Update on changes and developments under new Customs Codes of Kazakhstan and the EAEU

8 February 2019

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General information

on 11 April 2017	Presidents of Member States of the Eurasian Economic Union («EAEU») signed the Treaty on the Customs Code of the EAEU
on 13 July 2017	Council of the Eurasian Economic Commission passed Resolution No. 22 "On implementation of the internal procedures required to bring into force the Treaty on the Customs Code of the EAEU dated April 11, 2017". The Treaty on the Customs Code of the EAEU came into force on 1 January 2018
on 26 December 2017	In order to implement the provisions of the Customs Code of the EAEU in the national legislation of Kazakhstan new Code "On Customs Regulation in Kazakhstan“ was enacted

Key aspects of new Customs Code of Kazakhstan

New approach to pre-informing and pre-declaring; release at the border	Shifting the focus of customs control to the stage after the release of goods	New benefits for authorized economic operators (AEO)
New features of customs declaring goods	Transition to electronic declaring and automated control at declaring stage	Other legislative innovations

Preliminary information: old and new procedures

- Customs Code of Kazakhstan envisages a procedure for providing preliminary information to the customs authorities on goods expected to be imported, vehicles transporting such goods, time and place of arrival of goods
- The old procedure on preliminary information envisaged submission of documents and information in an electronic form that is autonomous from subsequent customs clearance operations
- New procedure stipulates provision of preliminary information in the form of an electronic document authorized by an electronic digital signature that can be used for subsequent customs clearance operations (please see chart below)
- Moreover, preliminary information provided to customs authorities can now also be used by other controlling authorities at checkpoints, which ensures a significant reduction in time spent for conducting state control

Preliminary information

Notification on arrival of goods

Placement of goods at Temporary Storage Warehouse

Declaration for vehicle

Transit declaration

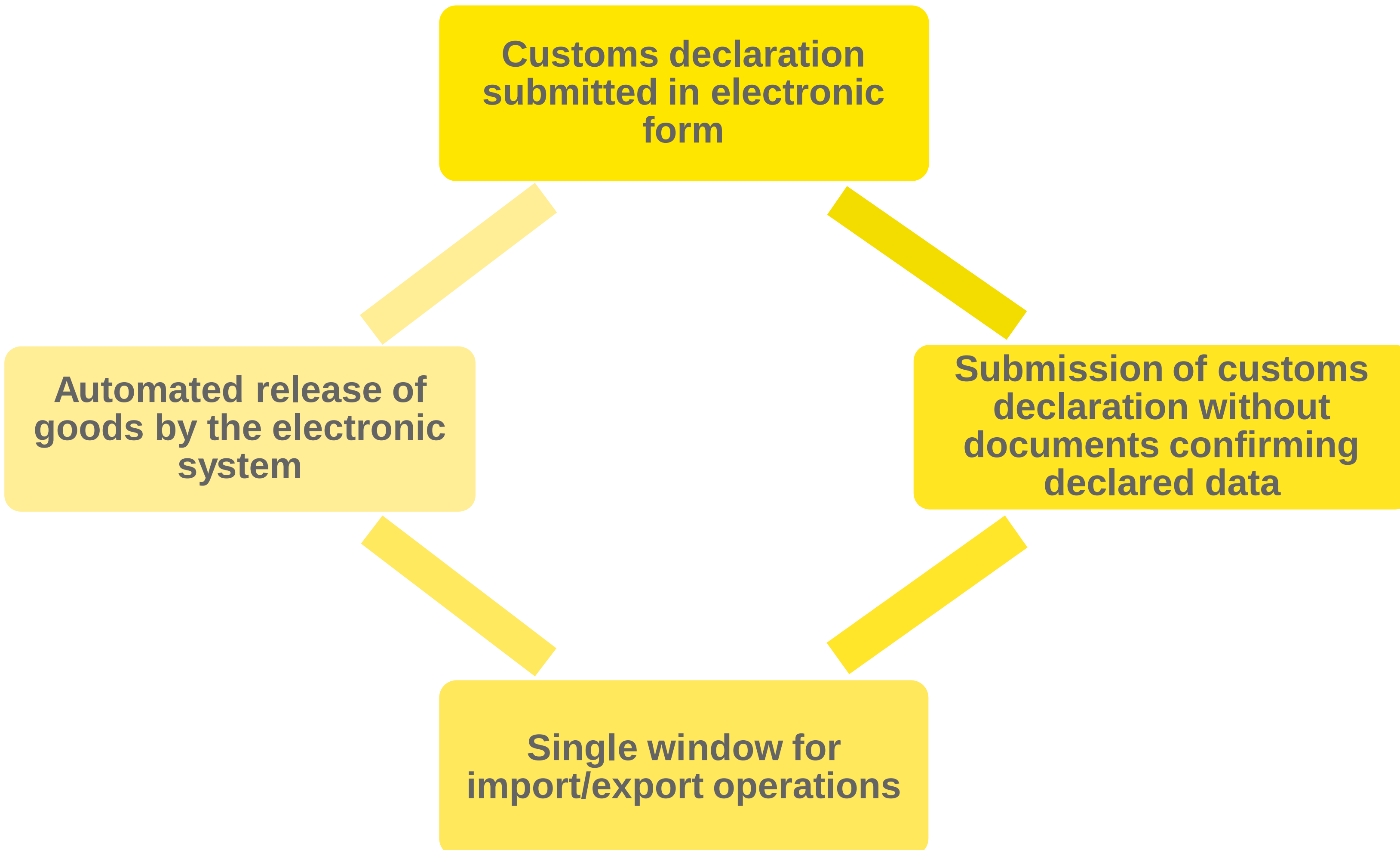
Preliminary information: 2 types of information to submit to the customs authorities

- **It is mandatory** to provide preliminary information which used by customs authorities to assess risks and make preliminary decisions on selection of objects, forms of customs control and measures to ensure the customs control
- Other types of information are **submitted voluntarily**. However, when providing such information it is mandatorily used by the customs authorities in subsequent customs clearance operations

Mandatory information - preliminary information used by the customs authorities to assess risks and make preliminary decisions on selection of objects, forms of customs control and measures to ensure the customs control

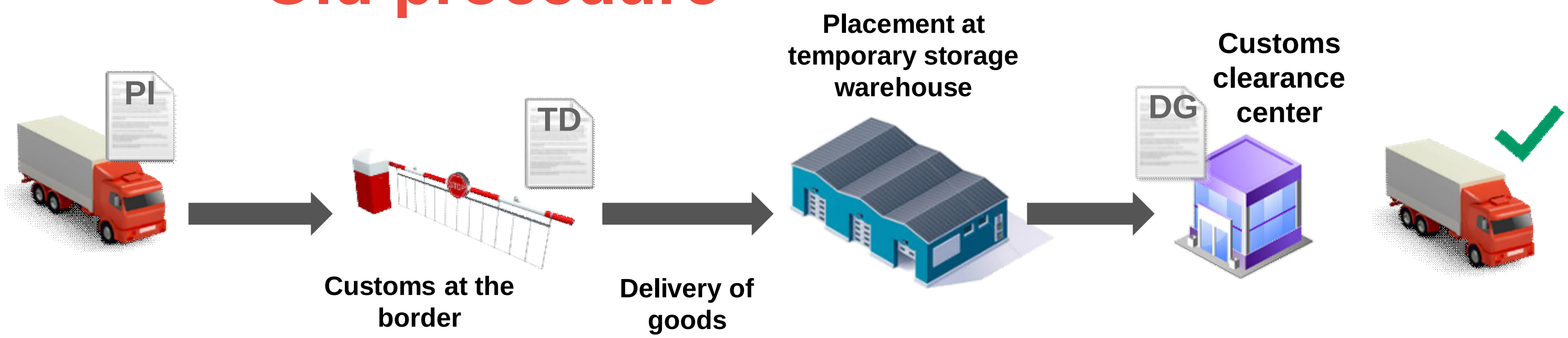
Voluntarily provided information - preliminary information used by the customs authorities to speed up customs operations and optimize customs control

Electronic customs declaring of goods: regulation under Customs Code of Kazakhstan and practical implementation

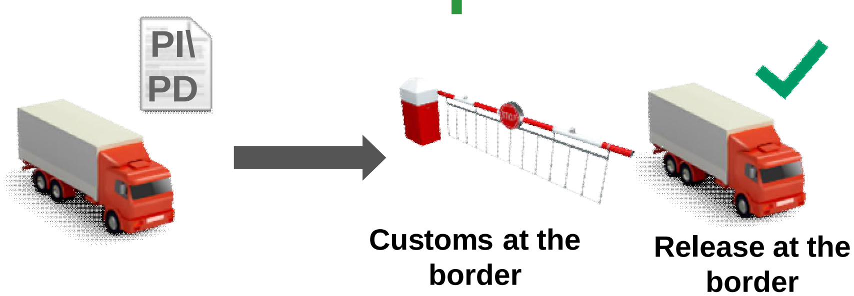


Release of goods at the customs border based on preliminary declaration (PD)

Old procedure

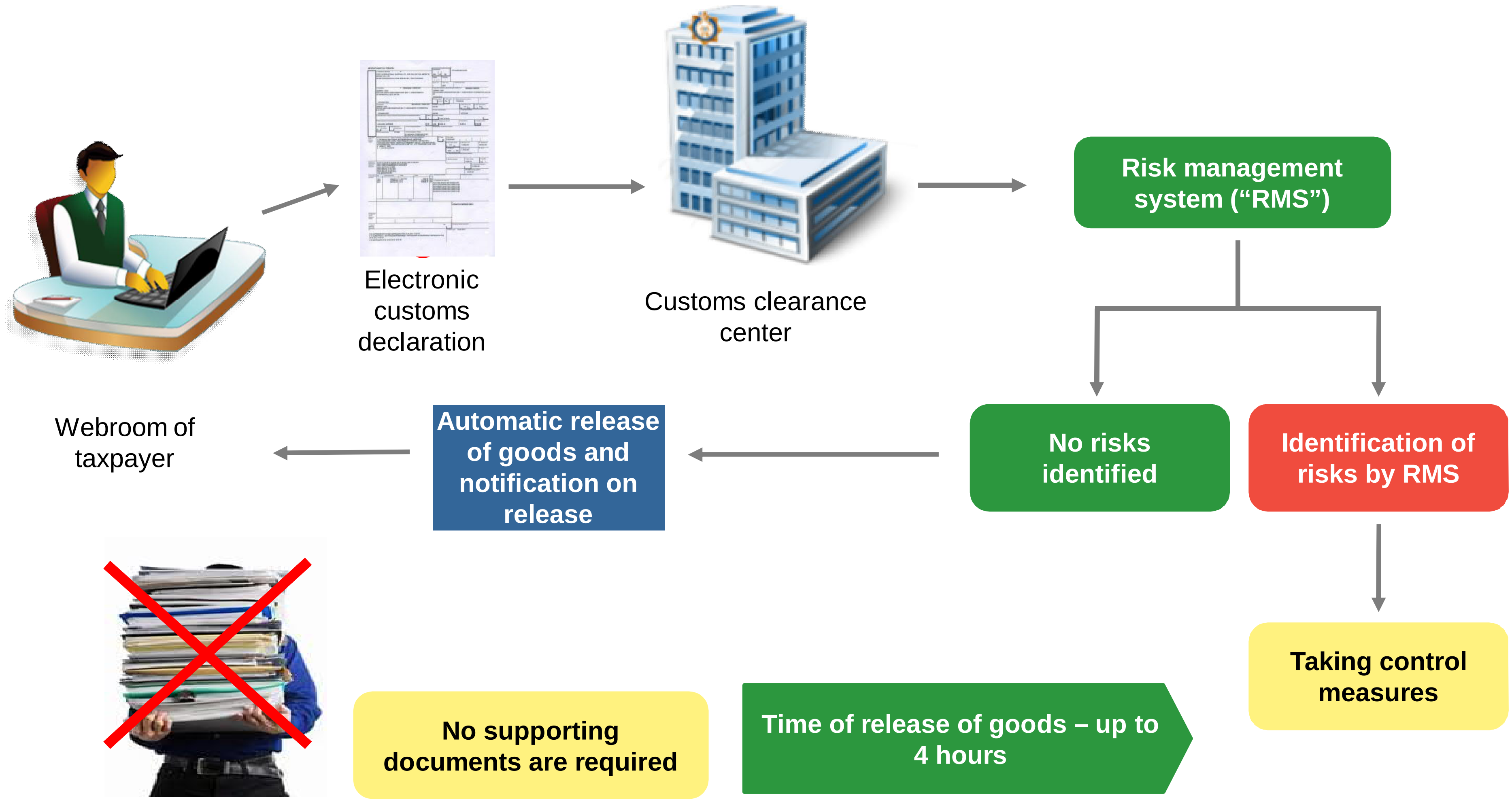


New procedure



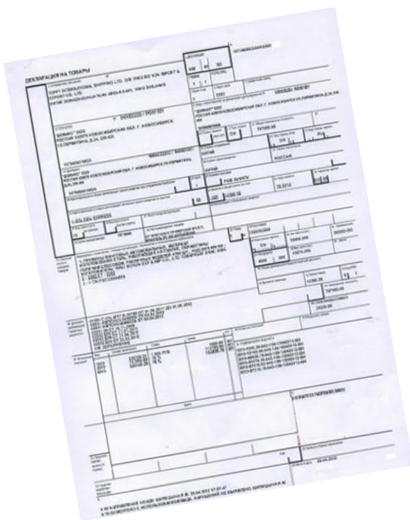
Applied only within the territory of Kazakhstan

Electronic customs declaring and automatic release of goods



Shift of customs control focus to the stage after release of goods

Determination of control measures according to levels (corridors) of of risks



Electronic customs declaration

RMS

Green corridor
(automatic release of goods)

77.4%

Blue corridor
(release without security)

Yellow corridor
(release with security)

16.4%

Red corridor
(Customs inspection)

3.6%

Shift of customs control focus to the stage after release of goods: legislative initiatives proposed by the business community

- It is important to make transparent methodology for conducting customs control after release of goods, excluding the possibility of unreasonable inspections due to human factor acting as a regulator of initiating customs control after release of goods

- Customs control after release of goods should be based on certain criteria for assessing the level of risks and, as a consequence, the **development and implementation of a risk management system ("RMS") after release of goods is critical**

- Such RMS should take into account only probability **of insufficient control at the stage of customs declaration** and in no case should be used as a compensation measure of state control with respect to goods for which, in the opinion of customs authorities, improperly conducted customs control at the stage of customs declaration

Simplifications for AEO

Old procedure

Under the Customs Code of Kazakhstan:

- temporary storage of goods on AEO warehouses
- release of goods before filing customs declaration
- carrying out customs operations connected with the release of goods on AEO warehouses

Persons entitled to obtain status of AEO

- Declarant

Certificate of type III

Current procedure

Under the Customs Code of the EAEU:

- no need for providing of security for customs procedures of customs transit, bonded warehouse or within additional customs control
- release of goods before filing declaration on goods
- priority participation in pilot projects and experiments of the customs authorities
- remote release of goods
- temporary storage of goods on AEO warehouses
- carrying out customs operations and conducting customs control on AEO warehouses
- application of AEO means of identification
- delivery of goods to the AEO warehouse
- minimization of customs control

Persons entitled to obtain status of AEO

- Declarant (exporters, importers)
- Transporters
- Customs representatives
- Owners of temporary storage warehouses and bonded warehouses

Certificate of type I

Certificate of type II

Transit of goods through Russia

- On January 1, 2016, Russia banned road and rail transportation of goods from Ukraine through Russia. Ban requires transit of goods from Ukraine to Kazakhstan and Kyrgyzstan to go through Russia via Belarus.
- Vehicles and railway cars used for transport of goods should be sealed and use the GLONASS navigation satellite system while in transit through Russia.
- On July 10, 2018, Russia lifted the ban for Kazakhstan on 28 commodity items with import duty rate other than zero.
- It includes electrical insulating cardboard, crane rails, gearboxes, graphite electrodes, ceramic insulators, searchlights, etc.

Implementation of the WTO Trade Facilitation Agreement

Single window

TFA commitment of Kazakhstan:

- To establish a single window which enables traders to submit documentation and/or data for importation, exportation or transit of goods through a single entry point to the state authorities or agencies
- In cases where documentation and/or data have already been received through a single window, the same documentation and/or data shall not be requested by the state authorities or agencies

Status of implementation:

- According to the principle of single window to be established in Kazakhstan the customs authorities work together with other regulatory authorities at checkpoints across the customs border. This ensures implementation of integrated control by coordinating the activities of regulatory bodies through the customs authority, including by processing information contained in preliminary information, which is sent by the customs authority to all regulatory authorities before the goods arrive at the checkpoint

- After the commissioning of new information system “E-window” by the State Revenues Committee (“SRC”), all permits for export and import operations will be received through the SRC portal, and a full electronic document flow within the permit system will be ensured

- Launching the single window system is planned until the end of Q1 2019

Trade facilitation measures for AEO

TFA commitment of Kazakhstan:

To adopt trade facilitation measures related to import, export or transit formalities and procedures for AEO

- Trade facilitation measures should include at least 3 of the following measures:
  - low documentary and data requirements, as appropriate;
  - low rate of physical inspections and examinations, as appropriate;
  - rapid release time, as appropriate;
  - deferred payment of duties, taxes, fees and charges;
  - use of comprehensive guarantees or reduced guarantees;
  - a single customs declaration for all imports or exports in a given period; and
  - clearance of goods at the premises of AEO or another place authorized by customs.

- In order to enhance trade facilitation measures provided to AEOs WTO requires to ensure the possibility of negotiating mutual recognition of AEOs with other countries of the WTO

Status of implementation:

- According to Kazakhstan and the EAEU Customs Codes all of the above measures are adopted
- However, currently there is no **mutual recognition of AEOs with other countries of the WTO**
- There are 9 registered AEOs in Kazakhstan at the moment.
- General security for payment of customs duties for AEOs will be gradually decreased from EUR 1 million to EUR 150,000 within 7 years starting from 2018

Publication and availability of information

TFA commitment of Kazakhstan:

The following information should be published in a non-discriminatory and easily accessible manner:

- procedures for importation, exportation and transit (including port, airport and other entry-point procedures), and required forms and documents;
- applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;
- fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;
- rules for the classification or valuation of products for customs purposes;
- laws, regulations and administrative rulings of general application relating to rules of origin;
- import, export or transit restrictions or prohibitions;
- penalty provisions for breaches of import, export or transit formalities;
- procedures for appeal or review;
- agreements or parts thereof with any country or countries relating to importation, exportation or transit; and
- procedures relating to the administration of tariff quotas.

Status of implementation:

- Presently most of the above information is published on the official web-sites of the SRC and its regional departments
- The matters regulated by the EAEU legislation are also published on the official web-site of the EAEU Commission

Information available through the internet

TFA commitment of Kazakhstan:

To make available and update, to the extent possible and as appropriate, the following through the internet:

- a description of procedures for importation, exportation and transit, including procedures for appeal or review, that informs governments, traders and other interested parties of the practical steps needed for importation, exportation and transit;
- the forms and documents required for importation into, exportation from, or transit through the territory of Kazakhstan;
- contact information on its enquiry point(s).

- Whenever practicable, the description referred to above shall also be made available in one of the official languages of the WTO.

Status of implementation:

- Presently most of the above information is published on the official web-sites of the SRC and its regional departments
- The matters regulated by the EAEU legislation are also published on the official web-site of the EAEU Commission

Consultations

TFA commitment of Kazakhstan:

- To ensure regular consultations between border agencies and traders or other stakeholders located within the territory of Kazakhstan

Status of implementation:

- At the regional level - at checkpoints across the customs border state control with regard to goods is carried out under the coordination of the customs authority (integrated control), while at the automobile checkpoints the functions of sanitary, quarantine, veterinary, phytosanitary and transport control, export control, are entrusted to the customs authorities (state revenue bodies) of Kazakhstan

- At the republican level - coordinating the implementation of customs policy, customs regulation and the procedure for issuing permits for imported/exported goods, including coordinating the activities of government agencies involved in the issuance of permits, business communities are carried out by the Ministry of National Economy, SRC together with the National Chamber of Entrepreneurs "Atameken"

Advance rulings

TFA commitment of Kazakhstan:

To ensure providing advance rulings on the following issues:

- tariff classification of goods;
- country of origin;
- appropriate method or criteria, and the application thereof, to be used for determining the customs
- value under a particular set of facts;
- applicability of requirements for relief or exemption from customs duties;
- application of requirements for quotas, including tariff quotas; and
- any additional matters for which Kazakhstan considers it appropriate to issue an advance ruling.

Status of implementation:

Presently the Customs Code of the EAEU and the Customs Code of Kazakhstan envisage procedures for issuing the following advance rulings:

- on classification of goods in accordance with the HS, including the decision to import goods in an disassembled form;
- on determining the country of origin of goods;
- on determining the methods for customs valuation (to be effective from 1 July 2019).

Questions?