

THE CHAIRMANSHIP OF BELARUS IN THE EURASIAN ECONOMIC UNION AND THE RENEWAL OF THE EURASIAN ECONOMIC COMMISSION LEADERSHIP:

**WHAT TO EXPECT FROM THE NEW COMMISSION COMPOSITION AND WHAT
THE PROSPECTS OF THE EAEU UNTIL 2025 ARE**



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Summary. New composition of the EEC Board

On December 20, the new composition of the Board of the Eurasian Economic Commission was approved at a meeting of the Supreme Eurasian Economic Council. Belarus will take over the chairmanship of the Eurasian Economic Commission (EEC) Board from Armenia. Mikhail Myasnikovich, a former speaker of the upper house of the Belarusian parliament and ex-Prime Minister of Belarus, was approved as Chairman. He and the whole new EEC Board will take office on February 1, 2020.

EEC Board reshuffle

A new member of the Board will be *Artak Kamalyan* from Armenia, who will replace Belarus' representative Alexander Subbotin as the Minister for Industry and the Agro-Industrial Complex.

Another representative of Armenia, *Gegam Vardanyan*, will become the Minister for Internal Markets, Informatisation and ICT, succeeding *Karine Minasyan*, who is also Armenian.

Before EEC Board took the office on February 1 *Veronika Nikishina* (Russia) left the post of Minister for Trade. She was replaced with *Andrey Slepnev*, former head of Russian Export Center.

The following EEC Board members retain their positions:

- Minister for Technical Regulation *Viktor Nazarenko* (Belarus);
- Minister for Economy and Financial Policy *Timur Zhaksylykov* (Kazakhstan);
- Minister for Competition and Antimonopoly Regulation *Serik Zhumangarin* (Kazakhstan);
- Minister for Customs Cooperation *Nurlan Akmatov* (Kyrgyzstan);
- Minister for Energy and Infrastructure *Emil Kaykiyev* (Kyrgyzstan);
- Minister for Integration and Macroeconomics *Sergey Glazyev* (Russia).

Therefore, the current allocation of seats on the EEC Board, i.e. each member state has two seats (the chairman position included), remains in place.

The replacement of the EEC Board Chairman is happening simultaneously with the transition of the EAEU chairmanship for 2020 from Armenia to Belarus. The chairing country largely determines the substantive agenda of the EAEU activities for the coming year.

The EEC Board leadership reshuffle is a part of planned rotation (every four years). Recent appointments to the EEC indicate the ambiguous status of the Commission Ministers and the Commission itself.

On the one hand, the importance of these positions, especially that of the Chairman, remains high: only political heavyweights (at least vice prime ministers or heads of parliaments) have been appointed to this position, the other EEC members have also been notable political figures in the countries they represent.



EAEU GOVERNING BODIES

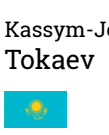
THE SUPREME EURASIAN ECONOMIC COUNCIL (THE SEEC)

THE HEADS OF THE MEMBER STATES

Vladimir Putin



Kassym-Jomart Tokaev



Aleksandr Lukashenko



Sooronbay Jeenbekov



Nikol Pashinyan



EAEU supreme intergovernmental authority

Meeting at least once per year

THE INTERGOVERNMENTAL COUNCIL

THE PRIME-MINISTERS OF THE MEMBER STATES

Mikhail Mishustin



Askar Mamin



Sergey Rumas



Muhammetkaliy Abulgaziyyev



Nikol Pashinyan



EAEU actual supreme executive authority (approves the budget, reviews issues being unresolved on the SEEC level, addresses various matters and blocks the EEC decisions)

Meeting at least twice per year

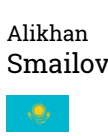
THE EURASIAN ECONOMIC COMMISSION (THE EEC)

EEC COUNCIL (DEPUTY PRIME MINISTER LEVEL)

Alexei Overchuk



Alikhan Smailov



Igor Petrishenko



Zhenish Razakov



Mher Grigoryan



Covers the issue unresolved at the Board level

Permanent operation

EEC BOARD

Two representatives from each Member State
See "New EEC Board Composition"

Permanently operating supranational executive authority

Meeting at once a month

THE COURT OF THE EURASIAN ECONOMIC UNION

TWO JUDGES FROM EACH MEMBER STATE

Tatiana Neshataeva

Zholymbet Baishe

Denis Kolo

Ayjamal Ajybraimova

Erna Airiyan

Konstantin Chayka

Venera Seitimova

Aleksandr Fedortsov

Galina Skripkina

Armen Tumanyan



Considers internal disputes and conflicts

Permanent operation



Mikhail Myasnikovich

The Chairman of the Board

- Organizational Support and Protocol Department
- Finance Department
- Legal Department
- Administrative Department

Born in 1950.

2015-2019 – The Head of the Upper House of the Parliament, the Republic of Belarus.

2010-2014 – The Prime-Minister, the Republic of Belarus.

1995-2001 – The Chief of Staff for the President of the Republic of Belarus.



Nurlan Akmatov

Minister in charge of Customs Cooperation

- Department of customs legislation and law enforcement practice
- Department for Customs Infrastructure

Born in 1972.

2018-2019 – The Chairman of the Board of Manas International Airport, OJSC

2011-2018 – The Deputy Director General of "Gazpromneft Asia"

2007-2010 – The head of the State Customs Committee of the Kyrgyz Republic



Gegam Vardanyan

Minister in charge of Internal Markets, Information Support, Information&Communication Technologies

- IT Department
- Domestic Markets Operation Department

Born in 1982.

2019 – The Deputy Minister of High-Tech Industry of the Republic of Armenia.

2019 – The Deputy Minister of Transport, Communications and IT.

2017-2019 – The Sales Director at YEA Engineering.



Sergei Glazyev

Minister in charge of Integration and Macroeconomics

- Department for Macroeconomic Policy
- Statistics Department
- Department for Integration Advancement

Born in 1961.

2012-2019 – The Advisor to the President of the Russian Federation

2009-2012 – The Secretary to the Commission of the Customs Union

2008-2012 – Deputy Secretary General of the EurAsEC



Timur Zhaksylykov

Minister in charge of Economy and Financial Policy

- Департамент финансовой политики
- Department for Financial Policy
- Department for Entrepreneurial Development
- Department for Labour Migration and Social Security

Born in 1968.

2012-2017 – Vice-Minister of Economic Development and Trade, The Vice-Minister of National Economy of Kazakhstan.

2010 – The Chairman of the Investment Committee at the Ministry of Industry and New Technologies of Kazakhstan.



Serik Zhumangarin

Minister in charge of Competition and Antitrust regulation

- Department for Antitrust Regulation
- Department for Competition and Public Procurement Policy

Born in 1969.

2017-2019 – The Vice-Minister of National Economy, The Republic Kazakhstan.

2014-2017 – The Chairman of the Committee on the regulation of natural monopolies and competition advocacy at the Ministry of National Economy,



Emil Kaikiyev

Minister in charge of Energy and Infrastructure

- Department for Transport and Infrastructure
- Energy Department

Born in 1969.

2015-2018 – The Deputy Minister of Foreign Affairs of the Kyrgyz Republic.

2013-2015 – The Acting State Secretary of the Ministry of Foreign Affairs of The Kyrgyz Republic.



Artak Kamalyan

Minister in charge of Industry and Agroindustrial Complex

- Department for Industrial Policy
- Department for Agricultural Policy

Born in 1970.

2019 – Deputy Minister of Economy, The Republic of Armenia.

2010 – The Acting Rector of Voronezh State Agrarian University.

1995-1998 – Intern in the US Department of Agriculture.



Viktor Nazarenko

Minister in charge of Technical Regulation

- Department for Technical Regulation and Accreditation
- Department for Sanitary, Phytosanitary, and Veterinary Measures

Born in 1958.

2012-2018 – The Chairman of the State Committee for Standardization of the Republic of Belarus.

2006-2012 – The First Deputy Chairman of the State Committee for Standardization of the Republic of Belarus.



Andrey Slepnev

Minister in charge of Trade

- Department for Customs Tariff and Non-Tariff Regulation
- Department for Internal Market Defence
- Department for Trade Policy

Born in 1969.

2018-2020 – The Head of the Russian Export Center.

2012-2016 – EEC Minister in charge of Trade.

2009-2012 – The Deputy Minister of Economic Development, The Russian Federation.

On the other hand, the exceptional appointment of Sergey Glazyev (who used to be Advisor to the President) in 2018 as a representative of Russia (in recent years he has seriously lost his influence and authority), can somewhat undermine the authority of the EEC.

It is also worth mentioned that the replacement of Veronika Nikishina, who was considered a qualified lobbyist for the interests of the EEC, by Andrei Slepnev, may indicate Russia's desire to strengthen its position in the Commission, taking into account the Belarusian chairmanship in the EAEU, as well as complicated negotiations on further Russia and Belarus mutual integration process (*see the section below*).

Personnel changes in the EEC may also be associated with the appointment of the new Russian Government in mid-January 2020 (*see Kesarev's Memo on new Cabinet [here](#)*). As a result, Alexei Overchuk [replaced](#) Anton Siluanov as Russia's representative on the EEC Council.

It is important to note that significant rotations among members of the Board have already taken place in 2018-2019 (before the planned rotation, but also allowed by the EAEU Treaty):

- In September 2018, two representatives of Belarus were appointed (Viktor Nazarenko and Alexander Subbotin became Minister for Technical Regulation and Minister for Industry and the Agro-Industrial Complex respectively).
 - Mr. Nazarenko worked as Chairman of the State Committee for Standardisation of Belarus before his appointment.
 - Mr. Subbotin worked as Aide to the President of the Republic of Belarus – Inspector for the Vitebsk Region.
- In May 2019, Kazakhstan replaced the Minister for Competition and Antimonopoly Regulation (Serik Zhumangarin became the new member of the EEC Board).
 - Earlier, Mr. Zhumangarin worked as Vice Minister of National Economy of the Republic of Kazakhstan.
- In October 2019, Sergey Glazyev became the Minister for Integration and Macroeconomics appointed by Russia.
 - Before the appointment, Mr. Glazyev worked as an Advisor to the President of Russia.
 - It should be noted that in 2009-2012 Mr. Glazyev worked as the responsible Secretary of the Commission of the Customs Union of Belarus, Kazakhstan and Russia (the EAEU was established on the basis of this Union).

In general, the high importance of the leading positions in the EEC Board can be explained by the following reasons:

1. The increasing influence of the EEC due to the expansion of its spheres of competence to new areas of regulation.

- The Commission's "weight" in the structure of the EAEU management bodies may also increase as a result of the transfer of competencies and new functions.
 - Unlike chairs of the EAEU superior bodies – the EEC Council, the Eurasian Intergovernmental Council (EIC), the Supreme Eurasian Economic Council (SEEC) – who are appointed for a period of one year, the Chair of the EEC Board holds the post for four years.
2. Potential accession of new members (Uzbekistan in particular) to the EAEU, as well as expanding cooperation with third countries in a non-member format (free trade zone, observer status, etc.) and other associations (BRICS, ASEAN, the Shanghai Pact, etc.).
 3. The EEC participation in the implementation of major infrastructure projects, including the projects carried out as part of the Silk Road Economic Belt initiative (the Belt).
 4. Significant supranational regulatory powers (in the field of technical regulation, tariff and non-tariff measures, trade negotiations, etc.).

Depending on the areas they supervise, the Ministers of the EEC Board have different significance for businesses (*see Appendix. The EEC's structures and decision-making procedures*).

The following EEC members are the most important in this context:

- The Minister for Trade (supervises tariff and non-tariff regulation, foreign trade policy and domestic market protection).
 - Andrey Slepnev previously held the post of Minister for Trade in EEC (2012 – 2016). He also dealt with external integration issue while working as deputy Minister of Economic Development.
- The Minister for Technical Regulation.
 - Viktor Nazarenko is a Belarus representative. He is responsible for the sphere that has a direct impact on businesses, especially the consumer sector (in terms of conditions for products' access to the EAEU market). Around 40% of all EAEU-level decisions are related to technical regulation.
 - Despite the fact that President of Belarus Alexander Lukashenko has openly criticised the work of Mr. Nazarenko (for not doing enough to promote national interests), the latter is a significant political figure. He served as a Minister for just a little more than one year before reappointment.

The above-mentioned ministers are directly involved in the decision-making process in the sphere of goods' circulation in the EAEU single market – it is the most developed dimension of the integration project. To date, these posts are assigned to representatives of Russia (the EEC Minister for Trade) and Belarus (the Minister for Technical Regulation).



It is also likely that there will be staff reshuffles in the EEC Advisory Committees (see Appendix 1. The EEC's structure and decision-making procedures). Advisory committees, along with the Board's departments, are key stakeholders that ensure "early work" on the Commission's decisions and consultations with businesses.

Monitoring of Belarusian stakeholders' activities in the context of changes at the level of the EAEU is of particular importance for businesses. It should be noted that the first year of Belarus' chairmanship in the EEC (2020) also coincides with the country's chairmanship in the EAEU as a whole.

Thus, Belarusian representatives, in addition to the post of the EEC Board Chairman, will also preside over the Supreme Eurasian Council (level of presidents), the Eurasian Intergovernmental Council (level of prime ministers) and the EEC Council (level of vice premiers). Leadership positions in the key bodies of the Union for Belarus are a "window of opportunity" for intensive promotion of their own integration agenda.

Belarus is likely to be interested in strengthening and expanding the authority of the EEC Board both relative to the governments of the member states of the EAEU and to the higher bodies of the Union. To implement this agenda, Minsk will have enough leverage.

Moreover, the period of the Belarusian chairmanship in the EEC (until 2024) is a milestone from the point of view of the EAEU prospects. It is assumed that by 2025 (*see below*) the countries of the Union should form a single regulatory field for a number of key markets – energy, transport, finances, labour, etc.

Thus, the main part of the relevant preparatory work will be carried out in the coming years (taking into account the bureaucratic peculiarities of the EAEU bodies in terms of the pace of documents elaboration and harmonisation, the key work on launching single markets by 2025 will be conducted in 2023-2024). The effectiveness of this work will largely determine the prospects for the existence of the EAEU as a whole.

The Eurasian Economic Union is a young integration union, and its development prospects are still unclear. The effectiveness of further integration within the EAEU will depend on a number of factors, including:

- The willingness of the member states to transfer more sovereign powers and regulatory functions to the supranational level (primarily the EEC Board; there is often resistance from national regulatory bodies):
 - A significant part of EEC decisions can now be challenged and cancelled at the level of the EAEU superior bodies or blocked at the level of the member states, which have veto power.



- The EEC does not currently have sufficient instruments to influence the governments of the EAEU member states that do not comply with the Board's decisions or violate the EAEU norms, etc.
- The ability of the member states to change the fundamental [Treaty on the EAEU](#), which contains some "disintegration norms".
- The ability of the EAEU to offer new formats for interaction with third countries, to involve them into the Union activities, not limiting these interactions to the form of membership or the creation of a free trade zone.
- The pace of economic growth of the EAEU member states, balancing of exchange rates and harmonisation of budgetary standards (like in the EU, which in many respects serves as a model for the EAEU).

I. Importance of the Eurasian Economic Commission for businesses

The Eurasian Economic Commission is the key supranational executive body of the EAEU.

The main tasks of the EEC are the following:

- Creating conditions for the EAEU functioning and development.
- Developing proposals for further integration.

For businesses, it is significant that the EEC acts as a regulator of the member countries' common markets, as well as the main party to the negotiations between the EAEU and the business community (see «Interaction between the Eurasian Economic Commission and businesses»). This is important for the following reasons:

1. In terms of implementing new regulations at the supranational level:
 - The EEC already has certain exclusive powers in a number of areas, in particular:
 - Regulation of the EAEU external trade with third countries.
 - Customs and tariff regulation.
 - Non-tariff regulation (including protective, anti-dumping and countervailing measures).
 - Technical, sanitary and phytosanitary regulation.
 - Intellectual property and consumer rights protection.
 - In future, the EEC competencies in such areas as antimonopoly regulation, consumer protection, financial markets, etc. are expected to be expanded.
 - Industry regulation in common markets:
 - At the moment, such regulation is carried out only in certain industries, in particular, in the markets of medicines and medical products. In future, the EEC is expected to regulate more sectors and industries.
2. From the point of view of using the EEC as a way of blocking/delaying the introduction of national legislation in the EAEU member countries which are introducing stricter rules for businesses:
 - And vice versa, from the perspective of using the EEC to extend the existing regulatory norms in one or more countries of the EAEU to other participants of the union.

Interaction between the Eurasian Economic Commission and businesses

The interaction between the EEC and businesses takes several forms (*not all of them are equally efficient*):

- Interactions during the Regulatory Impact Assessment (RIA) process:

- Assessing the impact of EEC decisions on businesses, avoiding barriers to trade and labour movement.
- However, according to the EEC Rules of Procedure, not all decisions of the Commission fall under the RIA procedure (there is a wide range of exemptions), and the conclusions of the working group on the implementation of RIA are recommendatory.
- Interactions in the framework of the system "Functioning of the EAEU internal markets" (effective from October 2016):
 - The main task is to identify barriers and restrictions in trade among the EAEU countries (*businesses may submit applications for consideration and removal of barriers*).
 - The EEC is obliged to respond to requests from companies concerning barriers and restrictions within 30 days of the request.
- Interactions within the framework of the Advisory Committee on Entrepreneurship under the EEC Board (the Committee is chaired by the EEC Minister for Economy and Financial Policy):
 - Issues of business climate improvement, elimination of redundant administrative barriers, etc.
- Interactions between the EEC and the EAEU Business Council (headed by Viktor Khristenko, ex-Chairman of the EEC Board and former Minister of Industry and Trade of Russia):
 - The Business Council is a permanent coordinating and consultative body of the EAEU countries' business community.
 - The members of the Business Council are the Union of Manufacturers and Businessmen (Employers) of Armenia, the Confederation of Industrialists and Entrepreneurs (Employers) of Belarus, the National Chamber of Entrepreneurs of Kazakhstan "Atameken", the Kyrgyz Union of Industrialists and Entrepreneurs, the Russian Union of Industrialists and Entrepreneurs.

Key results of the work of the outgoing EEC Board: 2016-2020

The main results of the outgoing EEC Board work (2016-2020) are as follows:

In the regulatory sphere:

- The Customs Code of the EAEU was developed and entered into force (from January 1, 2018). The Customs Code is aimed at introducing electronic workflow and use of software and technical means at all stages – from filing declarations to releasing goods.

- [The Agreement on Tagging Products with Identification Signs in the EAEU](#) entered into force (since March 2019).
- [The Agreement on the Mechanism of Goods' Traceability](#) in the EAEU was signed (in May 2019) and is currently subject to ratification in the EAEU member-states (ratified by Russia in November 2019).
- The common markets for medicines and medical products were launched (2017).
- The Agreements on Principles of Tax Policy in the Field of Excise Duties on Tobacco and Alcohol Products (2019) were approved. The Agreements on the Tax Policy Principles in Respect of Excise Duties on Alcohol and Tobacco Products (2019) were approved.
- The Agreement on the Formation of the Common Electric Power Market was signed (June 2019).
- General technical regulations have been approved in a number of important trade segments (including the technical regulation on alcohol products safety, on the safety of oil for transportation, etc.).
- An Agreement on Pensions for Migrant Workers in the EAEU was signed (in December 2019), providing for pension payment by the employing country.

In international relations:

- The Agreement on Trade and Economic Cooperation with China was signed.
- Moldova received EAEU observer status.
- The Interim Agreement enabling formation of a free trade area (FTA) with Iran was signed.
- The FTA Agreement with Serbia was signed.
- The question of Uzbekistan's accession to the EAEU was probably (this fact has not been officially confirmed yet) considered in 2019.

II. Problems of integration in the EAEU and their impact on businesses

As in case of national regulators, the Eurasian Economic Commission's activity creates both opportunities and risks for businesses. The main issues within the EEC competence that have direct impact on businesses are as follows:

1. Elimination of barriers to trade among the EAEU countries.
 - And vice versa – the introduction of new barriers, exemptions, and restrictions by the sovereign governments of the member states.
2. Issues of customs regulation.
3. Taxation issues.
4. Issues of technical regulation and standardisation.



Obstacles in trade among the EAEU countries

Within the Union, member states are entitled to apply restrictions on trade in goods, but only if such measures are not a means of unjustifiable discrimination or a disguised trade restriction.

At the same time, there often are conflicts between the members of the EAEU over the protectionist policies applied by certain states.

As of March 2019, according to the EEC itself, 71 obstacles have been identified in the single market, including 17 barriers (direct violations of the EAEU norms), 16 exemptions (legal derogations from the rules) and 38 restrictions (obstacles due to the lack of a common legislative base). It is noteworthy that in 2017 there were 60 such obstacles. Thus, there is a high probability that by the end of this year most of the barriers will not be removed.

Also, non-enforcement or blocking of EEC decisions by member states is a serious problem. In this case, the EEC does not have the authority to influence sovereign governments in case a state does not comply with decisions of the Union's bodies (*for example, decisions of the EAEU Court are not binding on member countries*). As a result, disputes are usually resolved at the level of the higher bodies of the EAEU (de facto at the level of governments and sometimes even at the level of heads of state) or at the EAEU Court, which indicates the Commission's limited arbitration's effectiveness (*see examples below*).

Case: Dairy dispute between Belarus and Russia

In June 2018, the Russian Federal Service for Veterinary and Phytosanitary Supervision (Rosselkhoznadzor) banned the import of Belarusian milk and cream in containers with volume over 2.5 liters due to non-compliance with veterinary norms. The decision was made despite the EAEU agreement on the mutual recognition of veterinary certificates (Moscow insisted that Minsk abused the agreement).

In January 2019, at the request of Belarus, the EEC decided to abolish the restrictions as they did not comply with the EAEU regulations. However, already in April of the same year, the Russian Federation demanded that the EEC decision must be reversed, which in fact blocked its implementation. The dispute was eventually brought to the level of the Eurasian Intergovernmental Council, where a compromise solution was adopted (instead of industry restrictions, restrictions were imposed on certain Belarusian suppliers of dairy products). It took a year to settle the dispute.

At the moment, there is a regulation according to which if one of the EAEU member states introduces any special economic measures, this state should notify the Commission and other member countries not later than 15 calendar days before that. There is also a mechanism for consultation and interaction of the member states' authorized bodies. However, as a rule, such a period is insufficient to reach a compromise and after that period a decision on special measures comes into force.

Due to the sanctions of the United States, the EU, Ukraine and other countries against Russia and Russian countermeasures, the problem of the movement of goods, which are subject to



special economic measures ("sanctioned" goods), through the territory of other states of the EAEU is also significant. This issue has not been definitively resolved yet.

Case: Coal dispute between Russia and Kazakhstan

In the summer of 2019, a dispute arose between Russia and Kazakhstan over the blocking of the coal supply from Kazakhstan to Ukraine through the Russian territory. The Ministry of Economic Development of Russia began to apply quotas to transit coal, explaining this by the technical inability of the Russian Railways (RZD) to ensure the transportation of significant volumes of coal. Earlier, in April 2019, Russia imposed sanctions on the supply to Ukraine of a number of goods, including coal. In fact, countervailing deliveries of coal to Ukraine from Kazakhstan depreciated the Russian sanctions. It was the most probable reason for introducing rigid quotas.

In October 2019, Kazakhstan submitted the issue to the EEC, which recognized that there are "signs of obstacles". In particular, ArcelorMittal Temirtau (a division of ArcelorMittal International) claimed losses as a result of the quota. The EEC decision has not been adopted yet (the dispute has been settled at the level of heads of Government).

Customs regulations

The EAEU Customs Union (EAEU CU) ensures the freedom of movement and common market of goods. Within the framework of the EAEU CU, the internal market of goods operates, the Common Customs Tariff (CCT) is applied, the single mode of trade in goods with third countries is used, and a single customs regulation is carried out.

When the new [Customs Code of the EAEU](#) (EAEU CC) came into force, customs procedures were simplified, the electronic workflow was introduced and customs regulations were unified.

At present, the single market of goods is the most elaborate and successful indicator of the integration within the EAEU, which is generally regulated at the supranational level. The following issues are addressed at this level:

1. Introducing a single Commodity Nomenclature of Foreign Economic Activity (CNFEA) and a Common Customs Tariff (CCT).
2. Setting import duty rates, including the seasonal ones.
3. Determining cases and conditions for granting tariff benefits, as well as the way in which these benefits shall be applied.
4. Determining terms and conditions of the EAEU Unified System of Tariff Preferences application.
5. Setting tariff quotas, distributing quotas among member states, etc.



In spite of the operation of the single CNFEA and CCT in the EAEU, the law of the Union allows for the application of import customs duties different from the EAEU CCT during the transition period.

Such rates are mainly applied for the following reasons:

- WTO commitments of the EAEU member countries.
- Accession of new members to the EAEU, if their entry conditions imply a transition period for a number of commodity items.

Of the five EAEU countries, only Belarus is not a member of the WTO. The prospects for Belarus joining the WTO should become clearer by mid-2020.

As the EAEU states did not join the WTO at the same time (Kyrgyzstan joined the organisation in 1998, Armenia – in 2003, Russia – in 2012, Kazakhstan – in 2015), these member states do not have the same membership conditions. As a result, there are additional obstacles to trade and the burden of administering interstate trade is growing (*for example, Russia was seriously concerned when Kazakhstan joined the WTO. Kazakhstan acceded to the WTO and assumed tariff obligations, which for many goods were below the EAEU Common Customs Tariff. This fact created the risks of the transfer / illegal re-export of foreign products from Kazakhstan to Russia through the transparent border of the EAEU Customs Union*).

The WTO member countries have the opportunity to use lower import duty rates in the single market of the EAEU in accordance with their WTO commitments during the transition period. The Commission decides on the reduction of duties.

In this case, such countries have obligations to pay the difference in the amounts of import duties, counted at the EAEU CCT rates and the actual amounts paid at the import of goods from third countries.

The new members of the EAEU – Armenia and Kyrgyzstan – also take advantage of the preferences on import of certain commodity items. In this case, these states usually undertake commitments to ensure that goods imported under special conditions from third countries do not get to the markets of other EAEU states (*which in practice may not always be carried out*).

The existence of various benefits and preferences granted to certain EAEU countries, whether within the framework of their WTO commitments or under the transitional conditions set out in the accession agreements, etc., is an obstacle to further integration.

Recently, there has been a tendency to curtail various kinds of "voluntary concessions" the EAEU previously made.

Case: Customs duties on cars imported to Kyrgyzstan

In late November 2019, the EEC Council refused to extend the application period of preferential customs duties for cars imported from third countries, which automatically terminated on December 31 of this year. The exemption period has been in force for Kyrgyzstan for almost 5 years since the republic joined the



EAEU in 2015. The termination of preferential duties will lead to an increase in the cost of customs clearance of cars from 3 to 10 times, depending on the engine capacity. The refusal of the EAEU bodies to extend the preferential conditions for the import of cars was ill received by Kyrgyzstan.

Taxation

The so-called “national regime” is applied in the EAEU countries, which implies the collection of taxes and other fees in such a way that taxation on the territory of an EAEU member-state is no less favourable than taxation under the same circumstances with respect to similar goods originating from the territory of that state.

In the meantime, disputes between the countries of the Union related to significant differences in taxation systems, which can equally serve as intra-regional trade preferences and protectionist measures, are becoming more frequent.

The two key areas of work of cooperation regarding approximation of tax systems are:

1. Approximation of excise tax rates (indirect taxation) on the most sensitive excisable goods (alcohol, tobacco products).
2. Improving the system of levying VAT in trade among the members.

Tobacco Excise Case

The most striking example of attempts to unify excise duties in the EAEU are negotiations on the harmonisation of excise rates on cigarettes. Different excise duty conditions in the member-states acted as a driver for the development of the “grey market” for tobacco products, as well as cigarette smuggling to countries with higher prices for them (primarily to Russia).

Negotiations on rates harmonisation began in 2012, in fact, from the moment the Eurasian Economic Commission was formed. The key issues were the introduction of an indicative excise duty rate and acceptable ranges for its deviation in the EAEU countries, where excise duties can vary significantly. Initially, the convergence of excise duties was supposed to begin by 2022, but later it was postponed to 2024. As a result, the indicative rate was determined as 35 euros with a permissible deviation of 20%.

Work on amendments to the Treaty of the Union is currently underway. They are aimed at creating equal conditions for levying VAT in free economic zones in respect to goods imported from Member States and goods coming from third countries.

It is worth noticing that, despite the current national regime in the taxation systems in the EAEU countries, the competence of the EEC is significantly limited in this matter.

At the same time, harmonisation of tax policy regarding excise duties on tobacco and alcohol can serve as a starting point for expanding the Commission's authority in this area. Also, the dynamics of another integration project, the Union State of Russia and Belarus, can transform into a driver of rapprochement of tax systems in the EAEU and raising relevant issues to the supranational



level (see "*The impact of integration within the Union State of Russia and Belarus on the prospects of the EAEU*").

Technical regulation and standardisation

The source of a large variety of barriers to trade within the EAEU is the lack of unified standards, despite the fact that there is a significant number of (supranational) technical regulations (TR) of the Union.

Many standards in the EAEU countries are national. Since only some of the member states take part in developing interstate standards, vote for their adoption, as well as enforce the adopted interstate standards on their territory, standardisation issues are de facto regulated by national legislation of the member states. Such approach hinders the effective implementation of EAEU technical regulations.

Now about [40 technical regulations](#) are effective in the EAEU, their approval is fragmented in accordance with the schedules agreed upon in the EEC. Meanwhile, the dynamics of the adoption of new technical regulations in 2018-2019 slowed down amid escalating volume of trade conflicts within the EAEU.

The decision for any new TR is preceded by a complex discussion of competent state bodies of the EAEU states. The reason for the high importance of TR is that the presence of common standards narrows the field of possibilities for applying non-tariff restrictions for the states involved.

The reasons for the delays in agreeing upon common technical regulations are:

- Formal attitude of a state to the implementation of approval procedures.
- Lack of coordination at the supranational level on the development of common interstate standards, including containing testing methods for the implementation of technical regulations.
- The lack of harmonisation of the legislation concerning responsibility for violation of technical regulations.
 - As a result, there is a lack of a dispute resolution mechanism.
- Unfair competition in the field of technical regulation, also due to the lack of a unified accreditation system within the Union and the responsibility of corresponding bodies for assessing product compliance.
- Lack of real mechanisms for reviewing projects in cooperation with all interested government agencies.
- Disinterest of countries in establishing and improving common mandatory requirements.

III. Prospects for expanding the EAEU and strengthening the role of the EEC: from the national to the supranational

In addition to the above points (the presence of barriers in trade among the member states, etc.), the following aspects affect the EAEU development prospects and the status of the EEC as a regulatory body.

- Structural¹ and macroeconomic² imbalances of the EAEU:
 - Weak diversification of the economies of the participating countries (a high share of the raw material component, dependence on the world price situation, etc.).
 - The average additional effect of integration for the manufacturing industry through 2030 in the EAEU is estimated at only 0.3%.
 - The problem of building cooperative chains within the EAEU that would create additional value in the manufacturing segment.
 - The risk for the EAEU are increasing imbalances between the scale and structure of the economies of the participating countries:
 - Russia is the largest supplier of goods to the single market, providing 62.4% of exports and 34.1% of imports (second consumer). This makes the Union's domestic market highly dependent on the Russian market.
- Geopolitical issues, in particular:
 - Aggravation of relations between Russia and Western countries, sectoral and other US and EU sanctions against the Russian Federation.
 - Since the other EAEU member states did not support Russia's retaliatory ban on importing food products and other goods, a configuration came to life when goods falling under the Russian import ban were delivered to the territory of other EAEU countries (primarily Belarus), and then re-exported to Russia as goods of Belarusian origin.
 - The situation creates additional frictions between the EAEU members.

With respect to these factors, the future of the EAEU single market and the deep integration project as a whole is unclear.

The EEC as an institution and its efficiency

The main problems and limitations of the EEC are:

- Non-enforcement or abolition of EEC decisions by superior authorities and the right to veto EAEU decisions possessed by the member states:

¹ According to 2018 statistics, the growth of the Union's foreign trade turnover amounted to 118.8% (\$753.4 billion). The positive balance of export-import operations exceeded \$227.8 billion. Exports grew in all countries of the Union (except the Kyrgyz Republic).

² According to data on the first eight months of 2019, intra-regional trade of the EAEU countries decreased by 3%.

- This issue may be solved by abolishing the veto rights of the participating states with respect to decisions concerning anti-dumping disputes and the transfer of these powers to the EEC and the EAEU Court (*former Minister of Trade Veronika Nikishina advocated this position*).
- Insufficient authority of the EEC Board to deal with trade obstacles:
 - The existing procedure does not allow the Commission to independently form a registry of obstacles, which does not provide essential legal grounds for working on most of them.
- Work overload of the Commission's Council:
 - Since the entry into force of the Treaty, the number of issues within its competence has grown from 24 to 135 (more than 40 issues are included in the agenda of a Council meeting). The meetings of the EEC Council are greatly restrained in time to "dive into" the issues on the agenda.
 - A significant number of decisions related to the competence of the Board are adopted by consensus, which seriously affects the speed of their adoption and often leads to their transfer to the Council of the Commission in case of insoluble disagreements (due to the congestion of the Council, many issues are postponed until the forthcoming meeting).
 - Note that, prior to the entry into force of the Treaty on the Union, decisions of the Board of the Commission were taken only by a qualified majority. It is likely that in the future the question will be raised about a return to this practice.
- The possibilities of blocking the work of the Board:
 - Meetings of the Board are legally qualified provided that at least one member of the Board from each member state participates in it. The EEC practice shows that there were such precedents, when all members of the Board representing a country (Belarus, Kyrgyzstan) were absent, violating the requirements on quorum. Such situations resulted into a Board's meeting being cancelled, with consideration of issues postponed or moved to a higher level.
- High bureaucratisation and lengthy decision-making in the EEC:
 - The prolongation of the time frame for member states to consider materials prior to the meetings of the Union bodies did not lead to their compliance with the time limits for submitting commentaries to the EEC (materials are sent 45 days in advance to prepare for a meeting of the Council, and 30 days in advance for the Board).

The simultaneous chairmanship of Belarus in the supreme bodies of the EAEU and the Eurasian Economic Commission is likely to stimulate the process of expanding the powers of Commission, namely:



- Inadequate EEC powers with respect to member state governments.
- Insufficient authority of the EEC within the EAEU decision-making system (forwarding part of the decisions to a higher level).
- The lack of authority of the Chairman of the Commission with regard to ministers and heads of departments of the EEC (individual ministerial positions are comparable with the post of the EEC Chairman from the point of view of decision-making).

Single markets' formation

By 2025, it is planned to create several common markets and spaces within the framework of the EAEU:

- Common energy markets, in particular the common gas market, the oil and oil products market, as well as a common electricity market:
 - So far, only the launch parameters of the single electricity market have been agreed. The most pressing issues are the parameters of the single oil and gas markets, especially in terms of tariff setting for the transportation of energy resources.
 - The dominance of hydrocarbon trade within the EAEU makes the Union a hostage of agreements in this area (an "oil and gas alliance").
- A single transport space:
 - Digitalisation issues in transport, including ensuring the movement of goods on an electronic consignment note.
 - Issues of implementing large transport projects as part of the EAEU's cooperation with China (one of the routes of the Belt and Road Initiative goes through the EAEU countries).
- A coordinated agricultural policy:
 - The issue of import substitution in the agricultural sector in relation to third countries outside the EAEU.
 - Issues of removing obstacles to trade in agricultural products within the Union.
- Removing existing barriers to the movement of goods and labour.
- Formation of a single financial market.
 - The key issues are the mutual recognition of licenses (admissions) in the banking, insurance and securities market sectors, approaches to the formation of a single payment space and the functioning of a supranational body for regulating FIs.

In addition, one of the priority areas for integration development is the mutual access of companies from the EAEU countries to state and municipal procurement.



State and municipal procurement

The total volume of state (municipal) purchases in the Union countries in 2018 amounted to \$122.7 billion, which corresponds to 6.4% of the GDP of the countries of the Eurasian Economic Union (EAEU).

Among the key problems in the field of public procurement we note:

- The establishment of exemptions from the national regime for a period of more than two years (repeated exemptions).
- The inability to use bank guarantees for public procurement.
- Lack of mutual recognition of electronic digital signatures for participation in electronic procurement (such recognition exists between Russia and Belarus).
- Lack of information in Russian language during public procurement.

A new trend in this area is the provision of preferences in procurement for suppliers using the mechanism of voluntary certification of products in the regions, which also creates obstacles for participation in state (municipal) procurement of businesses of the EAEU member states.

The powers of the EEC in the field of public procurement are limited by the right to make decisions on the need to abolish acts on the establishment of unilateral exemptions from the national regime, by considering notifications on the adoption of acts and of appeals regarding their cancellation. There is also a right to recognise violations of obligations in the field of public procurement regulation revealed by monitoring the implementation of acts of the Union.

Prospects for the expansion of the EAEU and trade agreements with third parties

Now the EAEU is acting externally in the following forms:

1. Admission of new members to the EAEU.
2. Free trade zones (with Vietnam, Serbia, etc.).
3. Non-preferential agreements "WTO+" (with China).
4. Observer status (Moldova).

Today, there are unofficial discussions on potential membership of only one country, Uzbekistan. The discussion is held through consultations of the respective authorities of Uzbekistan and the EAEU countries. Note that the membership of Uzbekistan can have a significant impact on the development of the EAEU in terms of:

- The structure and distribution of powers in the governing bodies of the Union – first of all, in the EEC Board. The accession of Uzbekistan will lead to additional members the Board appointed, and they will have to be assigned some portfolios.
- EAEU market expansion. Uzbekistan gets easier access to its EEAC market. Moreover, in case of joining the EAEU, Uzbekistan will be one of the most populated countries of the

Union. The country's population is more than 30 million (potentially one of the largest consumer markets, at the same time, residents of Uzbekistan will gain access to the Union's labour market).

- The overall efficiency of the work of the EAEU bodies with respect to coordination and work on issues with the participation of Uzbekistan (one of the most difficult negotiators) and the ability of Uzbekistan to work out and make proposals in the framework of the EAEU.

The EAEU "achievements" now include the following international agreements:

- The first FTA was signed with Vietnam in 2015.
 - The FTA demonstrates efficiency: trade volume has more than tripled.
- In 2019, an FTA agreement has been signed with Serbia.
- A dialogue continues on the formation of an FTA with Singapore, Egypt, India and Israel:
 - During negotiations with Singapore, not only issues of trade in goods are discussed, but also the transition to preferential terms of trade in services and investment.
- In 2018, the Agreement on Trade and Economic Cooperation between the EAEU and the PRC was signed:
 - The agreement is not preferential – trade duties are maintained, while new formats for cooperation on the industry agenda are created.
 - The agreement lays the foundation for the implementation of major infrastructure projects of the EAEU and China, in particular, as part of the Belt and Road Initiative.
- In 2019, the Interim FTA Agreement with Iran entered into force.
 - Under the agreement, customs duties will be reduced or eliminated for a limited group of "early harvest" goods of high export interest. At the same time, Iran, not being a member of the WTO, undertook obligations to provide the goods of the EAEU countries with "basic" conditions stipulated by the WTO.
- The conclusion of an agreement with Serbia will make it possible to include all member states in a single FTA (now the free trade regime is in effect between Belarus, Kazakhstan, Russia and Serbia).

Meanwhile, there is a discussion here according to which the EAEU could get the power to offer some countries signing an FTA, harmonising their legislation and standards with the Union regulations, while providing others with the opportunity to participate in the Customs Union, though without the benefits of the common market and its four freedoms (goods, services, capital, and labour). The third option would be to become a member of the common market without full membership in the Union. The goal is to extend the influence of the EAEU to the countries of Asia and Eurasia.



This will allow establishing mutually beneficial relations between the EAEU and those countries that are unlikely to become members in the near future (Azerbaijan, Turkmenistan, etc.).



MEMBERSHIP

- The Russian Federation
- The Republic of Belarus
- The Republic Kazakhstan
- The Kyrgyz Republic
- The Republic of Armenia

THE PROSPECTIVE MEMBER-STATES

- The Republic of Uzbekistan (the negotiations in the form of consultations)

FREE TRADE AGREEMENTS

- The Socialist Republic of Vietnam
- The Islamic Republic of Iran (temporary agreements with the possibility of becoming FTA)
- The Republic of Serbia

NON-PREFERENTIAL AGREEMENTS UNDER «WTO+» (THE PRC)

- China

OBSERVER STATUS

- The Republic of Moldova



The impact of integration within the Union State of Russia and Belarus on the prospects of the EAEU

There is no formal connection between the projects of the EAEU and the Union State of Russia and Belarus (exists since 1999). At the same time, deeper integration of two of the five EAEU participants is a kind of driver and projection of the prospects of the Eurasian project. This factor is of particular importance given the Belarusian chairmanship of the EEC in 2020-2024 and determines the significant influence of two integration projects on each other.

In this sense, 2020 will be of particular importance. In the near future, the final approval of the "road maps" of economic integration of Russia and Belarus is expected, which will form the basis of the so-called "in-depth integration". The latter involves the transfer to a supranational level of a significant part of sovereign competencies.

Roadmaps are dedicated to the approximation of macroeconomic policies, the harmonisation of currency regulation, the unification of accounting and financial reporting, and the formation of a single agricultural and industrial policy, the unification, harmonisation and approximation of tax legislation. The main areas of concern are oil and gas supplies from the Russian Federation to Belarus, unhindered access of Belarusian agricultural products to the Russian market, unification of tax systems (up to the creation of a single tax code³).

Note that the in-depth integration is connected with a significant number of concessions from Russia (as the incomparably bigger economy). In lieu of that, the Russian Federation may initiate political integration (a common constitution, currency, the creation of supranational governing bodies, etc.), which Minsk resists for fear of losing a significant part of sovereignty.

³ The tax burden in the Russian Federation is lower than in Belarus, and the transition for Belarusian business entities to lower tax rates would be a positive development, however, this raises the issue of compensating budget revenue foregone.



Appendix. The EEC's structure and decision-making procedures

The EEC is composed of the Council and the Board of the Commission. The general management of the activities of the Commission and the general regulation of integration processes are carried out by the EEC Council, which includes one deputy head of government from a member state.

The EEC Council relies in its work on the Board, which is the executive and, importantly, permanent body of the EEC. The Board is formed from representatives of member states on the principle of equal representation of the parties.

The members of the Board are also called ministers and head the respective departments of the EEC. It should be noted that the structure of the EEC Board is not static and may change (creation of new departments).

Since the founding of the EEC in 2012, the Chairman of the Board was Viktor Khristenko (before that, Deputy Chairman of the Government of the Russian Federation). Since February 2016, Tigran Sargsyan (ex-Prime Minister of Armenia) has been the Chairman of the Board.

The chairmanship shall then be rotated alphabetically, so the representative of Belarus shall become the next Chairman of the Board in 2020.

The Chair is appointed for one four-year term, with no extension possible.

The EEC is headquartered in Moscow. Currently, 1,200 employees work in the Moscow office. The EAEU Court is located in Minsk. In the future, a supranational financial regulator, the creation of which is expected by 2025, in accordance with the Treaty, should be hosted in Almaty (the former capital of Kazakhstan).

The structure of the EEC has 25 departments. The departments of the EEC:

- Provide organisational support to the Board and Council of the Commission.
- Draft decisions, orders and recommendations.
- Draft international treaties.
- Monitor the implementation by Member States of the decisions and orders of the Union bodies and international treaties.
- Perform other functions.

The Board also has [22 advisory committees](#) in key areas of integration. Their task is to develop proposals for the EEC Board and to consult with state authorities of the Member States of the Union and business.

The most significant work from the point of view of business is carried out in the following committees:

- The Technical Regulation Committee (issues of the uniformity of measurements, standardisation, sanitary measures, circulation of medicines and medical products).



- The Committee on the Functioning of Domestic Markets (harmonisation of the legislation of the EAEU countries, elimination of obstacles to trade in common markets, etc.).
- The Committee on Tax Policy and Administration (harmonisation of legislation, issues of indirect taxes regulation, etc.).
- The Entrepreneurship Committee (removal of excessive barriers to trade, alcohol turnover, investments, etc.).

Decision-making procedures

Within its powers, the EEC makes binding decisions directly effective in the member states, as well as makes recommendations that are not binding.

The Commission may, by its decision, oblige the government of one member state to annul a resolution that is contrary to the law of the EAEU and infringes on the interests of another member state. However, according to paragraph 30 of Appendix No. 1 to the Treaty on the EAEU, member states have the right to submit to the EEC Board a proposal to cancel a decision of the Commission or amend it.

It should be noted that the EEC Council has the right to consider issues of abolishing or changing EEC decisions on the proposal of a member state or member of the Council of the Commission sent to the EEC Board before the decision takes effect.

Decisions, orders and recommendations of the Board of the Commission are made in two ways:

- By a qualified majority (2/3 of the total number of members of the Board).
- By consensus (according to the list of "sensitive issues" determined by a decision of the Supreme Eurasian Economic Council).