Comparative analysis of provisions of the Treaty on the Eurasian Economic Union and the Customs Union, the Single Economic Space and the Eurasian Economic Community legal base
Codification process

68 agreements are codified (CU/SES);
28 agreements are maintained;
About 20 agreements are proposed to be incorporated into the Union Customs Code

Legal base of the Eurasian Economic Union (EEU):

• Treaty on the Eurasian Economic Union (TEEU)

• Custom Code of the EEU;

• International treaties within the framework of the Union
Institutional provisions

CU/SES

- No international organization status. Functioning on the basis of the Eurasian Economic Community
- Eurasian Economic Community Court
- EEC budget
- Accession to the CU is available only for members of the Eurasian Economic Community

EEU

- The EEU - an independent international organization
- Independent Court of the EEU
- Budget of the EEU + system for monitoring of financial and economic activities of the EEU bodies
- The issues relating to the accession of new members and status of an observer in the EEU are regulated
- The legal system and hierarchy of legal instruments of the Union are codified
- Introduced requirement for assessment of the regulatory impact of the Commission acts
Functioning of the Customs Union; Customs regulation

**CU/SES**

Customs regulation is carried out in accordance with the CU Customs Law and national laws of the Member States

In mutual trade, the Member States apply no customs duties, quantitative restrictions, or equivalent measures. Application of safeguards, antidumping, and countervailing measures in mutual trade is permissible

Set of the national markets of the Member States

**EEU**

Within the EEU, the single customs regulation procedure is performed in accordance with the Customs Code of the Eurasian Economic Union, international treaties, and the EEU instruments regulating customs legal relations

In mutual trade, the Member States apply no customs duties (or other duties, taxes, or charges of equivalent effect), non-tariff regulation measures, as well as any safeguards, antidumping, and countervailing measures

Internal market of goods

Free movement of goods between the Member-States’ territories without the application of customs declaration or government control (transport, sanitary, veterinary & sanitary, and quarantine phytosanitary control)
In general, no provisions are made for the single foreign trade policy. Nevertheless, there are individual rules and regulations for the Commission to rely on in pursuing foreign trade policy.

<table>
<thead>
<tr>
<th>CU/SES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any commitments of the Parties when acceding to WTO, become the part of the CU legal base</td>
</tr>
<tr>
<td>In general, no provisions are made for the single foreign trade policy. Nevertheless, there are individual rules and regulations for the Commission to rely on in pursuing foreign trade policy</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EEU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct reference to the General Agreement on Tariffs and Trade (GATT/WTO) 1994</td>
</tr>
<tr>
<td>Purposes and principles of foreign trade policy in respect of the third countries are determined</td>
</tr>
<tr>
<td>An opportunity is rendered to respond to systemic violations in confirmation of the origin of goods</td>
</tr>
<tr>
<td>Powers to set non-preferential rules of origin and rules of origin for the developing economies and the least developed countries pass to the Commission</td>
</tr>
<tr>
<td>Provisions are made for the establishment of a regime of free trade in goods with the third parties under the international treaty of the EEU. The Commission becomes competent to facilitate removal of restrictive measures in trade with the third parties and to make decision to apply countermeasures against the third parties, which will allow Member States to combine their efforts aimed at the elimination of barriers to trade with the third parties</td>
</tr>
<tr>
<td>Joint measures aimed at the development of export of goods from the Member States to the third parties’ markets</td>
</tr>
</tbody>
</table>
Technical regulation

**CU/SES**

- Independence of accreditation bodies
- Removal of technical barriers to trade with the CIS member countries, non-Member States of the CU

**EEU**

- Independency of accreditation bodies from manufacturers, vendors, executors, and purchasers (including consumers)
- Removal of technical barriers to mutual trade with any countries other than the Member States of the EEU
- From the date of entry into force of technical regulations in the territories of Member States, the corresponding mandatory requirements established by the Member States’ laws shall cease to apply
- Technical Regulations of the EEU or national mandatory requirements shall only be applicable to products included into the Single List approved by the Commission
- For the purposes of removal of administrative and technical barriers to trade between the Member States of the EEU, the Member States agree to set mandatory requirements to construction and design processes (including surveying operations)
- Consistency of rules and methods for research (testing) and measurements in performing compulsory conformity assessment procedures
Sanitary, veterinary & sanitary, and quarantine phytosanitary measures

**CU/SES**

- Single veterinary & sanitary policy
  - Technical Regulations could comprise requirements to terminology, packaging, marking, labels, and labeling rules

**EEU**

- Coordinated veterinary & sanitary policy
  - Technical Regulations shall include uniform sanitary & epidemiological and hygienic requirements to products (goods)
  - At the entry points for the movement of goods subject to veterinary control (supervision) through the customs border of the EEU, the Member States shall create frontier veterinary control posts and take necessary veterinary & sanitary measures
  - Uniform sanitary & epidemiological, hygienic, veterinary (veterinary & sanitary), and quarantine phytosanitary requirements as well as plant quarantine rules and regulations are prescribed
  - The Commission shall approve the provision on agreed approaches to identification, registration, and tracing of animals and products of animal origin
Citizens of any Member State of the EEU and other persons residing in the territory thereof shall enjoy, in the territories of other Member States, the same remedies in the field of consumer rights protection that the citizens of such other Member States enjoy, and may apply to state and public consumer protection organizations, other organizations, or courts and (or) undertake other proceedings on the same conditions as those applicable to citizens of such other Member States.

Coordinated policy in consumer rights protection aimed at creating equal conditions for citizens in terms of protection of their interests from bad faith practices of economic entities.
Regulation of circulation of pharmaceuticals and medical products

The common market for pharmaceuticals and the common market for medicinal products shall start functioning from January 1, 2015.

Principles of the common market:

1) harmonization and unification of the Member States’ statutory requirements in circulation of pharmaceuticals;
2) harmonization of the Member States’ statutory requirements in circulation of medical products;
3) ensuring consistency of mandatory requirements to the safety and efficacy of medical products in circulation in the territory of the EEU;
4) ensuring consistency of mandatory requirements to the quality, safety, and efficacy of pharmaceuticals in circulation in the territory of the EEU;
5) adoption of uniform rules both in circulation of pharmaceuticals and in circulation of medical products;
6) development and application of identical or comparable research and control methods used in assessing quality, efficacy, and safety of pharmaceuticals;
7) harmonization of the Parties’ laws regarding control (supervision) in circulation of pharmaceuticals and in circulation of medical products;
8) determination of unified approaches to creating the quality assurance system for medical products;
9) implementation of licensing and control & supervisions functions in circulation of pharmaceuticals by the corresponding authorized bodies of the Member States.
Trade in services. Establishment, conduct, and operation of investments

**CU/SES**

- In respect of the third countries, the Member States shall conduct coordinated service trade policy
- Commitment to create conditions for the expansion of mutual trade in services and the raise of the level of liberalization thereof
- Doing business in all three countries of the CU and the SES required undergoing the relevant admission procedures in each state

**EEU**

- Member States coordinate their policy in trade in services with the third parties
- The goal is to ensure the freedom of trade in services, establishment, conduct, and operation of investments within the framework of the EEU
- An economic entity authorized to carry out certain activity in the territory of one Member State shall automatically become authorized to carry out that activity in the territory of the entire EEU
- Introduced the concept of "a single service market"
- Investment issues are regulated
- Prohibition on new discrimination practices in national laws

4 Service Boxes are envisaged:
- I. Rendering and receiving services with national license recognition and without additional incorporation (starting from 2015)
- II. Services to be moved to Box I upon fulfillment of the Road Map for liberalization
- III. National treatment is not accorded, but services from this box could be moved to Box I or Box II if the Parties so decide
- IV. Prohibition on rendering and receiving services between the Member-States of the Eurasian Economic Union (the list is provided in the Treaty)
  For the rest of services, national treatment shall be accorded
In mutual trade, indirect taxes are collected.

In mutual trade, indirect taxes are collected + the forms of, and the directions and procedures for, tax law harmonization are determined (including harmonization of excise rates for the most sensitive excisable goods).

The provisions are laid down regarding individual income taxation (in respect of taxation of income earned on hire by citizens of the Member States of the EEU).

Liberalization of taxation of personal income of the Member States’ individuals (starting from the 1st day of employment).
General approaches to the energy market within the framework of the CU and the SES

Codification of basic approaches to energy market within the framework of the EEU

Starting from January 1, 2019 the common electricity market will operate

Starting from January 1, 2025 the common gas, oil, and oil product market will operate
Transport

**CU/SES**

Coordinated policy on the development and renovation of transport systems

Regulation of the issues relating to (road) traffic control, tariff policy, as well as development and adoption of documents setting the rules for granting access to infrastructure services in the railroad transport sector

**EEU**

The Member States of the EEU pursue coordinated (agreed) transport policy aimed at ensuring economic integration, consistent and stepwise formation of the single transport space based on the principles of competition, transparency, safety, reliability, availability, and environmental friendliness

Prospects of creating the common market of transport services in the sectors of road, air, water, and rail transport

Stepwise liberalization of road haulage operations between the points located in the territory of another Member State over the period from 2016 to 2025

Provisions are made for the conclusion by the Member States of an international navigation treaty in the sphere of inland waterway transport
Government (municipal) procurements

**CU/SES**

- Stages of liberalization of procurement market for the Member States
- Accord of the most favoured nation treatment (MFNT)
- Various procurement methods (paper-based and electronic formats)
- Optional possibility to keep the Register of bad faith suppliers
- 5 procurement methods
- The list of cases when goods/works/services can be procured from one source or from a single supplier (executor, contractor) formed on the basis of the country principle (81 items)

**EEU**

- Direct provision on according national treatment to the Member States
- Inadmissibility of according to the third countries treatment, in procurement, more favorable than that accorded to the Member States of the EEU
- Focus on the electronic format of procurement (commitment of the Member States to switch by 2016 to the conclusion of procurement agreements (contracts) in electronic format)
- Binding obligation to keep the Register of bad faith suppliers (unified term of 2 years is set for the inclusion of persons into the List of bad faith suppliers)
- 6 procurement methods (Request for proposals is introduced)
- The single list of cases when goods/works/services can be procured from one source or from a single supplier (executor, contractor) (64 items). The possibility of unilateral extension of the single list is eliminated
- Holding meetings at the level of experts and Heads of competent authorities of the Member States and authorized bodies of the Commission (at least 3 times a year)
The Member States rely on the WTO Agreement principles on trade-related aspects of intellectual property rights, international agreements in intellectual property under the administrative governance by the World Intellectual Property Organization, and other international agreements, whereunto the Member States are contracting parties.

Coordination of collaboration is carried out by the Single Economic Space Coordination Board on Intellectual Property.

Commitment to establish uniform procedures required for legal protection of trademarks and appellations of origin (geographic indications) by virtue of a separate agreement.

The Member States specify the list of international agreements and introduce the provision obliging the Member States other than the contracting parties to assume obligation to accede to such international agreements.

Coordination shall be carried out by the Commission jointly with the Member States.

Registration and legal protection of appellations of origin of goods of the Eurasian Economic Union, Trademark of the Eurasian Economic Union, +service mark of the Eurasian Economic Union.

Intellectual property issues relating to plant variety rights, integrated circuit topographies, and production secrets (know-how) are regulated.
Industry

Conciliation Commission for settlement of industrial subsidy disputes

Only the issues related to industrial subsidies were regulated

The Member States start cooperating in industry (tasks, objectives, principles and mechanisms of cooperation are determined)

Industrial subsidy disputes will primarily be resolved by way of negotiations and consultations through the kind offices of the Commission. Disputes that cannot be settled by way of negotiations and consultations will be submitted to the Union Court for consideration

New principle is adopted, whereby the Member States shall recognize any manufacturer having performed a certain number of technical operations in the territory of one of the Member States, eligible for subsidy in the territory of such Member State
**Agricultural sector**

**CU/SES**

- Coordinated agrarian policy + cooperation of the Member States in application of measures having distortion effect on mutual trade
- Powers of the Commission
- Conciliation Commission for settlement of agricultural subsidy disputes

**EEU**

- Agreed (coordinated) agricultural policy (tasks and objectives)
- Government support for agricultural sector in line with the single approach
- Application from January 1, 2016 of new methodology for calculation of the permitted level of measures having distortion effect on trade
- The Commission’s authorities are supplemented with the power to render assistance in ensuring equal competitive conditions within the framework of the main directions for agreed (coordinated) agricultural policy
- Agricultural subsidy disputes will primarily be resolved by way of negotiations and consultations through the kind offices of the Commission. Disputes that cannot be settled by way of negotiations and consultations will be submitted to the Union Court for consideration
- A list of sensitive agricultural products to be generated
<table>
<thead>
<tr>
<th>CU/SES</th>
<th>EEU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooperation in coordination of policy in regulation of external labour migration</td>
<td>Cooperation in coordination of policy in regulation of labour migration within the framework of the EEU</td>
</tr>
<tr>
<td>Restrictions on labour activities of migrant workers as set by the applicable laws of the Parties for the purposes of national security shall not be considered as discrimination</td>
<td>The Member States shall neither adopt nor apply restrictions established by their applicable domestic laws for the purposes of protection of national labour markets</td>
</tr>
<tr>
<td>Right of employers to engage migrant workers of the Member States irrespective of restrictions related to national labour market protection (without permissions)</td>
<td>Right of employers to engage to labour activities migrant workers of the Parties irrespective of restrictions related to national labour market protection (without permissions)</td>
</tr>
<tr>
<td>Labour relations issues are regulated</td>
<td>The issues related to labour relations and civil law relations are regulated</td>
</tr>
<tr>
<td>Social security of workers in accordance with the applicable law of the state of employment</td>
<td>Social security of workers on the same conditions and in accordance with the same procedure as those applicable to citizens of the state of employment</td>
</tr>
<tr>
<td></td>
<td>Recognition of education certificates issued by educational institutions of one of the Member States without conducting in the territory of another Member-State of education certificate recognition procedures as established by the applicable law of the Member State of employment</td>
</tr>
</tbody>
</table>
Information exchange was only performed within the framework of common customs processes necessary for the fulfillment of customs functions.

The scope of areas (issues), within the framework of which information support shall be ensured by the integrated information system of the EEU is extended.

Integrated information system of the EEU to be created.

The system of “The single frame” (“Single point of contact”)

Commission shall determine the procedure for electronic information exchange between authorized bodies, between authorized bodies and the Commission, between the Commission and integration alliances and international organizations.

Unified electronic forms of interaction between authorized bodies, economic entities, and individuals.
Provisions are made for collection of official statistics information, the purpose whereof is set to be efficient development and functioning of the EEU.

The main principles of preparation of official statistics information are specified.

The Commission is conferred with the powers to develop and approve methodology for generation of official statistics information of the EEU.

The Commission, in cooperation with authorized bodies of the Member States, shall elaborate and approve programs for the development of integration in the field of statistics.
Macroeconomic policy

**CU/SES**

- Coordinated macroeconomic policy
- Quantitative parameters determining the sustainability of economic development
- Development of proposals on rectification of negative economic situations
- The exchange rates of the Member States’ national currencies to the US Dollar and (or) Euro was used for generation of official forecasts of the Member States

**EEU**

- Coordinated macroeconomic policy
- The main macroeconomic indicators measuring the sustainability of economic development
- Joint measures aimed at stabilization of economic situation are approved
- Exchange of information between the Central (National) Banks on the exchange rate policy being carried on
Coordination of exchange rate policy is carried out by the Consultative Board on Foreign Exchange Policy composed of Heads of Central (National) Banks of the Member States.

Exchange rate policy shall be coordinated by a dedicated body of the EEU to be composed of Heads of National (Central) Banks of the Member States. Operating procedures of that coordination body shall be determined by the appropriate international treaty within the framework of the EEU.

Coordinated approaches of the Member States to regulation of legal relations in foreign exchange and of application of liberalization measures shall be determined by the appropriate international treaty within the framework of the EEU.
Completion of financial service market harmonization by 2020

Vague definition of the term “financial service” (financial services include any insurance services and related services, as well as any banking services and services in the securities market)

Completion of financial service market harmonization by 2025

An exhaustive list of areas falling within the term “financial service”

Criteria of a common financial market

A supra-national regulatory body for financial market regulation with its head office in Almaty to be created in 2025, upon completion of harmonization of laws on financial markets
Common principles and rules of competition

CU/SES

- Uniform competition rules and principles
- Appeal in Court of the Commission’s decisions in cases on violation of common competition rules in cross-border markets only upon prior reference to the Commission
- Fixed amount of penalties for wrongful acts
- Penalties may be imposed on officials and legal entities

EEU

- Common principles and rules of competition
- The Union Court shall admit to examination a petition for appeal of the Commission’s decision without prior appellant’s reference to the Commission for pre-trial mediation settlement
- Amount of penalties may be changed by the decision of the SEEC
- Penalties may be imposed on officials, legal entities, individuals, and individual entrepreneurs
- The Commission, jointly with authorized bodies of the Member States, shall hold meetings on the issues of enforcement practices, information exchange, and challenges of harmonization of laws of the Member States
- The Commission shall submit to the SEEC an annual report on the competitive situation in cross-border markets and measures applied to restraint distortions of competition in those markets
- Binding force of the Commission’s decisions demanding payment of penalties or execution of certain actions by a violator (to be brought to execution by court order enforcement authorities)
Natural monopolies

constitute a special type of monopoly that is characterized by the fact that for a given range of goods or services, only one supplier is capable of producing them on an economic basis. This is due to the unique properties of the object of monopoly, which prevent the entry of new suppliers into the market.

In the European Union, the Member States have the power to extend the range of natural monopolies within their borders. This can be done:
- in accordance with national laws of the Member States, where the state of the Member State intends to attribute to spheres of natural monopolies the sphere that is recognized to be a sphere of natural monopoly in another Member State and is specified in Annexes 1 or 2 to the Agreement;
- by the decision of the Commission of the Customs Union, where the state of the Member State intends to attribute, upon the appropriate request of the state of the Party to the Commission of the Customs Union, to spheres of national monopolies the sphere other than those specified in Annexes 1 or 2 to the Agreement.

In the Eurasian Economic Union (EEU), the Member States also strive for harmonization of spheres of natural monopolies. This is achieved through the reduction of these spheres with potential determination of a transitional period in Sections XX and XXI of the Treaty of the EEU.