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Changes of the New Customs Code

Yesterday, Monday March 7 of 2016 the New Customs Code was issued. Below are some of the most important changes in the customs legislation.

1. The declarant is the importer and the exporter

   The declarant, who signed the declaration of the goods on its own behalf before the Customs Authority, will be the importer and exporter, reason why the shared responsibility with the customs broker disappears. Under the past legislation, the declarant was the customs broker who signed in name and on behalf of the importers and exporters.

2. The declarant and the customs broker

   The responsibility of the importers and exporters under the new Customs Code is higher. Therefore, in the event of continuing with the services of a customs broker, it becomes imperative to clearly establish the obligations and responsibilities of said broker in the contractual provisions of the mandate or within a general agreement.

3. The importance of the correct filling of the Customs Value Declaration is increased

   In the events the customs broker fills in the declaration, such would be responsible for the information regarding the customs valuation. This would increase the requirements of information of said brokers to the importers. Additionally, sanctions for the improper filling of the Declaration are again established.

4. The qualifications related to the Permanent Customs User- UAP- and the Highly Exporter User-ALTEX progressively disappears

   Under the new Customs Code, the UAP and ALTEX disappear and are replaced by the Trusts Importers and Trusts Exporters mechanism and by the Authorized Economic Operator- AEO. The new Customs Code established a transitional regime according to which the qualification of UAP and ALTEX is maintained by 4 years counted as from the issuance of the new Customs Code, if the bonds remain in force.

5. Authorization of the AEO and qualification of the Trusts Importers, Exporters and Foreign Trade Operators

Regarding these new preferential treatments, it will be necessary to wait for the regulations of the Customs Authority. However, to obtain these authorizations and qualifications, as well as for maintaining them, the profile of the companies within the Risk Management System becomes very important. Below a table with the main benefits of these preferential treatments:

Authorization/ Benefit	Deferred payment	Consolidated payment	Customs Clearance	Others
Trusts Importers, Exporters and Foreign Trade Operators	Payment of the customs duties within the month following the authorization to withdraw the goods. A global insurance policy must be constituted.	Payment of the customs duties, interests, penalties and rescue values within the first 5 calendar days of each month.	Delivery of the imported goods in the place of their arrival with the filing of a simplified declaration and the deferred or consolidated payment.	Reduction of the insurance policies to support the compliance of the customs obligations and the possibility of constituting a global insurance policy.
AEO	Payment of the customs duties within the month following the authorization to withdraw the goods.			Insurance policies for ensuring the compliance of customs obligations will not be required and the importation of the goods could be performed in its facilities.

6. Import of machinery through functional units

Upon the new Code, the admission and declaration of all of the goods that integrate a functional unit must be performed in one year, counted as from the date of the submission and acceptance of the first shipment customs declaration. Only in exceptional cases, the Customs Authority may authorize an extension, which must be requested before the expiration of the mentioned term.

7. International logistics distribution centres

The International Logistics Warehouses will be treated as International Logistics Distribution Centres, in which goods may remain for one year counted as from the date of their arrival. Such term may be extended automatically for an equal period of time. With this new type of customs warehouse, it is possible to manage inventories of foreign related parties without the need of transferring the title of such inventories to the Colombian companies.

8. Customs Warehouse

It is the place authorized to store goods for a one year term that could be extended for the same period of time. The goods stored in these warehouses cannot be subject to operations that modify their nature or affect their taxable base as for the customs duties. The benefits and rates currently offered by free trade zones should be considered by the importer for managing the nationalization of inventories.

9. Import for Consumption and Temporary Imports

The ordinary import is now known as import for consumption, which replaces the ordinary and long term import modalities. As for the latter case, it is expected that the payment of customs duties of capital goods, as well as of its parts and accessories, can be performed in a biannual manner up to a five years term.

On the other hand, the possibility to import temporarily continues in force and the term increases from 12 to 18 months.

10. Temporary imports of leased goods

This regime continues for the imports of capital goods under the leasing modality. The payment of customs duties must be performed within the maximum period of 5 years. As for the calculation of biannual instalments, the term of five years will be considered even if the term of the agreement is higher.