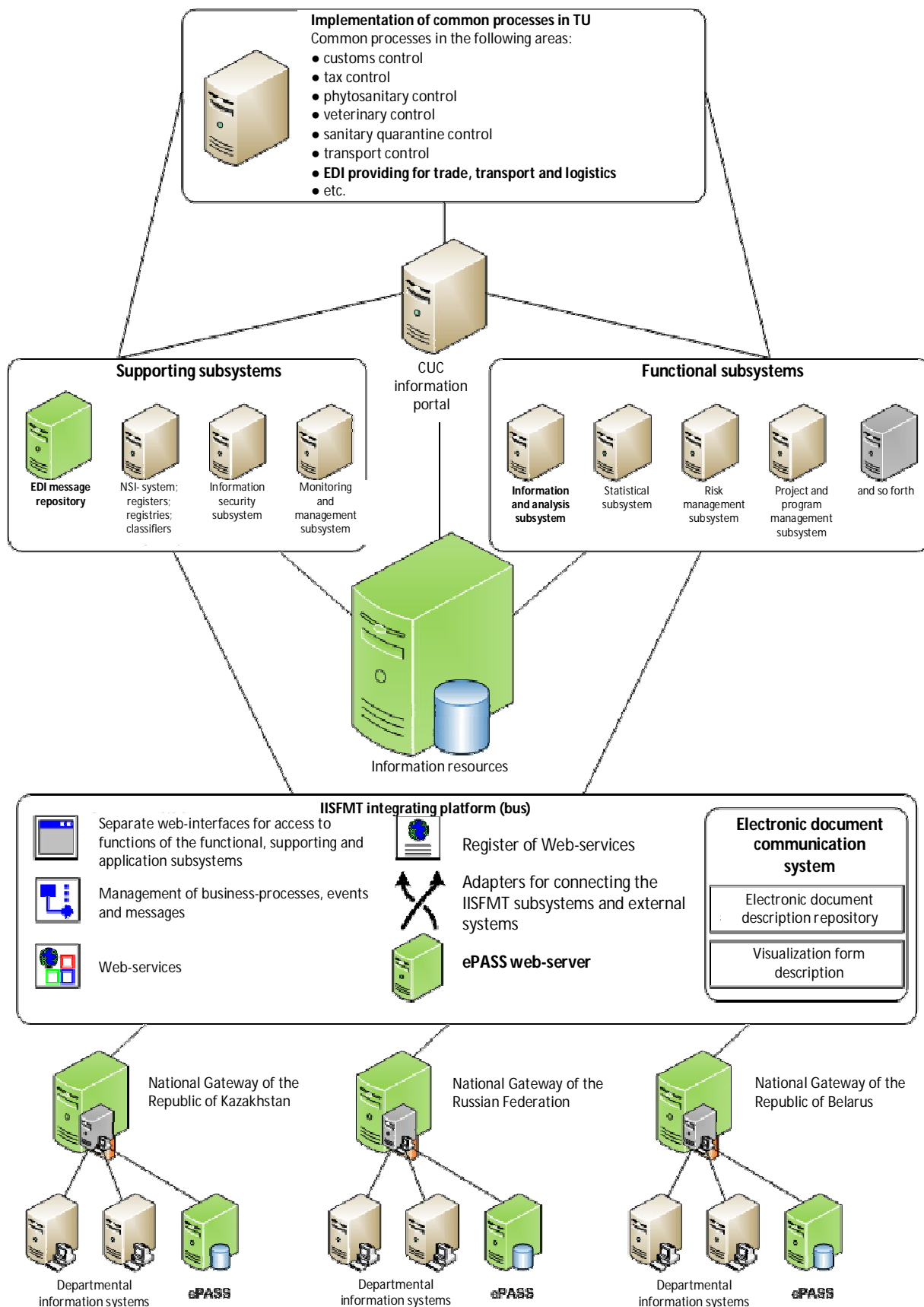


Figure 8. IISFMT architecture design

Detailed information on the Customs Union and its agencies is available on the official site of the *Customs Union Commission* at [www.tsouz.ru](http://www.tsouz.ru).

**Thank you!**