

## **The EurAsEC Court judgment of October 21, 2013**

### ***Case № 1-7/2-2013***

*on the appeal by the public joint stock company “Novokramatorsky Machine Engineering Plant” against the judgment of the Chamber of the Court of June 24, 2013 delivered on the application of “Novokramatorsky Machine Engineering Plant” against the Eurasian Economic Commission where the applicant requested the Court to declare the decision of the Commission of the Customs Union of December 9, 2011 no. 904 “On the measures to protect the economic interests of producers of forged steel rolls for mill trains in the Customs Union” not in line with treaties concluded within the Customs Union and the Common Economic Space*

The treaties concluded within the Customs Union are special in relation to those concluded within the World Trade Organisation as they regulate relations exclusively within the Customs Union whose members are the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation.

### **Summary**

In its judgment of June 24, 2013 the Chamber of the EurAsEC Court declared the decision of the Commission of the Customs Union no. 904 in line with international treaties concluded within the Customs Union and the Common Economic Space and rejected to satisfy the application of the economic entity.

In accordance with paragraph 2 of Article 10 of the Treaty on economic entities bringing before the Court of the Eurasian Economic Community their disputes within the Customs Union and on details of proceedings therein of December 9, 2010 the party to a case, believing that by its judgment the Chamber of the Court has violated its rights and legitimate interests provided by treaties concluded within the CU due to their incorrect application shall be entitled to appeal the judgment of the Chamber, which has not come into force, to the Appeals Chamber of the Court.

The public joint stock company “Novokramatorsky Machine Engineering Plant” disagreed with the judgment of the Chamber of the Court and in view of the said rules appealed to the Appeals Chamber of the Court stating that the Chamber's judgment violates its rights and legitimate interests, is unlawful and infringes the rules of international law.

The Appeals Chamber of the Court examined the materials of the case, discussed the arguments set forth in the complaint of the company "NMEP" and the objections by the Commission, heard the opinion of the judge legal adviser, the representatives of the parties, verified the Chamber of the Court

applying generally recognised rules and principles of international law, of the provisions of treaties concluded within the CU and CES. Whereupon the Appeals Chamber rejected the complaint of the economic entity.

In particular, the Appeals Chamber of the Court agreed with the conclusion of the Chamber of the Court that the treaties concluded within the Customs Union are special in relation to agreements concluded within the WTO, and that the Agreement on the application of special protective, antidumping and countervailing measures during a transitional period of November 19, 2010 should be applied.

The Appeals Chamber supported also the conclusion that the agreements concluded within the WTO should be applied neither to actions taken during the anti-dumping investigation nor to the decision of the Commission of the Customs Union no. 904 since those agreements became part of the legal framework of the Customs Union after the anti-dumping investigation in respect of the goods of the applicant had been carried out and the said decision had been adopted.

The Appeals Chamber of the Court found invalid the arguments of the company "NMEP" alleging that the Chamber of the Court had violated the rules of procedural law.

The judgment of the Chamber of the Court was upheld. The complaint of the public joint-stock company "Novokramatorsky Machine Engineering Plant" was rejected.