EXCISES AND BUDGET SUSTAINABILITY: THE LESSONS FROM EURASIAN ECONOMIC UNION

VLADIMIR TYUTYURYUKOV, C.SC.

Assistant Professor, KIMEP University, +7 701 848 2017, vnt1982@gmail.com

Abstract

This paper reviews the experience of selected ex-USSR countries with the harmonization of excises and their impact on the sustainability of budgetary inflows.

Eurasian Economic Union (EEU) consists of five countries with different economies. As its predecessors (EurAsEC and Customs Union), it seeks the harmonization of indirect taxes (VAT and excises). In 2004 EurAsEC set minimal excise rates for its Member States, with the aim of providing a levelled competition ground for the producers, and in 2008-2011 the Member States brought closer other elements of excise.

The different temps of subsequent increase in excise rates in the Member States led to distortion of the market, one of results being higher prices of the "legal" production. Ultimately, this led to expansion of market for counterfeit products and "grey" import, and adverse effects on tax revenues and investment climate.

Key words: *Eurasian Economic Union, excise, tax harmonization, taxation*

1. Divergence of excises in 1990-ies

Member States of Eurasian Economic Union (EEU) – Armenia, Belarus, Kazakhstan, Kyrgyz Republic and Russia – share a long common history, common economy and common legal background, all of which ceased to exist in 1991 with the collapse of the Soviet Union. The newly born independent states mostly chose their own ways to convert to a market economy [Suzdaltsev, 2014]. So they had to create their own tax systems, as the old Soviet one was tailored to a totally different economic environment.

This paper reviews the developments in the area of excises – the taxes, in respect to which EEU Member States not just continuously express the will to harmonize them, but also performed certain harmonization steps.

It should be noted that the Soviet Union featured from 1930 till 1991 so called "turnover tax", which was imposed on the state enterprises issuing certain products [Decrees 393, 572, 1358]. This tax combined the features of sales tax (since it was established for all enterprises based on their turnover) and of excises (since the different rates were fixed for the different goods). This tax was introduced at the USSR level with all of its elements defined, except the rates. Until 1990, the Ministry of Finance of USSR established the rates for USSR-controlled enterprises, the republican Ministries of Finance established the rates for the republican enterprises, and sub-republican financial authorities had the power to establish the rates for the enterprises of the corresponding level [Decree 572, Section 5]. The system was amended from 1 January 1991, when the power to fix the rates became corresponding with the power to set the retail prices for the goods [Decree 1358, Section 4].

When shifting in 1991 to the market economy, the USSR Committee on Operative Economic Management issued the recommendations on certain immediate actions, including the tax policy issues [Order 104p, Section V]. Excises were not discussed there.

So the EEU Member States all started with the same background and in the same circumstances. In late 1991 they found themselves in urgent need to develop the system of public finance, and to find the sources to fill in the public budget. The first taxes featured corporate income tax, personal income tax, property taxes – and excises.

The first "independence era" excises, adopted in 1991-1992 by EEU Member States, had the following features:

- Kyrgyz Republic granted the right to determine the list of excisable goods to the Government, while other countries included that list into the law;
- The countries, except Belarus, did not include the excise rates into their laws - the rates were initially fixed by the Governments;
- Armenia (until 2000) and Russia (until 1997) allowed only ad valorem rates, while other countries allowed both fixed and ad valorem excise rates from 1991. However, initially all countries used only ad valorem rates;
- Armenia, Belarus, Kyrgyz Republic and Russia applied rates to the "price including excise". In other words, if price without excise was 80 rubles and excise rate was 60%, the sales price including excise would be 200 rubles = [80 rubles * 100 / (100% - 60%)];
- The lists of excisable goods shared a number of common items (see Table 1), but each country also featured a few unique goods.

Table 1. Excisable goods and respective excise rates in EEU Member States as at 1992[1]

Armenia	**Belarus**	**Kazakhstan (a)**	**Kyrgyz Republic**	**Russia**
Common excisable goods				
Alcoholic beverages (25%-50%)	Alcoholic beverages (30%-88%)	Alcoholic beverages (45%-70%)	Alcoholic beverages (45%-70%)	Alcoholic beverages (46.5%-90%)
Beer (25%)	Beer (45%)	Beer (25%)	Beer (60%)	Beer (25%)
Carpets (hand-made) (50%)	Carpets (55%)	Carpets (10%)	Carpets (10%)	Carpets (45%)
China items (25%)		China items of high quality (10%)		China items (30%)
Crystal glass items (25%)	Crystal glass items (70%)	Crystal glass items of high quality (10%)	Crystal glass items (30%) (b)	Crystal glass items (45%)
	Fish delicacies, salmon and sturgeon caviar, meat delicacies (30%)	Fish (salmon and sturgeon) delicacies and preserves, salmon and sturgeon caviar (c)		Fish delicacies, salmon and sturgeon caviar, seafood delicacies (40%)
Fur clothing and skins (25%)	Fur clothing (except rabbit) and skins (65%)	Fur clothing (20%-35%)	Fur clothing and other products (25%-35%) (b)	Fur clothing (10%-35%)
Jewellery (25%)		Jewellery (10%)		Jewellery (10%)
Leather clothing (25%)		Leather clothing (35%)		Leather clothing (35%)
Tobacco products (25%)	Tobacco products (60%)	Tobacco products (45%) (d)	Cigarettes, fermented tobacco (10%-25%)	Tobacco products (14%-40%)
Tyres (25%)	Tyres for cars	Tyres for cars		Tyres (30%)

[1] Notes: (a) Listed rates are for imported goods for 1993, as earlier documents are unavailable
(b) Rates in Kyrgyz Republic were updated through 1992
(c) Rates on excisable goods were not specified
(d) Wording is unclear, whether tobacco itself (e.g. tobacco for pipes) was also excisable

	(70%)	(20%)		
Unique excisable goods				
	Automobile gasoline (40%)			
Bijouterie (25%)				
				Cars (25%-35%)
		Chocolate (c)		Chocolate (40%)
				Diamonds (c)
	Ethyl spirit (88%)	Ethyl spirit (80%)		
	Wallpapers (30%)			

Source: developed by author.

In 1992 CIS Member States signed an Agreement on agreed principles of tax policy, according to which the countries expressed the will to unify the principles and rules of taxation and use the common list of major taxes. This document is regarded as first step towards harmonization of the tax systems. [EurAsEC, 2004]

In subsequent years the countries introduced a number of amendments into their legislation, so that the list of common excisable goods was extended with automobile gasoline and diesel fuel, cars, crude oil and ethyl spirit. At the same time carpets, china and crystal glass items, delicacies, fur and leather clothing, jewellery and tyres were generally excluded from the lists of excisable items.

In the same period the countries mostly incorporated the excise rates into their legislation, except Belarus, which granted the power to set the rates first to the Government (in 1996), then to the President (in 2006). The rates themselves became more often set in fixed amounts per unit of excisable goods.

2. EurAsEC actions to harmonize excises (1998-2007)

Despite a number of attempts to bring the CIS counties economically closer (especially after suggestion in 1994 by Mr. N.Nazarbayev, the President of Kazakhstan, to create an economic union) there were few real steps past signing the treaties.

The first tangible results of harmonization were achieved in 1998, when the Council of the Heads of States approved the recommended common basic list of excisable goods and minimal rates for them [Momunkulov et al., 2002].

Table 2. Harmonized minimum excise rates as approved in 1998

Excisable goods		Minimal excise rates
Beer		0.05 ECU for 1 liter
Tobacco products	Cigarettes with filter	0.75 ECU for 1000 pcs
	Cigarettes without filter	0.50 ECU for 1000 pcs
	Other goods containing tobacco, including fermented tobacco	0.09 ECU for 1 kg
Gasoline for automobiles		30.00 ECU for 1 metric ton
Diesel fuel		6.00 ECU for 1 metric ton
Alcohol products	Natural wines and light alcohol beverages (containing up to and including 9% vol. of ethyl spirit)	0.20 ECU for 1 liter
	Other alcohol products	None established

Ethyl spirit	None established
Crude oil	None established

Source: Council of Heads of States, 1998

The following planned step was to collect the opinions of the Member States on the further harmonization of the excise policy.

Eurasian Economic Community (EurAsEC), created in 2000, took forward from this point and planned an agreed excise policy with the following goals [Momunkulov et al., 2002]:

- Unification of excise rates on goods produced and imported;
- Unification of the rules on calculation and levying of the excises;
- Unification of the basic list of excisable goods; and
- Unification of the measurement units in accordance with CIS Commodity Classifier for Foreign Economic Activities (TN VED CIS).

In 2001 EurAsEC updated the Basic list of excisable goods and set the new respective minimal rates, as well as standardized the measurement units based on CIS cross-border trade regulations (Table 3).

Table 3. Harmonized minimum excise rates as approved in 2001

Excisable goods	Measurement unit	Minimal excise rates
Ethyl spirit	1 liter of pure ethyl spirit	None established
Alcohol products	1 liter of pure ethyl spirit	None established
Natural wines and light alcohol beverages (containing up to and including 9% vol. of ethyl spirit)	1 liter	EUR 0.06
Beer	1 liter	EUR 0.04
Cigarettes with filter	1000 pcs	EUR 0.75
Cigarettes without filter	1000 pcs	EUR 0.34
Gasoline for automobiles	1 metric ton	EUR 30.00
Diesel fuel	1 metric ton	EUR 4.55
Jewellery items		5%

Source: EurAsEC 2001

It should be noted that while the list was supplemented with jewellery items, two other items were crossed out: crude oil and other tobacco goods.

EurAsEC also requested Kazakhstan, Kyrgyz Republic and Tajikistan to amend their regulations in respect of ethyl spirit and alcohol products using measurement units from TN VED CIS [EurAsEC, 2001, Section 2].

Momunkulov et al. [2002] concluded that this list covered 70% to 90% of the domestic lists of the Member States, and all EurAsEC Member States (except Tajikistan) included the jewellery into the excisable goods. However, the discrepancies among the tax systems pertained:

- Belarus used the lower rates than EurAsEC minimum for beer and cigarettes;
- Kazakhstan differentiated domestic goods and goods imported from other EurAsEC countries, so that the imported goods were subject to rates 1.3 to 11.4 times higher than the rates for the domestic goods;

- Kyrgyz Republic and Tajikistan retained the rates for alcohol products fixed in monetary units, and Kazakhstan was shifting towards the rates based on volume of pure spirit.

In 2004 EurAsEC issued the recommendations on further harmonization of the domestic rules in respect of VAT and excises. It included suggestions on the common definitions of tax base, tax period, calculation rules and payment terms, as these tax elements were defined differently or not defined in all in certain countries at the time.

3. CU/EEU actions to harmonize excises (2007 till now)

Developing the EurAsEC ideas, Belarus, Russia and Kazakhstan in 2007 started to conclude the agreements creating the Customs Union (CU; launched from 1 January 2010). A specific feature of this union was the Commission of Customs Union, a supranational regulatory body, which gradually acquired from the Member States certain powers related to cross-border trade regulation [Mambetaliev and Mambetalieva, 2012]. The Customs Union evolved into Common Economic Area (CEA; launched in July 2011) and further into Eurasian Economic Union (EEU; launched on 1 January 2015). Armenia and Kyrgyz Republic joined the latter in January and August 2015, respectively.

The main aims of Customs Union and Common Economic Area included [Mambetaliev and Mambetalieva, 2012]:

- Enhancement of tax cooperation;
- Ensuring the economic security;
- Enhancement of cooperation in respect of migrant workers;
- Development of supranational institutions.

On the level of CU/CEA the Member States adopted a very explicit framework for partial tax harmonization, establishing the principles of levying indirect taxes on intra-union cross border trade with the goods and services:

- Agreement on principles of levying of indirect taxes (2008) establishes the following: export shall be subject to exemption from excises, import shall be subject to excise in the country of import (“destination country” principle), VAT rates on imported goods shall not exceed VAT rates on the similar goods produced domestically;
- Protocol on mechanism of levying of indirect taxes and mechanism of control over their payment at export and import of goods in CU (2009) sets technical details of imposition, reporting, payment, reimbursement and control in respect of VAT and excises, based on “destination country” principle;
- Protocol on mechanism of levying of indirect taxes on provisions of works and services in CU (2009) sets rules on place of supply and obliges the taxpayer to account for and pay taxes accordingly;
- Protocol on exchange of information in electronic form among tax authorities of CU Member States on remitted amounts of indirect taxes (2009) establishes the automatic and request-based exchange of information on indirect taxes received by the respective countries.

Following these documents, the Member States amended their domestic tax regulations on excises in respect of intra-union trade (e.g. Articles 113-116 of Belarus Tax Code; Articles 282, 288, 298, 299 of Kazakhstani Tax Code; Articles 185-186.1 of Russian Tax Code).

The Treaty on EEU [2014] repeated the same norms: further harmonization of indirect taxes and non-discrimination of imported goods (Art.71), exemption of export from excises, “destination country” principle, rates for imported goods not higher than those for domestic goods, agreed approach for customs taxes (Art.72).

While EEU Member States already aligned these provisions, the rates still differ significantly (see Table 4). Moreover, Kazakhstan maintains lower rates than it was agreed in 2001. Another pending issue is certain inconsistencies in detailed lists of excisable goods (notably in case of alcohol products, wines, beer and petrol products) and in measurement units (in cases of excises on alcohol in Armenia and Kyrgyz Republic).

Table 4. Examples of excise rates in EEU Member States (in 2014), in euro[2,3]

Excisable goods	Measurement unit	Minimal excise rates	Armenia	Belarus	Kazakhstan	Kyrgyz Republic	Russia
Ethyl spirit	1 liter of pure ethyl spirit	None established	1.09	2.72 (a)	2.52	4.71 (b)	1.45
Alcohol products	1 liter of pure ethyl spirit	None established	30%, min 0.69 per liter	9.80	1.05-4.20	2.81-4.21 per liter	9.81
Natural wines and light alcohol beverages (containing up to and incl. 9% vol. of ethyl spirit)	1 liter	0.06	10%, min 0.18	0.42 (c)	0.15	1.40	0.16 (c)
Beer	1 liter	0.04	0.13	0.26 (d)	0.11	0.42	0.35 (e)
Cigarettes with filter	1000 pcs	0.75	8.61-11.78	18.41 max	12.60	10.52	15.69 + 8.5% (20.40 min)
Cigarettes without filter	1000 pcs	0.34	3.53-5.89	6.91		1.40	
Gasoline for automobiles	1 metric ton	30.00	48.93	169.42 (f)	18.91 (g)	70.16	126.49 (f)
Diesel fuel	1 metric ton	4.55	48.93	124.89 (f)	2.27 (g)	11.22	93.48 (f)
Jewellery items		5%	None	None	None	None	None

Source: compiled by author

[2] Converted from local currencies using average official exchange rates for 2014 (published by Central Banks of respective countries)

[3] Notes: (a) Rate for potable ethyl spirit (i.e. intended for production of beverages)

(b) Kyrgyz Republic establishes the rate at EUR 4.91 for liter of product (which normally contains 96% of pure ethyl spirit)

(c) Rates for natural wines

(d) Rate for beer with alcohol content under 7% vol.

(e) Rate for beer with alcohol content of 0.5% to 8.6%

(f) Rate for fuel meeting Euro 5 standard

(g) Rates for production and import

Conclusions

The analysis of the tax revenues of EEU Member States shows that the relative importance of the excises for the budgets differs significantly (see Table 5). Belarus attributed significant part of its budgetary income to the excises (exceeding 11% 2014). Kazakhstan, on the contrary, does not use the fiscal potential of the excises, with the share of excises never exceeding 2% of tax revenues (which could be explained by the lowest rates of excises for wines, beer and petrol products).

This issue was highlighted already in 2012 by Mambetaliev and Mambetalieva [2012], who compared excises on ethyl spirit, beer and cigarettes with filter in Belarus, Kazakhstan and Russia for 2009-2013. They also pointed out that the three countries did not harmonize their domestic regulations concerning trade with these goods (such as trade restrictions, security deposit for importers, special reporting requirements), which further limits the possibilities for achieving planned common market.

Table 5. Share of excises in the consolidated budget tax revenues of EEU countries

	2009	**2010**	**2011**	**2012**	**2013**	**2014**
Armenia	6.65%	6.70%	4.94%	5.49%	5.10%	4.75%
Belarus[4]	*	*	7.60%	8.10%	10.6%	11.20%
Kazakhstan	1.59%	1.18%	1.04%	1.24%	1.27%	1.71%
Kyrgyz Republic	4.62%	4.29%	2.82%	3.26%	4.02%	7.67%
Russia	2.89%	3.23%	3.34%	3.85%	4.52%	4.35%

Source: developed by author based on data of Ministries of Finance of respective countries

It has also been observed that the significant differences between excise rates in different countries, combined with lack of customs control within CU/EEU, result in “grey import” in border regions. For example, there was a significant counterfeit import of cheaper alcohol from Belarus and Kazakhstan into Russia, which happened due to much lower excise rates in exporting countries (but also due to generally lower prices there). [EurAsEC, 2004, Annex 1; Yakupov, 2014] As a result, Russian budget underreceived excises, and the industry development in all three countries was distorted by uneven tax playground.

References

[1] Decree of the Council of People’s Commissars of USSR dated 3 September 1930 No. 393 „On rates of the tax on turnover of the enterprises of nationalized sector“. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[2] Decree of the Council of Ministers of USSR dated 30 June 1975 No. 572 „On approval of the Regulation on turnover tax“. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[3] Decree of the Council of Ministers of USSR dated 29 December 1990 No. 1358 „On approval of the Regulation on turnover tax“. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[4] Figures for Belarus are taken from reports “On status of state finances of the Republic of Belarus” for 2009-2014 published by the Ministry of Finance (http://www.minfin.gov.by/ru/budgetary_policy/analytical_reports/). The figures quoted in these reports for 2008-2010 were inconsistent, which was not explained.

[4] Order of the Committee on Operative Economic Management of USSR dated 1 November 1991 No. 104p. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[5] Law of the Russian Soviet Federative Socialist Republic dated 6 December 1991 No 1993-1 „On excises“. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[6] Law of the Republic of Kyrgyzstan dated 17 December 1991 No 660-XII „On taxes on enterprises, associations and organizations“. In: Централизованный банк данных правовой информации Кыргызской Республики [legal information system].

[7] Law of the Republic of Belarus dated 19 December 1991 No 1321-XII „On excises“

[8] Law of the Republic of Kazakhstan dated 24 December 1991 „On excises“. In: Справочно-правовая система «Әділет» (Adilet) [legal information system].

[9] Decree of the Government of the Russian Soviet Federative Socialist Republic dated 26 December 1991 No 74 „On rates of the excises on selected goods“. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[10] Decree of the Cabinet of Ministers of the Republic of Kyrgyzstan dated 3 January 1992 No 4 „On rates of the excise tax“. In: Централизованный банк данных правовой информации Кыргызской Республики [legal information system].

[11] Methodic guidelines of the State Tax Committee of the Republic of Belarus dated 15 January 1992 No 2

[12] Law of the Republic of Armenia dated 6 June 1992 „On excise tax“

[13] Instruction of State Tax Inspectorate of the Republic of Armenia dated 26 June 1992 No 01750/3-3 „On calculation and payment of the excise tax on the produced goods“

[14] Decree of the Government of the Republic of Kyrgyzstan dated 12 October 1992 No 501 „On rates of the excise tax“. In: Централизованный банк данных правовой информации Кыргызской Республики [legal information system].

[15] Decree of the Cabinet of Ministers of the Republic of Kazakhstan dated 27 July 1993 No 644 „On the rates of excises on the goods imported from outside the Member States of the Commonwealth of Independent States“. In: Справочно-правовая система «Әділет» (Adilet) [legal information system].

[16] Law of the Republic of Belarus dated 29 February 1996 No 131-XIII „On introduction of changes and supplements to the Law of the Republic of Belarus „On excises“

[17] Decision of the Council of the Heads of States at the Interstate Council of the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation dated 22 January 1998 No. 3 „On unification of the excise policy of the Customs Union Member States“. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[18] Decision of the Council of the Heads of States at the Interstate Council of the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation dated 24 November 1998 No. 36 „On the measures for further unification of the excise policy of the Customs Union Member States“. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[19] Decision of the Interstate Council of Eurasian Economic Community dated 14 September 2001 No. 28. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[20] Decree of the Bureau of the Interparliamentary Assembly of Eurasian Economic Community dated 8 October 2004 No. 10 „On recommendations on harmonization of the EurAsEC Member States legislation on levying of value added tax and excises (based on the comparative legal analysis of domestic legislation)“

[21] Law of the Republic of Belarus dated 31 December 2005 No. 80-3 „On introduction of changes and supplements to selected laws of the Republic of Belarus on tax and budgetary issues“

[22] Agreement on principles of levying of indirect taxes on export and import of goods, provision of works, rendering of services within CU dated 25 January 2008. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[23] Protocol on mechanism of levying of indirect taxes and mechanism of control over their payment at export and import of goods in CU dated 11 December 2009. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[24] Protocol on mechanism of levying of indirect taxes on provisions of works and services in CU dated 11 December 2009. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[25] Protocol on exchange of information in electronic form among tax authorities of CU Member States on remitted amounts of indirect taxes dated 11 December 2009. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[26] Treaty on establishing Eurasian Economic Union dated 24 May 2014. In: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[27] MAMBETALIEV, N.T., MAMBETALIEVA, A.N. Налоги в Таможенном союзе и Едином экономическом пространстве. Moscow: Налоговый вестник, 2012. 288 p. ISBN: 978-5-93094-336-8

[28] MOMUNKULOV, A.E., MAMBETALIEV, N.T., BOBOEV, M.R. Акцизы в странах ЕврАзЭС и проблемы их гармонизации. In: Налоговый вестник, 2002, issue 5. Via: Справочно-правовая система «КонсультантПлюс» (ConsultantPlus) [legal information system].

[29] SUZDALTSEV A.I. Республика Беларусь: двадцать лет перехода к рынку. In: Журнал Новой Экономической Ассоциации (НЭА), 2014, Issue 1(21), ISSN 2221-2264, pp. 176–180.

[30] YAKUPOV Z.S. Развитие евразийской экономической интеграции и ее налоговые аспекты. In: Проблемы современной экономики, 2014, Issue 3 (51), ISSN 1818-3395, pp.60-63.