

## **Efforts made to unify royalty and licence fees**

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Vladimir Kotenko, Partner, Head of Tax and Law

The recent accession of Ukraine to the WTO (World Trade Organisation) has inevitably resulted in the uneven customs environment. Evolving and conflicting jurisprudence is exacerbated by the inherent complexities in interpreting and implementing WTO rules concerning royalties and license payments. Combined with a lack of experience in applying WTO valuation standards, there is significant pressure on the customs authorities to meet pre-determined budget targets. Added to the global economic downturn, this is all bad news for importers.

In recent months, the post-entry customs valuation audits of importers became the favorites of the Ukrainian customs authorities. The efforts are focused on identifying royalty and license fees that the importer failed to include in the customs value. There is a wide practice of retroactive import duty and VAT assessments for the past three years (with up to 100% penalties).

On September 28 2009, the State Customs Service adopted order No.900 in an effort to unify rules on royalties and license fees into the customs value of goods imported into Ukraine. The approximate royalties can now be determined based on the price list or estimated profit. Still, the order does not take into account sound proposals from the business community and, therefore, many important issues remain contradictory or unregulated.

### **Differentiated limitations of interest rates on foreign borrowings revived**

The National Bank of Ukraine has decided to recall differentiated limitations of interest rates on foreign borrowings. Starting November 15 2009, the maximum fixed interest rates for foreign borrowings (denominated in foreign currency of the first group) will be set at 9% for the loans less than one year; 10% for one to three years; and 11% for more than three years. The maximum floating interest rate will amount to LIBOR for three-month US dollar deposits plus 750 points.