

Customs Clearance - Steps for Clearing an Imported Vehicle through Customs

Introduction

The aim of this paper is to understand the vital role customs plays in the development of the country in protecting its internal interests and in ensuring the competitiveness of the country in world trade environment. For that, a detailed examination of Customs legislation of the Republic of Armenia, its organization, supervision and implementation was examined. Also, a theoretical as well as anecdotal analysis based on case studies in comparison with international best practice is presented. Thus, the main aim of the paper is to understanding whether the current legislation of Armenia corresponds to the policy of the law in particular and to the needs of further development of the country. As a concluding part proposals how to overcome the obstacles as well as recommendations for reform and reform implementation is presented.

Public Policy

The efficient free market can function properly only when there is a regular application of rules at its external borders.

These rules go beyond the Customs Committee as such and extend to all aspects of trade policy, health and environmental controls, agricultural policy, the protection of the economic interests of the country and external policy measures.

Customs is responsible both for protecting society and facilitating international trade through the management of external borders and by ensuring overall supply security.

For these reasons, the Customs rules and regulations must:

- Protect the country from unfair and illegal trade while supporting legitimate business activity;
- Ensure the safety and security of citizens;

- Protect the financial interests of the Country; and
- Increase the competitiveness of the population through modern working methods supported by an easily accessible customs environment.

Thus, Customs rules are designed to help facilitate trade and fight fraud so as to safeguard the financial and security interests of the country and its citizens.

In this regards, customs have an important role to play to ensure the competitiveness of the world trade environment for Armenia. Balance between trade facilitation and the protection of the country's internal interests (community or national duties) are of vital necessity in our days. This requires well trained customs officers, sound legislation and effective tools. The protection of the country's interests also requires good co-operation and mechanisms for the exchange of information. These objectives can be reached by identifying specific areas of difficulty in the legislation and control mechanisms, by exploring solutions to these difficulties and by improving the co-operation between customs administrations, other authorities as well as private and legal entities.

To be effective, customs control must be quick, effective and based on modern management techniques. To have an effective control also requires close co-operation with business, particularly when it comes to exchange of information, and avoiding unnecessary delays or costs arising from the implementation of controls that is not only of a public interest but also greatly of private interest. While dealing with the Customs operations it is very important for the individual to deal with simplified and rationalized customs legislation, improved services of Customs officers and also paperless environment.

Armenian Legal Framework

As provided in Article 7 of Customs Code of Armenia, management, organization and supervision over customs affairs of the Republic of Armenia (RA) shall be implemented by the State Authorized Body which consists of Higher Customs Body; Territorial customs houses of higher Customs Body; and Customs points of higher Customs Body. The Armenian Customs service includes State Customs committee under the

Armenian Government, Regional customs houses and customs points. Armenia has 6 regional customs houses, which include 11 customs points¹:

The Customs legislation of the Republic of Armenia regulates relations associated with the Customs affairs of the Republic of Armenia and consists of the Customs Code, other Government decisions and legal acts. The customs affairs of the RA involves the order and conditions of transporting goods and means of transportation customs control and other means of implementation of the Customs policy.

Customs Code of the Republic of Armenia contains 44 Chapters:

- Transportation of Goods and means of transportation across customs borders is regulated by Chapter 3 of the Customs Code of Armenia
- Customs regimes of goods transported through the customs border of the Republic of Armenia. is regulated in Chapter 4 of the Customs Code
- Methods of determining customs value of the goods transported through the customs border of the Republic of Armenia, as well appeal methods against the customs actions and decisions of customs officers are regulated by chapters 12, 13, 14, 15 of the Customs Code of the RA
- Customs payments are defined in chapter 16 and 17 of the Customs Code of the RA
- Declaration of goods, customs formalities and user fees are defined in chapter 18, 19 and 21 of the Customs Code of RA
- Chapters 37 and 38 of the Customs Code of Armenia determine the violation of customs regulations and liabilities for it and infringement of customs regulations

Case Studies on the Transaction

Customs Code of the Republic of Armenia is based on the Former Soviet Union Customs legislation and is very much in tune with the customs legislation of CIS2 countries. It only partially corresponds to the Customs legislation of European Union.

¹ See appendix 1

The current Customs Code was ratified on January 1, 2001, amended in July 1, 2003. The Customs legislation of the Republic of Armenia regulates relations associated with the Customs affairs of the Republic of Armenia. Management, organization and supervision over customs affairs of the Republic of Armenia; and is implemented by the Higher Customs Body. The RA customs affairs are implemented by the Customs Authorities that are law enforcement bodies. As stated in the article 9 of the Customs Code, main objective of the Customs Authorities are:

- Ensure protection of economic sovereignty and security of the Republic of Armenia, as well as economic interests and domestic market;
- Ensure implementation of provisions of Customs legislation and supervision over implementation of demands of Customs legislation;
- Implement customs regulation measures in respect of trade economic relations, to promote foreign economic relations of the Republic of Armenia;
- Ensure implementation of customs control and customs formalities,
- To fight off smuggling and violation of the RA Customs legislation with respect to transportation of goods across the customs border of the Republic of Armenia, to prevent illicit traffic of drugs, arms, items of cultural, historical and archaeological value, intellectual property objects, as well as animal and plant species under the threat of extinction, parts of the latter and other goods across the Customs border of the Republic of Armenia, as well as to assist in struggle against international terrorism;
- To meet liabilities and exercise the rights of the Republic of Armenia stipulated by International treaties with respect to customs related issues.

How does the Customs Authorities meet the above mentioned objectives? What is the opinion of Armenians about the operations of the Customs authorities nowadays? Among about 100 questioned Armenian citizens of different ages (from 20 to 60 year old), Armenian Customs Authorities are considered as one of the most corrupt and inefficient authorities of Armenia in terms of business and cooperation.

² Commonwealth of Independent States

However, the chairman of the Customs Committee of the Government of Armenia Mr. Armen Avetisyan, in his interview with one of the local newspapers brought interesting statistics of works conducted by these authorities during the first 6 months of 2006. He stated that the struggle against the false customs values has started recently and was conducted quite efficiently. The Customs Committee payments to the state budget annually consist of 156 billion AMDs, 9 billion of which are for administrative smugglings. During the first decade of year 2006 - 23 employees were dismissed from their work, 31 were subjected to various administrative sanctions. Reasons for dismissal were negligence and breaches of customs regulations. However, there are still problems with customs value payments during customs transactions. The customs committee has conducted checking in 29 companies and has revealed about unreported 360 million AMDs. The chairman was sure that these figures are not ultimate and many more will be revealed in the result of their operations. The chairman stated also that during the first 6 months of this year there were 156 cases filed in the courts, 127 of which the committee won and lost only in 6 proceedings and have currently applied those decisions to the appealed courts. Out of those 156 cases 21 are on smuggling, and 111 are on various types of administrative violations of customs rules. There are 24 cases in process.

The chairman was proud to mention that the struggle against the breaches and corruption of the Customs Authorities that they have started at the beginning of this year has given its results. Indeed, all the above mentioned figures sound impressive. Meantime, lack of transparency and avoidance of customs authorities to disclose any information was obvious while dealing with customs authorities in my practice. My efforts to speak to the legal department head of the Customs ..as well as with the Were in vain. I was not able to get any information even from the Information Department of Customs ... It seemed that there was a taboo and everyone that were in some ways connected with customs were afraid to speak about it. Moreover, in all cases they sighted Article 220 (Prohibition of Publication of Data Related to Cases of Customs Regulations Infringement³). The only interview that I succeeded to get by using my

³ 1. Data relating to cases of customs regulations infringement may be published wholly or partially by permission of the Customs Authority official conducting the given case.

2. In case of necessity the official of Customs Authority shall give notify persons involved in the case about prohibition of publication of data relating to the case of customs regulations infringement, as well as the liability for that stipulated by law.

‘connections’ was Mr. Davidthe ... of anti smuggling department of These facts of course speak for themselves. The lack of transparency, corruption and insufficient legislation are the main reasons in creating difficulties for business and trade for both common people and businessmen.

However, the fact that the Armenian Authorities recognize that Armenian Customs has problems and that they need to be eliminated gives much hope for further improvement. Another factor for hope relies on the society and NGOs. Among them was NGO “AELPAC” which has done a very extensive comparison of European Customs Code with that of the Republic of Armenia and actively cooperates with Armenian Authorities in creating a new legal act for the implementation of the Customs Code of Armenia.

Thus, it is worth to mention that not only struggle against the customs violations and breaches is essential but a very strict and efficient legislation is also required in reaching better results in overcoming problems within Armenian Customs of nowadays. Only good and efficient laws combined with continues effective administrative enforcement measures will allow us to achieve the objectives indicated in Article 9 of the Customs Code of RA as well as the European high standards of implementation of the law..

Step-by step description of the transaction

As it was stated above, the Customs of the Republic of Armenia is an essential element in the functioning of the economic and trade market of Armenia. According to the report of the National Statistics Center, the total trade turnover of Armenia for 2005 January- December period was about 2718.3 million USD, with import trade of 1767.9 million USD and export of 950.4 million USD. Consequently, the export trade balance was registered as 594.8 million USD.

Armenia’ s major trade partners are Russia and CIS countries with the import of 119133.2 USD and export of 259480.2 USD. The second major partner is Georgia with import of 38739.1 USD, and import of 49991.4 USD⁴.

⁴ Social – Economic situation of Armenia for January – December, 2005 (Report of the National Statistics Center)

According to the statistics of the Customs Information Office of the Armenia Customs Authorities during the 6 months of the 2006 there were 11,230 vehicles imported to Armenia, of which 4,040 were of Russian production and 7,190 of international production, where in 2005 the total import of vehicle to Armenia was 8,454; from which 3,835 of Russian production and 4,621 of international.

Figures brought above indicate the importance of Customs operations and their smoothness and effectiveness.

Now, let us see to what extent customs legislation of the RA ensures the effective role of Customs in meeting its obligations and how it assists in the development of trade economics of Armenia; also to see, whether it complies with the demands of the country to promote trade and economics.

A step by step application of a hypothetical case of an import procedure of a vehicle to the Customs Code of Armenia will enable us to understand the above mentioned issues.

According to the Customs Code of the RA (Article 128) all vehicles imported through the customs border of the RA are subject to declaration. Vehicles can be declared either verbally or in writing by providing accurate information on the vehicle, the purpose of it's transportation, as well as other information on customs control and processing.

Vehicles imported by air transport by legal persons are declared in "Zvatnots" custom house in Yerevan. Organizations and individuals that wish to import goods across the customs border of Armenia should submit documents as defined in the RA Government decision N 143 (May 2001) "List of documents for customs clearance and procedures of submitting the documents". The organization/individual importing vehicles should complete a declaration before the final customs processing in the appropriate regional customs house within 10 days after importation of goods and transportation means (Article 130).

According to the Article 134 of the Customs Code the importer fills in the declaration, which is then registered in the automated system (ASYCUDA)⁵, and submitted to a customs valuation inspector. For importing goods subject to declaration through Armenia's customs border, the country of origin of the goods

⁵ (++) Automated Systems of Customs Update Data Administration).

should be declared along with other data. The country of origin certificate or related document presented to customs during the transaction should include; country of origin of the product; description of product; product code and quantity. The procedures of issuing country of origin certificates and documents are defined in Part 27, articles 164,165, 166 of the Customs Code of the Republic of Armenia.⁶

The following main documents are required by customs for clearance: Shipping documents; customs cargo declaration, commercial invoice (original), power of attorney for the person or company conducting the customs clearance.

After filling in the SAD form the importer has to check and sign the Form and submit to the authorized person in the custom house, i.e. to the estimating inspector. The inspector checks the accuracy of the form, the completeness and validity of submitted documents, the accuracy of applying the customs value method and also notifies the importer about the responsibility he/she bears in case incorrect information is provided. After the inspector seals SAD form it is considered to be accepted by customs bodies. It is a legal document starting from the moment it is accepted, and the importer bears a responsibility for the inaccuracy of information declared by him. Amendments and supplements to the customs declaration are made before it is accepted by the authorized customs officer.

A penalty of 50 thousand AMD is applied in case customs declaration on vehicles is not submitted to customs bodies during the assigned timeframes, as well as for failure to submit other supportive documents on the vehicle necessary for customs control upon the request of customs authorities in addition to filing the declaration in writing.

When the vehicle is transported through the customs border of the RA, either by supplying false documentation for customs control and processing, or by invalid documentation obtained from illegal sources, as well as by using false customs declarations, or if there is a lack of precise information, a penalty in the amount of the customs value of the vehicle is applied in this case or criminal charges apply (Article 202).

⁶ See Appendix 2

After submission of the declaration, the automated ASYCUDA system classifies passage of the shipment.

- Red passage - declared vehicle freight is subject to detailed inspection
- Yellow passage - declared freight is subject to partial inspection
- Green passage - declared freight is released without inspection

After declaring the vehicle to the customs authorities the importer has to do all customs payments stated in the law.

Armenia uses the harmonized code system for tariff classification. Tariffs are in ad valorem terms⁷ and levied on transaction price plus transportation costs of the customs point (Article 81). The import tariff schedule has rates of 0 or 10 percent (specific (fixed) duties are calculated at a fixed tariff rate per unit of goods subject to taxation)⁸; plus a 20 percent value added tax (VAT).

According to customs code of Armenia, customs collects the following payments for importing goods and vehicle: (Article 110)

- Customs fees: depending on the amount of service provided by the customs: valuation, inspection, provision of customs forms, temporary import, vehicle registration certificate, customs will charge, customs fees, including 3,500 AMD fixed fee, plus 1,000 AMD for shipments under one tonne or for each tonne of shipments above 1 tonne .
- 1000 AMD is charged for each document (form) provided by the customs bodies.
- For the purposes of Customs inspection of means of transportation, the amount of customs user fee is: 2,000 AMDs for a car with not more than 10 seats; and 5,000 AMDs for all other means of transportation.
- Customs Value: The customs value of goods is calculated by the importer (Article 83) and is subject to confirmation by the Customs Inspector as described further below. The customs value of goods is

⁷ A tax based on the assessed value of real estate or personal property. In other words, ad valorem taxes can be property tax or even duty on imported items. Property ad valorem taxes are the major source of revenues for state and municipal governments. *The phrase ad valorem is Latin for "according to value"*

⁸ See appendix 5 (Article 102. Customs Duty Rates)

their transaction price plus the transportation costs. According to articles 87 -93 of the customs code, for calculating the customs value of goods using the transaction price method, the importer should submit payment documents (invoice or other similar document) for goods procurement in the exporting country in addition to the customs declaration. According to Article 87 of the customs code, the customs will not use transaction methods of customs valuation⁹, if:

- The importer has not submitted any invoices or other similar documents or documents indication transportation and insurance charges
- The customs has sufficient reasons to consider an invoice invalid
- The transaction was made in circumstances, which do not allow the price to be defined
- Customs value calculated based on the transaction price is significantly lower compared with similar products. In such cases the customs will use one of the following valuation methods: transaction price of identical goods (article 89 of the customs code of Armenia); transaction price of similar goods (article 90 of the customs code); market price of the product in the local Armenia market (article 91), cost based calculation (article 92); or residual method (Article 93).
- The import tariff schedule has rates of either 0 or 10 percent. (0 percent rates are for trucks, buses and vehicles produced in Russia, all other vehicles have 10 percent rate tariffs).

For late payments of customs duty and customs fees fine is applied for each day of delay to the amount of 0.2 percent of unpaid customs duty.

- Value Added Tax: currently 20 percent, collected on the amount of valuation plus customs duty. For late payment of VAT fine for each day of delay to the amount of 0.15 percent of the unpaid customs duty will be applied, but for no more than 365 days.

⁹ A valuation method of goods to determine the customs value based on price (cost, insurance, freight) plus certain other costs incurred in purchasing the goods (e.g. some commissions, royalty and licence fees and even the value of materials you have (supplied free of charge to a manufacturer). This method of valuation is known as the transaction value and is used in the vast majority of importations.

- The road tax is paid by the owners of motor vehicles, individuals and legal entities driving their vehicles by highways to carry out activities pursuant to the RA Law on Road Tax. Road tax as well as environmental tax applies to the vehicles imported to the RA, but these taxes are paid to the Tax Authorities and not levied during customs transactions. Worth noting that the environmental tax is not fixed and will depend on the age of the engine of the imported vehicle: older the engine, higher the tax. For late payments of Road Tax, fine in amount of 0.25 percent of each day of unpaid road tax will be applied but for no more than the unpaid amount. For late payments of environmental tax fine is applied for each day of delay to the amount of 0.25 percent of unpaid money.

International Best Practice

Within the scope of the National Program of the Republic of Armenia the Customs Code should be supplemented to correspond to the standards of the Customs Legislation of European Union by 2009. That is why the analytical comparison of the Customs Code of Armenia and that of the European Union will be conducted within the scope of this paper.

Since the main theme of the essay is the customs clearance procedure of importing vehicles, let us compare the transaction points of that of European Union, particularly of France, United Kingdom and Sweden.

To process an imported vehicle to France the importer need to submit to Customs at the French port of entry the following documents:

- foreign registration of the vehicle;
- a commercial invoice, if applicable;
- a T1 declaration of the single administrative document - or SAD (note that in- bond transit in the EU under a T1 declaration is usually covered by a guarantee);
- certificate where the vehicle is imported directly from; the country where it was manufactured and if this country has concluded a trade agreement with the EC,

- a movement certificate, so that the importer may be eligible for the free or reduced duty rates as defined in the agreement.

After clearing Customs, the importer will be handed a copy of the import declaration, a receipt, as well as a customs entry certificate #846 A.

All vehicles imported into the country, irrespective of their origin, are liable to value added tax (VAT) at the uniform applicable rate of 19.6%.

When the vehicle is imported directly into France from countries other than of European Union, Customs duties and VAT will be collected at the port of entry by the French Customs & Excise Service.

When the vehicle is shipped to France via another Member State of the European Union:

Customs duties (levied at a uniform rate throughout the European Community) will have been paid at the port of entry into that State: only VAT will, therefore, have to be paid in France to the local tax collector - the French Internal Revenue Service.

If the vehicle is moved to France from the port of entry in-bond (under the external Community transit procedure, i.e. under cover of a "T1" declaration), then, both Customs duties and VAT will have to be paid when the vehicle is cleared with the French Customs & Excise Service.

Thus, a country tied to the European Customs (EC) Union by a trade agreement pays customs duty of null or reduced duty rate, depending on the provisions of the agreement and the VAT of 19,6%

However, the clearance procedures differ, if the vehicle is imported to France from non -European Community:

A country which is not tied to the European Customs Union by a trade agreement pays customs duty of 10% for automobiles, 10% for Motor homes, 9% for motorcycles, 5.3% for House trailers, 5.3% for trailers.

If the importer have a commercial invoice: the value of the vehicle will be the "transaction value" tax excluded, mentioned on that invoice, provided it is the price actually paid for the vehicle.

If the importer does not have commercial invoice nor seller's certificate: the value will be assessed:

- either in conformity with standard values for new and used cars available in publications;
- or, by reference to the manufacturer's selling price of your vehicle or of similar vehicles;
- Customs may deduct from this assessed value certain amounts - variable according to the type of vehicle and the publication used as the reference - to take into consideration the depreciation of the vehicle.

Now, let us see how United Kingdom(UK) handles the same procedure in its customs boarders.

It is worth to note that the UK has the same commodity codes, duty rates and procedures as all other EU countries have. However, the UK customs code has a simplified system that's worth to study as a best practice for Armenia.

Importing and exporting are covered by EU Regulations, so the tariff - "Integrated Tariff of the United Kingdom" has the same format and is used throughout the European Customs (EC).

Procedures are almost the same as that of France: Customs value of goods is determined based on the transaction valuation method. If no transaction takes place, a hierarchy of alternative methods of valuation is used. A small difference of the procedure is that if you buy goods regularly from the same supplier(s), instead of completing a declaration every time you import a consignment, you can register a "long term" declaration called a General Valuation Statement (GVS), with the GVS Registration Unit in London. The declaration will remain valid for a period of three years as long as the particulars do not change, after which it has to be renewed.

Due to the EC trading agreements with certain non-EU countries some goods may be imported to the country on the preferential duty rates.

Another specification of the UK customs law is the Tariff Quota. It is a pre-set value or quantity of given goods, which may be imported into the European Community during a specified period with a reduction of the normal customs duties, and beyond which an additional quantity of the goods can still be imported by paying normal Customs duties.

There is another specification of import defined as the Import Preference Scheme that is covered by the trade agreements signed by the EC and various partner countries.

Customs of UK uses a Customs Freight Simplified Procedures (CFSP). The CFSP is a two stage electronic method of declaration which allows authorised traders to gain accelerated removal or release of most third country imports by making a simplified declaration containing the minimum of details.

Another simplified procedure for import of goods is the Deferment Account which is an efficient method of paying the duty and VAT if you intend to import on frequent basis.

The importer can apply to Revenue & Customs for a Deferment Account, which will enable him to defer paying the charges (that would otherwise be due at importation) until a prescribed payment day. To apply, the importer will need to provide financial security (from a bank or insurance company approved by Revenue & Customs) to cover each and every sum that will defer up to an overall maximum amount in any calendar month. This amount will be the deferment limit for the month and must not be exceeded. The direct debit mandate completed by the importer will enable the customs authorities to take a payment from the importer's bank account of the total charges differed.

Another example of best practice for Armenia could be the electronic Submission of Information for Swedish Customs procedures. The Swedish Customs Computer system is one of the largest, most modern and automatic systems in Europe, where the use of electronic signatures has made customs routines paperless. Today 90% of the customs declarations are handled electronically and of these around 80% are cleared automatically. The aim of the electronic system is to communicate with each other, thus creating more straightforward customs handling and at the same time giving customs administration better control opportunities regarding their flow.

Procedure evaluation and recommendations for reform

Article 4 of the Customs Code of Armenia provides “Customs Policy of the Republic of Armenia”

The Republic of Armenia shall pursue a single customs policy that is an integral part of the State general economic policy.

The objectives of the Customs policy of the Republic of Armenia shall be implementation of customs control over goods circulation through the Customs border and in the Customs territory of the Republic of Armenia, as well as effective application of other instruments of customs policy implementation, participation in assuring economic independence and security of the Republic of Armenia, protection of domestic market, as well as implementation and assistance of other goals of economic policy aimed at development of national economy.

How does Armenian Customs Code correspond to this policy and if there is a fair implementation of the law?

It is not a secret that the Customs of Armenia is far from being effective and transparent. Corruption, customs smuggling, gaps in legislation and administrative infringements are problems that Armenian Customs authorities face today.

Given the complexities and the challenges of international trade it is not easy to contend with a wide assortment of import and export regulations and tax rules. Whenever goods cross territorial borders a whole bunch of formalities and regulations are dealt with governing such areas as security, quality and health, plus customs duties, local taxes, that businessmen have to handle carefully to avoid their negative affects. Clearly, customs and duty preparation should play a central role in the business plans of any company with even the smallest cross-border component.

Taking into consideration the results of the comparative analysis of the laws of European Customs and Armenian Customs Code it is obvious that there is no single unified legal act, where all acts and decision of the Armenian Government and Customs and Tax Authorities are combined. The one unified legislation will alleviate the understanding and implementation of the procedures of customs controls and formalities. The Armenian Customs Code needs to have more detailed description of customs regimes. It is hard to follow the transaction procedure within the current customs Code of Armenia. While examining the law one

can feel the challenges of its enforcement and understanding. As I was told during different interviews, inquiries and consultations with common importers, businessmen and experts the law is very difficult to understand.

The current Customs Code is not clear enough on customs transactions on the formation of customs duties and mainly on customs value, which contributes significantly to the overall corruption in the customs. Obviously, successful use of this method of corruption presupposed well-developed organization and “insurance” mechanism ensuring that all involved will keep quiet about it. This type of infringement can best be estimated through data on the rate of customs duties charged upon nominal customs rates. Namely, the result of such exemptions is the discrepancy between the nominal (declared customs rates) and the actually charged customs duties. It is beyond doubt that many of these exemptions could be contributed to corruption of customs officials and the importers. The most important method for reducing the customs value is the use of false invoices (receipts), submitted by importers and/or customs broking firms and accepted by corrupt customs officials. Such an invoice specifies the smaller value of a consignment than actual, reducing the customs basis and the customs duties on it. Namely, according to the current Armenian Customs Code the customs value is determined on the market value (price) of the imports, and the customs officials have a discretionary power to, on all available information on the market value of goods, question an invoice as a proof of the price of the goods in customs procedure, that is, the price an importer had allegedly paid for it. The burden of proof rests with the customs official – he is obliged to provide adequate evidence contesting the invoice, that is, he must supply information on the value of goods. According to the Armenian customs Code... the customs value is determined by..... there In this way it is possible to correct the value of a consignment specified in an invoice so as to represent the actual value and thus increase the customs value, or do just the contrary., This is where corruption can come into play – customs officials receive bribes so as not to exercise their right, rather to accept a false invoice as regular and thereby reduce the customs value and the financial dues of the importer – corruptor. Unfortunately, current regulations make it easy for the

corruptor since the value of a consignment can be increased only on the assessment of a customs official, so the official is able to impose his powers only partially, reaching a “compromise” with the corruptor.

Quite often merchandise is accompanied by several invoices – different invoices are submitted on the way. Regular invoices are used for transit of goods across states to its final destination, false are submitted at the border of the state that is the final destination. This is especially common if clearance of a consignment in transit is connected with the release of funds which the importer/customs broking firm pays as a bank guarantee, which entails an original invoice. In all cases of false invoices and corruption involving false invoices there needs to be proper coordination between the chief of the shift and the team that conducts inspection of goods, as well as with other customs officials who are involved in the process in the course of their duties.

This not only applies in the case of false invoices, but also in all other cases of corruption in the customs in the cargo transport. At many border crossings, especially at those which are attractive from the point of view of the cargo transport, there is a division of labor, and it is generally well known which customs broker “cooperates” with which customs official or his team. Mutual trust is built up in this way, which is a precondition for making long-term corrupt deals. To reduce this type of corruption can be reduced through breaking the organized chain of corrupt dealings coordinated by high officials of the customs administration or by officials in competent ministries, change of foreign trade regulations and finally through considerable simplification of regulations and also through limiting grounds for exemption from customs duties. As a result of these trends the discrepancy between nominal (on declared customs rates) and actually charged customs duties diminished.

The law does not provide an authority to the importer’s representative to carry out customs declaration process for the importer. There is no mechanism for customs duty payment privileges.

There is no a standard of behavior expected of Customs officials and for that, code of conduct needs to be designed within the frames of Code of Ethics and Conduct to assist customs administration to develop,

since Armenian Customs Authorities obviously are not well trained as it was revealed during my interviews conducted with various common importers and/or businessmen.

And finally, and that is the most important issue, the law does not provide simplified procedures that will offer traders a variety of procedures to best meet the traders' needs. Thus, simplification of customs procedures as a key principle incorporated in the customs procedures will reduce the opportunities for malpractice and encourage trade.

As it was stated before, customs of the Republic of Armenia is particularly vulnerable to corruption, because customs officers have wide range of discretionary powers to discharge their duties; because they routinely come in contact with extremely valuable items, and because they are paid much less than they could earn through illegal activities. Thus, it is not a secret that Customs is not separated as an island and corruption in Customs reflects similar problems throughout the whole Armenian community. Though, customs Authorities have started to openly acknowledge the scale of problem, they have to recognize it as one of main obstacles to economic and social development. Thus, good and effective law combined with political will and commitment at the highest level, with the support the dedicated employees will enable us to fight with corruption. Since, the presence of corruption can destroy the legitimacy of a Customs administration and severely limit its capacity to effectively accomplish its mission of promoting national prosperity, protecting the country and its citizens, and facilitating global trade and legitimate travel.

The efficiency and effectiveness of Customs procedures has a significant influence on the economic competitiveness of nations and in the growth of international trade. That is why; customs systems and processes must not be allowed to be perceived as a barrier to international trade and growth. If we do not correct the situation now, it will rapidly flow away from our country because of bureaucracy, low efficiency, high costs and lack of transparency.

Implementation of modern Customs techniques is also one of the key issues that Armenian Customs Authorities have to address. Though Armenia has an electronic system for submission of declarations, but it

is still not very efficiently implemented and only a small percent of customs transaction procedures are handled electronically.

Taking into consideration all factors stated above it is quite essential that Armenia reviews recent developments and future initiatives in the commitment to ethical and efficient customs administrations and fight against corruption. Since an efficient and ethical Customs administration can make a major contribution to effective revenue mobilization and can assist governments in facilitating trade and attracting investments.

Reform Implementation

Consequently, basic mechanisms of corruption in the customs rest on centralized, highly organized vertical structure with well developed division of labor, both in the Customs Administration itself and Customs Authorities. Of course, permanence of documents and the possibility that corruption may be detected later pose an additional risk, both for the corruptor and for the potentially corrupt customs officials, reducing the likelihood of corruption and requiring those involved to plan and prepare thoroughly in order to avoid being detained later. The assertion, that at a later time it is possible to check the regularity/irregularity of a customs procedure and instigate its revision will determine the accountability of all involved. It is very important that the links between high customs officials, the police and well-organized corruptors – importers have been broken. As for the policy of elimination and suppression of corruption, severe criminal liabilities and sanctions are necessary for an effective fight against corruption in the customs.

The Armenian Government and Customs Authorities should focus on anti-corruption specific activities and seize the every opportunity to raise awareness about the issue. Also, other initiatives should be implemented and should address several key factors such as transparency to provide predictability, including appropriate appeal mechanism; reform and modernization in order to eliminate situations where clients are tempted to offer bribes in order to avoid slow or burdensome procedures. Audit and investigation capability of Authorities should be another factor in addressing the reforms within the Customs. Human resource management, including sufficient salary, adequate staff selection, promotion, rotation, training and

professional development and performance appraisal; leadership and commitment at the management level; management of morale and the promotion of an organizational culture where Customs officers retain pride in the reputation of their administration.

And finally, a regulatory framework simplified to the greatest extent possible as well as reduction of the amount of Value Added Tax to meet the trade development standards of the country is quite essential. In the context of the international trade environment Customs plays a critical role not only in meeting the goals of the governments but also in insuring effective controls that secure revenue, compliance with national laws, ensuring security and protection of society. Armenian Customs has to take steps to gain an important role to ensure the competitiveness of the regional trade environment and comply with International high standards.

Automation of procedures in such a way as to minimize the opportunity for corruption and increase the efficiency of the process is also a very important issue to be addressed.

The philosophy of continuous improvements should be developed through the integrity process. With the importance of a regional approach in mind, Armenian Government should elaborate an ongoing process of continuous review and improvement of integrity strategies in the region and in the world as well.

Information sharing process can be another contribution for the future initiatives of integrity such as active consultations with other developed countries on a practical means of undertaking this process as well as identify areas of further improvement.

As an important factor of integrity Armenia should adopt some recommendations of the World Customs Organization (WCO) Council with regard to Customs procedures and practices and technique:

- to promote co-operation between Customs administrations;
- to standardize Members' practices regarding duty relieves, repayment or remission;
- to facilitate the international transport of goods and travel and tourism;
- to promote the harmonized use of information technology;
- to facilitate and expedite the implementation of certain international Conventions;
- to simplify and harmonize Customs documents;

- to ensure that adequate legal remedies are available to the taxpayer.

Moreover, the World Customs Organization has developed a Model Legislation to help countries in drafting, or revising their existing Customs legislation, to which Armenia should follow.

In short, framework to examine the management, administrative and integrity strategies and to identify opportunities for further improvement should be implemented.

Conclusion

As it is obvious from list of objectives indicated in Article 9 of the Customs Code of the Republic of Armenia, Customs has a major role to play at this level to carry out the defined policy, implement rules and use the effective tools for these processes at operational level, protect the financial interests of the country, especially in the fight against fraud. To achieve the correct balance between these demands an effective and well established legal framework combined with the good will of the Armenian Government, administrative authorities and the society as whole for the implementation of these laws are of vital importance for the further development of the Republic of Armenia.

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APPENDIX 1:

REGIONAL CUSTOMS

Working hours: 9am-6pm

ARARAT REGIONAL CUSTOMS HOUSE

10 Isakov Avenue

Yerevan-82

Tel: (374-1) 527-611

Fax: (374-1) 541-090

GUGARK REGIONAL CUSTOMS HOUSE

44 Moskovyan street

Vanadzor-377200

Lori province

Tel: (374-1) 288-637

Fax: (374-1) 537-125

SHIRAK REGIONAL CUSTOMS HOUSE

21 Khorenatsi street

Gyumri-377500

Shirak province

Tel: (374-1) 285-614

Fax: (374-1) 537-125

SYUNIK REGIONAL CUSTOMS HOUSE

Sisian-Yerevan highway sixth kilometer

Sisian-378010

Syunik province

Tel: (374-1) 285-826

Fax: (374-1) 537-125

"ZVARTNOTS" CUSTOMS HOUSE OF YEREVAN

Zvartnots international airport, Yerevan

Tel: (374-1) 593-566

Fax: (374-1) 537-125

TIR REGIONAL CUSTOMS HOUSE

10 Isakov Avenue

Yerevan-82

Tel: (374-1) 568-474

Customs Points

Working hours: 24 hours

AKHURIK CUSTOMS POINT (currently not functioning)

Akhurik village, Shirak province

Armenian-Turkish border

AYRUM CUSTOMS POINT

"Airum" railroad station, Tavush province

Armenian-Georgian border, responsible for railroad transportation only

Tel: (374-66) 21-980

Fax: (374-1) 537-125

BAGRATASHEN CUSTOMS POINT

Bagratashen village, Tavush province, Armenian-

Georgian border

Tel: (374-1) 284-571

Fax: (374-1) 537-125

BAVRA CUSTOMS POINT

Bavra village, Shirak province

Armenian-Georgian border

Tel: (374-1) 285-829

Fax: (374-1) 537-125

GOGAVAN CUSTOMS POINT

Town of Tashir, Lori province

Armenian-Georgian border

Tel: (374-54) 21-984

Fax: (374-1) 537-125

JILIZIA CUSTOMS POINT

Jilizia village, Tavush province

Armenian-Georgian border

Tel: (374-66) 21-980

Fax: (374-1) 537-125

MARGARA CUSTOMS POINT (currently not functioning)

Margara village, Armavir province

Armenian-Turkish border

MEGHRI CUSTOMS POINT

Town of Agarak, Syunik province,

Armenian-Iranian border

Tel: (374-1) 285-452

Fax: (374-1) 537-125

NOR HAJN CUSTOMS POINT

Nor Hajn village, Kotayk province,

Serves diamond-cutting companies located in Nor Hajn

Village

Tel: (374-1) 527-611

Fax: (374-1) 541-090

PRIVOLNOYE CUSTOMS POINT

Town of Tashir, Lori province

Armenian-Georgian border

Tel: (374-54) 21-984

Fax: (374-1) 537-125

SHIRAK AIRPORT CUSTOMS POINT

"Shirak" airport,

City of Gyumri, Shirak province

Tel: (374-1) 285-829

Fax: (374-1) 537-125

VEHICLE CUSTOMS PROCESSING POINT

10 Isakov Avenue

Yerevan-82

Tel: (374-1) 527-611

Fax: (374-1) 541-090

Appendix 2

CHAPTER 27.

DECLARATION AND CONFIRMATION OF COUNTRY OF ORIGIN OF GOODS

Article 164. Declaration of the Country of Origin

The declarant shall declare the country of origin together with other information during the transportation of goods subject to declaration through the RA Customs border.

Article 165. Confirmation of Country of Origin

1. Customs Bodies shall confirm the declared information concerning the country of origin.

The declared country of origin shall serve basis for Customs formalities by Customs Bodies if as the only country of origin it is mentioned;

a) In certificate of origin presented by the declarant given by Authorised Body of RA Government or origin country.

b) On goods, packaging and in accompanied documents;

2. Submission of certificate of origin for the transportation of goods through the RA Customs border shall not be a compulsory condition.

If more than one country of origin is mentioned on the goods, their packaging and in documents accompanying the goods, or they are not mentioned, therefore:

3.1 Customs Bodies shall confirm country of origin mentioned in the certificate of origin;

3.2 In case of absence of certificate of origin if on the goods, its packaging and in documents accompanying the goods is mentioned more than one country of origin

a) any country of origin selected by the declarant mentioned on the goods, its packaging and in documents accompanying the goods shall be declared and confirmed by the

Customs Bodies;

b) the combination of highest rate defined in the RA law applied to countries mentioned in 3.2 (a) and more severe measures of non-tariff regulation shall be applied to declared goods.

3.3 In case of absence of certificate of origin if on the goods, its packaging and in documents accompanying the goods is not mentioned any country of origin of goods there should be applied the provisions of subparagraph 'b' of 3.2 of this Article viewing all the countries instead of the countries stated in subparagraph 'a'.

4. The declarant can substantiate the declared country of origin with proofs within 120 days after formalities made according to the order defined in subparagraph 'b' of paragraph 3.2 and paragraph 3.3 of this article and take back the extra-paid amount (if there is any) paid according to subparagraph b of 3.2 and 3.3 paragraph of this article applied by Customs Bodies.

5. The following are the "proofs" mentioned in paragraph 4 of this article;

- a) certificate of origin presented by the declarant given by Authorised Body of country of origin;
- b) certificate of origin presented by the RA Authorised Body.

Article 166. The Information Mentioned in Certificate of Origin

The certificate of origin of goods transported through the RA Customs border presented to Customs Bodies shall contain the following information;

- a) the country of origin
- b) the possible detailed description of goods
- c) the commodity code according to nomenclature of foreign economic activity;
- d) the quantity of goods.

APPENDIX 3

Road Tax Collected for Driving by Highways

The road tax is a payment mandatory paid to the state budget to produce revenues needed for building, repair, and maintenance of the RA state-owned highways of general use.

The road tax is paid by the owners of motor vehicles, individuals and legal entities as well as enterprises not having status of a legal entity driving their vehicles by highways to carry out activities pursuant to the RA Law on Road Tax.

The customs bodies collect the road tax on motor vehicles registered in other countries at customs point when they pass the RA border.

The customs bodies settle the road tax for driving by highways and collect tax to be paid to the RA budget.

1. Road tax on vehicles registered in other countries

The road taxes on vehicles registered in other countries are levied within a month at the following rates each time the vehicles enter the Republic of Armenia

Description of Motor Car	Tax Rate(drams)
Motor cars with up to 7 passenger sits	10.000
Motor cars with up to 13 passenger sits (buses)	20.000
Motor cars with from 13 to 30 passenger sits (buses)	40.000
Motor cars with more than 30 passenger sits (buses)	60.000
Trucks with up to 1.5t freight capacity	15.000
Trucks with from 1.5t to 3t freight capacity	25.000
Trucks with from 3 t to 5 t freight capacity	40.000
Trucks with from 5 t to 10 t freight capacity	65.000
Trucks with from 10 t to 20 t freight capacity	80.000

Trucks with from 20 t to 36 t freight capacity	110.000
Trucks with 36 t and more freight capacity	150.000

2. Heavy freight motor vehicles

The tax is collected at a rate equal to the product of the sum of the rate fixed for the total mass of a motor vehicle plus axle load and the distance of transportation by highways.

3. Big motor vehicles

Big motor vehicles are those at least one of measures of which (including the measure of load) exceeds the following ones:

- Height above road surface 4 m
- Width 2.5 m
- Length with one trailer (semi-trailer) - 20 m, with two and more trailers - 24m
- The load exceeds the back edge of a vehicle by 2.5 and more m

The payment for freight by big vehicles driving highways is fixed at 110 drams per 10 kilometers.

