

Features Of Customs Regimes In The European Union

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Key words: European Union, customs regimes, application of customs procedures, customs union, free movement of goods.

ABSTRACT:

The current article describes and enshrines the main features of customs regimes within the European Union. The customs procedures and the proper regimes are duly regulated and determined by the valid customs legislation, including the legislative acts adopted within the European Union and the functioning customs union. Creation and functioning of the single customs union in the European Union provides the free movement of goods, services, people and capital as the main basic rule and prohibits imposing any customs duties and charges, taxes in relation with the movement goods within the customs territory of the European Union and its Member States. The institutions and the competent customs authorities of the European Union by adopting the customs regulations and other legislative acts define the main customs regimes and procedures existing in the European Union and their specific features which significantly affect the customs clearance related to the movement (free) of goods within the customs territory of union and proper application of the customs procedure to the goods imported to the EU.

Açar sözlər: Avropa İttifaqı, gömrük rejimləri, gömrük prosedurlarının tətbiqi, gömrük birliyi, malların azad dövriyyəsi və hərəkəti.

Xülasə:

Bu məqalə Avropa İttifaqında gömrük re-

jimləri və onların əsas xüsusiyyətləri barədə bəhs edir. Avropa İttifaqı çərçivəsində mövcud olan gömrük prosedurları və müvafiq rejimlər Avropa İttifaqı çərçivəsində fəaliyyət göstərən gömrük ittifaqı vasitəsiylə qəbul edilən qanunvericilik aktları da daxil olmaqla, qüvvədə olan gömrük qanunvericiliyi ilə müəyyən edilir və tənzimlənir. Avropa İttifaqında vahid gömrük ittifaqının yaradılması və fəaliyyət göstərməsi mallar, xidmət, şəxslər və kapitalın azad hərəkəti və dövriyyəsi, əsas və fundamental hüquqi qayda kimi, təmin edir və malların Avropa İttifaqı və Üzv Dövlətlərin ərazisində hərəkəti ilə bağlı hər hansı gömrük rüsumları, yığımları və vergilərinin tətbiq olunmasını qarşını alır və ümumilikdə qadağan edir. Gömrük qanunvericiliyini təşkil edən əsas gömrük qayda və digər normativ aktların qəbulu yolu ilə Avropa İttifaqının müvafiq institutları və səlahiyyətli gömrük orqanları Avropa İttifaqı və gömrük ittifaqının ərazisi çərçivəsində qüvvədə olan və malların hərəkəti və dövriyyəsi (azad) ilə əlaqədar gömrük rəsmiləşdirilməsi qaydalarına təsir edən gömrük rejim və prosedurlarını müəyyən edir, Avropa İttifaqına idxal edilən mallara müvafiq gömrük prosedurunun xüsusiyyətləri nəzərə alınmaqla tətbiqini tənzimləyir.

Ключевые слова: Европейский Союз, таможенные режимы, применение таможенных процедур, таможенный союз, свободное движение товаров.

Резюме:

Эта статья описывает и включает основные свойства таможенных режимов в Европейском Союзе. Таможенные

процедуры и соответствующие режимы, применяемые Европейским Союзом, регулируются и определяются действующим таможенным законодательством, включая законодательные акты, принятые в Европейском Союзе в рамках действующего таможенного союза. Создание и функционирование единого таможенного союза в рамках ЕС обеспечивает свободное движение товаров, услуг, людей и капитала, как один из фундаментальных правил и запрещает наложение всяких таможенных пошлин и сборов, налогов, связанных с движением товаров на территории Европейского Союза и Стран Участников. Институты и компетентные таможенные органы Европейского Союза принятием определенных таможенных правил и других нормативных актов определяют основные таможенные режимы и процедуры, существующие в Европейском Союзе, и присущие им специфические свойства, которые значительно влияют на таможенное оформление, связанное со свободным движением товаров на территории союза и соответствующего применения таможенных процедур товарам, ввозимых в Европейский Союз.

1. Introduction

Operating as a single market with 28 countries, the EU is a major world trading power. EU economic policy seeks to sustain growth by investing in transport, energy and research – while minimising the impact of further economic development on the environment. We should note that with just 6,9% of the world's population, the EU's trade with the rest of the world accounts for around 20% of global exports and imports. Over 62% of EU countries' total trade is done with other EU countries.

The European Union is one of the three largest global players for international trade, next to the United States and China. In 2014, the EU's exports of goods were equivalent to 15% of the world total. They were surpassed for the first time since the EU was founded by those of China (15.5%), but were still ahead of the United States (12.2%), which had a larger share of world imports (15.9%) than either the EU (14.8%) or China (12.9%). [1]

The customs legislation with general

application regulates the customs union and competences of the European Union and its institutions in the customs issues, including the free movement of goods, services, persons and capital. According to the Article 3 (TFEU), the Union shall have exclusive competence in the area of customs union, which means that only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts. Under the next Article 28 (TFEU), the Union shall comprise a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries. However, products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges. Thus, the Union shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for its official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the government of that country. [6]

2. Customs regimes in the European Union

The legal basis governing and regulating the trade and customs related issues within the European Union is the Union Customs Code (hereinafter referred to as "UCC") dated October 9, 2013 as Regulation (EU) No 952/2013 of the European Parliament and the Council of the European Union. Under the UCC, customs regime is defined as a set of customs regulations defining the status of goods and means of transportation in accordance with the objectives of a business transaction and designation of goods.

Customs destinations are classified in customs regimes and other destinations. The customs regimes are classified in:

1. Final regimes: a) import; b) export to introduce administrative arrangements

2. Suspensive regimes (with economic impact): transit, customs warehouse, inward processing, processing under the customs control, outward processing, temporary import.

Under the Customs approved treatments, when goods arrive at the customs office of entry to the EU, they are placed into temporary storage under customs supervision until they are assigned one of the following customs approved treatments or uses: release for free circulation; transit procedure; customs warehousing; temporary admission; processing (inward and outward).

The following formalities are to be completed at the customs office of entry: 1. The goods imported are presented at the customs office. 2. The customs declaration is drawn up on form single administrative document and lodged with all necessary justifying documentation (relating to the quality and quantity of the goods, origin and value of the goods). The customs declaration must be made by holder of the goods (declarant). 3. The customs authorities control that the amount of customs duties calculated by the declarant is correct and there are no irregularities in the whole procedure. 4. Customs duties are paid within eight days from the registration of the customs declaration. Once the declarant pays the customs duties owed, declarant receives a copy of the declaration for definitive import. 5. The customs declaration is registered at the accounting office of the competent customs authority. [4]

According to Article 201 of the UCC, the goods imported from non-Member States to the Community (Union) intended to be put on the Union market or intended for private use or consumption within the customs territory of the Union shall be placed under release for free circulation. Release for free circulation shall confer on non-Union goods the customs status of Union goods. Release for free circulation shall entail the following: (a) the collection of any import duty due; (b) the collection, as appropriate, of other charges, as provided for under relevant provisions in force relating to the collection of those charges; (c) the application of commercial policy measures and prohibitions and restrictions insofar as they do not have to be applied at an earlier stage; and (d) completion of the other formalities laid down in respect of the import

of the goods. Thus, the goods are released for free circulation once all the customs import requirements have been met, including payment of all applicable tariff duties, Value Added Tax (VAT) and excise duties, presentation of all applicable authorizations and declarations (e.g. for quotas, health requirements, etc.).

3. Features of the customs regimes and procedures

Besides the release for free circulation the imported goods may be placed under any of the following categories of special procedures: (a) transit, which shall comprise external and internal transit; (b) storage, which shall comprise customs warehousing and free zones; (c) specific use, which shall comprise temporary admission and end-use; (d) processing, which shall comprise inward and outward processing. [2]

An authorisation from the customs authorities shall be required for the following: (a) the use of the inward or outward processing procedure, the temporary admission procedure or the end-use procedure; (b) the operation of storage facilities for the customs warehousing of goods, except where the storage facility operator is the customs authority itself. The conditions under which the use of one or more of the procedures referred to the abovementioned cases or the operation of storage facilities is permitted shall be set out in the authorisation. This authorisation shall be granted only to persons who satisfy all of the following conditions: they are established in the customs territory of the Union; they provide the necessary assurance of the proper conduct of the operations; an authorised economic operator for customs simplifications shall be deemed to fulfil this condition, insofar as the activity pertaining to the special procedure concerned is taken into account in the authorisation; where a customs debt or other charges may be incurred for goods placed under a special procedure, they provide a guarantee; in the case of the temporary admission or inward processing procedure, they use the goods or arrange for their use or they carry out processing operations on the goods or arrange for them to be carried out, respectively. Except where otherwise provided, the authorisation shall be granted only where all of the following conditions are fulfilled: the customs authorities are able to exercise customs supervision without having

disproportionate to the economic needs involved; the essential interests of Union producers would not be adversely affected by an authorisation for a processing procedure (economic conditions). As a competent authority and institution within the European Union, the Commission shall be empowered to adopt delegated acts, in accordance with abovementioned clauses, in order to determine the conditions for granting the authorisation for all the mentioned customs procedures and regimes. [4]

Customs transit procedures are designed to facilitate, as much as possible, the movement of safeguarded goods in international trade and to provide the states in which the transfer of goods occurs with the necessary safety checks and customs guarantees. Customs transit is a customs procedure applied to facilitate the free movement of goods, by ensuring of the main basic principles of establishment of the European Union as an economic and customs union, between two or more different customs territories. It allows for the temporary suspension of duties, taxes and commercial policy measures that are applicable at import, thereby allowing customs clearance formalities to take place at the destination rather than at the point of entry into the customs territory. The transit system features three different procedures: community transit, common transit and TIR procedures. Community transit procedure is used for customs transit operations between the EU Member States (and Andorra and San Marino) and is generally applicable to the movement of non-Community goods, whereas common transit procedure is used for the movement of goods between the 28 EU Member States and EFTA countries (Iceland, Norway, Liechtenstein and Switzerland). TIR (International Road Transports, established under the TIR Convention, 1975) procedure is structured on an international guarantee system based on a chain of national guaranteeing associations. The TIR procedure can be used in the Community (EU) only for a transit movement which begins or ends outside the Community, or is effected between two points in the Community through the customs territory of a third country (non-Member State) and it allows goods carried by road vehicles, combination of vehicles, containers, which were

checked and sealed by the customs authorities of the country of departure, to cross the borders and the territory of the Contracting States without being subject to the examination at the customs office. Only the customs authorities of the State of destination shall examine the value, quality, origin and quantity and all specific required documents. [1]

Customs transit procedure and its main features are enshrined in the Chapter 2 of Union Customs Code and community transit regime, enabling the goods move freely within the territory of the European Union without being subject to any customs duties or restrictive commercial policy measures, is differentiated as external and internal transit, which are applicable to the goods moving from one state to another through the transit customs territory enabling the goods to move freely to the point of destination. Under the external transit procedure, non-Union goods may be moved from one point to another within the customs territory of the Union without being subject to any of the following: (a) import duty; (b) other charges as provided for under other relevant provisions in force; (c) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union. In specific cases, Union goods shall be placed under the external transit procedure. Movement of goods under the transit customs procedure shall take place in one of the following ways: under the external Union transit procedure; in accordance with the TIR Convention, provided that such movement: if began or is to end outside the customs territory of the Union; if it is effected between two points in the customs territory of the Union through the territory of a country or territory outside the customs territory of the Union; in accordance with the ATA Convention/Istanbul Convention, where a transit movement takes place; (d) under cover of the Rhine Manifest (Article 9 of the Revised Convention for the Navigation of the Rhine); (e) under cover of form 302 provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951; (f) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts. [6]

According to Article 227 of UCC, the internal transit procedure enables the Community (Union) goods to be moved from one point to another within the customs territory of the Union, and pass through a country or territory outside that customs territory, without any change in their customs status. The movement of goods shall take place in one of the following ways: (a) under the internal Union transit procedure provided that such a possibility is provided for in an international agreement; (b) in accordance with the TIR Convention; (c) in accordance with the ATA Convention/Istanbul Convention, where a transit movement takes place; (d) under cover of the Rhine Manifest (Article 9 of the Revised Convention for the Navigation of the Rhine); (e) under cover of form 302 as provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951; (f) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts. Where goods are moved from one point in the customs territory of the Union to another in accordance with the TIR Convention, the ATA Convention / Istanbul Convention, under cover of form 302 or under the postal system, the customs territory of the Union shall, for the purposes of such transport, be considered to form a single territory. [4]

The external Union transit procedure shall apply to goods passing through a country or a territory outside the customs territory of the Union if one of the following conditions is fulfilled: provision is made to that effect under an international agreement; carriage through that country or territory is effected under cover of a single transport document drawn up in the customs territory of the Union. The holder of the Union transit procedure shall be responsible for all of the following: (a) presentation of the goods intact and the required information at the customs office of destination within the prescribed time-limit and in compliance with the measures taken by the customs authorities to ensure their identification; (b) observance of the customs provisions relating to the procedure; (c) unless otherwise provided for in the customs legislation, provision of a guarantee in order

to ensure payment of the amount of import or export duty corresponding to any customs debt or other charges, as provided for under other relevant provisions in force, which may be incurred in respect of the goods. The obligation of the holder of the procedure shall be met and the transit procedure shall end when the goods placed under the procedure and the required information are available at the customs office of destination in accordance with the customs legislation. A carrier or recipient of goods who accepts goods knowing that they are moving under the Union transit procedure shall also be responsible for presentation of the goods intact at the customs office of destination within the prescribed time-limit and in compliance with the measures taken by the customs authorities to ensure their identification. [1] Upon application, the customs authorities may authorise any of the following simplifications regarding the placing of goods under the Union transit procedure or the end of that procedure: (a) the status of authorised consignor, allowing the holder of the authorisation to place goods under the Union transit procedure without presenting them to customs; (b) the status of authorised consignee, allowing the holder of the authorisation to receive goods moved under the Union transit procedure at an authorised place, to end the procedure; (c) the use of seals of a special type, where sealing is required to ensure the identification of the goods placed under the Union transit procedure; (d) the use of a customs declaration with reduced data requirements to place goods under the Union transit procedure; (e) the use of an electronic transport document as customs declaration to place goods under the Union transit procedure, provided it contains the particulars of such declaration and those particulars are available to the customs authorities at departure and at destination to allow the customs supervision of the goods and the discharge of the procedure.

The third main customs procedure is storage which is regulated by Chapter 3 of UCC. Under a storage procedure, non-Union goods may be stored in the customs territory of the Union without being subject to any of the following: import duty; other charges as provided for under other relevant provisions in force; commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.

Union goods may be placed under the customs warehousing or free zone procedure in accordance with Union legislation governing specific fields, or in order to benefit from a decision granting repayment or remission of import duty. The customs authorities may, where an economic need exists and customs supervision will not be adversely affected, authorise the storage of Union goods in a storage facility for customs warehousing. Those goods shall not be regarded as being under the customs warehousing procedure. Under the duration of a storage procedure, there shall be no limit to the length of time goods may remain under a storage procedure. However, in exceptional circumstances, the customs authorities may set a time-limit by which a storage procedure must be discharged in particular where the type and nature of the goods may, in the case of long-term storage, pose a threat to human, animal or plant health or to the environment. The Commission, as an executive body within the European Union, shall specify, by means of implementing acts, the procedural rules for the placing of Union goods under the customs warehousing or free zone procedure. Those implementing acts shall be adopted in accordance with the examination procedure. Storage in customs warehouses, as a type of storage regime, defines how non-Union goods may be stored in premises or any other location authorised for that procedure. Customs warehouses may be available for use by any person for the customs warehousing of goods ('public customs warehouse'), or for the storage of goods by the holder of an authorisation for customs warehousing ('private customs warehouse'). Goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse. Such removal shall, except in case of force majeure, be authorised in advance by the customs authorities. [5]

Under the next customs procedure, the temporary admission procedure non-Union goods intended for re-export may be subject to specific use in the customs territory of the Union, with total or partial relief from import duty, and without being subject to any of the following: other charges as provided for under other relevant provisions in force; commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union. The temporary admission procedure may only be used provided that the following conditions are met: (a) the

goods are not intended to undergo any change, except normal depreciation due to the use made of them; (b) it is possible to ensure that the goods placed under the procedure can be identified, except where, in view of the nature of the goods or of the intended use, the absence of identification measures is not liable to give rise to any abuse of the procedure or, where compliance with the conditions laid down in respect of equivalent goods can be verified; (c) the holder of the procedure is established outside the customs territory of the Union, except where otherwise provided; (d) the requirements for total or partial duty relief laid down in the customs legislation are met. The customs authorities shall determine the period within which goods placed under the temporary admission procedure must be re-exported or placed under a subsequent customs procedure. Such period shall be long enough for the objective of authorised use to be achieved. Except where otherwise provided, the maximum period during which goods may remain under the temporary admission procedure for the same purpose and under the responsibility of the same authorisation holder shall be 24 months, even where the procedure was discharged by placing the goods under another special procedure and subsequently placing them under the temporary admission procedure again. Where, in exceptional circumstances, the authorised use cannot be achieved within the period referred to above, the customs authorities may grant an extension, of reasonable duration of that period, upon justified application by the holder of the authorisation. The overall period during which goods may remain under the temporary admission procedure shall not exceed 10 years, except in the case of an unforeseeable event. The next point during temporary admission procedure, the amount of import duty in respect of goods placed under this procedure with partial relief from import duty shall be set at 3 % of the amount of import duty which would have been payable on those goods had they been released for free circulation on the date on which they were placed under the temporary admission procedure. That amount shall be payable for every month or fraction of a month during which the goods have been placed under the temporary admission procedure with partial relief from import duty. The amount of import duty shall not exceed that which would have been payable if the goods in question had been released for free circulation on the date on which they were placed under the temporary admission procedure. [3]

Under the end-use procedure, which resembles the temporary admission, the goods may be released for free circulation under a duty exemption or at a reduced rate of duty on account of their specific use. Where the goods are at a production stage which would allow economically the prescribed end-use only, the customs authorities may establish in the authorisation the conditions under which the goods shall be deemed to have been used for the purposes laid down for applying the duty exemption or reduced rate of duty. [8]

Processing procedures are covered by Chapter 5 of UCC and defined as inward and outward processing procedures. Inward processing allows imported raw materials or semi-manufactured goods to be processed for re-export within the Community by Community manufacturers without a requirement that the manufacturers have to pay customs duty and VAT on the goods being used. Under the inward processing procedure non-Union goods may be used in the customs territory of the Union in one or more processing operations without such goods being subject to any of the following: import duty; other charges as provided for under other relevant provisions in force; commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union. The inward processing procedure may be used in cases other than repair and destruction only where, without prejudice to the use of production accessories, the goods placed under the procedure can be identified in the processed products. This procedure may be used where compliance with the conditions laid down in respect of equivalent goods can be verified. In addition to the mentioned, the inward processing procedure may also be used for any of the following goods: (a) goods intended to undergo operations to ensure their compliance with technical requirements for their release for free circulation; (b) goods which have to undergo usual forms of handling. [7]

Under the outward processing procedure Union goods may be temporarily exported from the customs territory of the Union in order to undergo processing operations. The processed products resulting from those goods may be released for free circulation with total or partial relief from import duty upon application by the holder of the authorisation or any other person established in the customs territory of the Union provided that that person has obtained the consent of the holder of the authorisation and the conditions of the authorisation are fulfilled. Outward processing shall not be allowed for any of the following Union goods: (a) goods the export of which gives rise to repayment or remission of import duty; (b) goods which, prior to export, were released for free circulation under a duty exemption or at a reduced rate of duty by virtue of their end-use, for as long as the purposes of such end-use have not been fulfilled, unless those goods have to undergo repair operations; (c) goods the export of which gives rise to the granting of export refunds; (d) goods in respect of which a financial advantage other than refunds referred to in point (c) is granted under the common

agricultural policy by virtue of the export of those goods. The customs authorities shall specify the period within which goods temporarily exported must be re-imported into the customs territory of the Union in the form of processed products, and released for free circulation, in order to be able to benefit from total or partial relief from import duty. They may grant an extension, of reasonable duration, of that period, upon justified application by the holder of the authorisation. [1]

References:

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