

General Notions Regarding the Customs Regime System of the Republic of Moldova

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Abstract—In any state, the basic content and essence of the customs activity is the customs procedure, a precondition for the movement and passage of goods and vehicles across the customs border. By paying customs duties, the main objectives of the customs activity are achieved - ensuring tariff application and non-tariff regulation of the foreign trade activity. Based on the specifics of customs activity and the transformation processes, through which the customs system of the Republic of Moldova and of other states passes, based on their commitments assumed in the process of European integration, the process of unification of customs legislation serves a favorable environment to eliminate impediments to harmonization to European standards. In the legislation of the Republic of Moldova the system of customs regimes includes the following operations: import, export, transit, customs warehousing, processing in the customs territory, processing under customs control, temporary import (export), processing outside the customs territory, free zone, re-export, duty-free shop, destruction, abandonment to the state.

Keywords—export, import, transit of goods, customs processing, temporary import, customs warehouse, re-import, re-export customs regime

I. INTRODUCTION

The passage of goods and means of transport across the customs border is carried out depending on the customs regime under which they are placed, according to the procedure established by Chapter II of the Customs Code and the Regulation on the application of regimes, approved by the Government Decision no. 1140 of 02.11.2005. [1] The study is also important due to the commitments assumed by the Republic of Moldova in the process of the European integration, by emphasizing the application of some forms of customs control. The role and importance of customs processes appear in the context of defending the rule of law, the freedom to cross the border, national economic security,

ensuring export-import operations, etc. by applying international standards. The system of customs regimes ensures the proper functioning of customs control and at the same time it ensures the proper functioning of the domestic economic agents' activity.

In this context, the system of customs regimes provides the subjects of international trade with clearly established rules and conditions that facilitate the sustainable development of this sector. The fact that the world economy has been actively increasing in recent years, creates premises for improving the system of customs regimes in the Republic of Moldova with prospects for integration into the European community.

The approach to the subject of the customs system is placed between quite well founded legal and economic aspect. According to some specialists and authors, the customs institution is little studied in our country, and the premises for theoretical approaches can be found in the works of Caraiani Gh, [2], [3] Obreja E., Gâscă V., Calenic N., [4] Sîrbu E., Melnic V., [5], etc. International studies have a more complex and in-depth approach considering the elements of the customs system as international trade procedures. [6] Theoretical foundations are also found in the works of Russian authors such as Gabrichidze B.N., Cherneavskii A.G., [7] Epifanov A.F., Necrasov E.M. [8] with a legal connotation rather than an economic approach. Fundamental notions of the customs regime system are presented in the works of the authors Erhan I., Cârnaț T. [9], Belu M., Joldeș C., Marinaș L. [10].

II. METHODS AND RESOURCES

In the context of the theoretical argumentation regarding the lack of theories on the customs regime system, the authors used the methods of analysis and synthesis, argumentation and

scientific and theoretical substantiation while carrying out the present research. The resources used in the theoretical research are the bibliographic sources and the national legal framework such as the Law of the Republic of Moldova no. 1380-XIII of 20.11.1997 on the customs tariff [11], 1Decision for the approval of the Regulation on the application of customs regimes provided by the Customs Code of the Republic of Moldova no. 1140 of 02.11.2005. [12], as well as the international treaties, Customs Convention on International Carriage under Cover of TIR Carnets of Geneva of 14.11.1975, International Treaties no.6, art.8 of 30.12.1998 [13].

III. RESULTS AND DISCUSSIONS

Let's examine **the import customs regime**. The essence of this regime is that the goods imported into the customs territory of the Republic of Moldova remain on its territory without the obligation to export them. The goods acquire "customs-free" status after payment of customs duties and compliance with all non-tariff restrictions. If these conditions are not met, the goods are subject to conditional release. Release into free circulation is the most requested mode and it applies to most imported products. According to the legislation applied to natural and legal people, they have the right to import goods for any purpose: for their own consumption, for their business, for enterprises' needs. Goods placed under this customs procedure are intended for active participation in the turnover of the country.

Export customs regime. This regime is traditional in the world practice. This means that the goods, which are in free circulation in the customs territory of the Republic of Moldova, are exported from it without the obligation to re-import. The export provides for the payment of customs duties on exports, as well as compliance with non-tariff restrictions (e.g. export controls). In addition, the subject of foreign economic activity must meet other requirements and conditions established by the acts of customs legislation and other legal acts of the Republic of Moldova. These include the mandatory transfer to the exporter's account in the authorized bank of foreign exchange receipts from the order of the goods.

In the case of exports, in order to avoid double taxation when applying this procedure, an exemption from the payment, refund or reimbursement of internal duties are provided for, in accordance with the provisions of the tax legislation, as well as the procedure for refund of value added tax (VAT) for export operations.

In fact, the export of goods outside the customs territory of the Republic of Moldova provides for several customs regimes (such as temporary export, re-export). However, unlike other customs regimes, exports involve the permanent removal of goods from the customs territory of the Republic of Moldova, offering the constant presence of goods abroad, which, consequently, is not characterized by a commitment to re-import them.

At the same time, due to some circumstances, the exported goods may be returned. In this case, in order to minimize the expenses, a person can use the re-import customs procedure. If the conditions of placing under the customs procedure do not

allow its use for the re-import of goods, the selection of a different customs procedure should be based on the fact that the goods actually exported under the customs procedure of export, acquire the customs status of goods originating from the Republic of Moldova in international transit.

Transit of goods. This is a regime under which foreign goods are transported in the customs territory of the Republic of Moldova under customs control between the point of arrival and departure, if the traffic starts and ends at the customs border of the Republic of Moldova. The transited goods are not subject to the obligation to pay customs duties. Prohibitions and restrictions of economic nature also do not apply to goods in transit. The customs body authorizes the transit through the legal procedure without written permission. Such authorization may be granted if: - the imported goods have been subject to border control by the customs authority and other types of State control if the goods are subject to it, it refers to permissions and licenses (or) as the case may be, it refers to the goods represented in the transit declaration; provided that the goods are identified (by overlapping customs seals and stamps, stamping, marking, etc.), the vehicle is properly equipped when the goods are transported under customs seal in order to ensure compliance with transit customs legislation.

At the same time, the customs authority shall determine the period necessary for the transit that should not exceed 8 (eight) days. The specified period may be extended due to an accident, force majeure and also at the reasoned request of the person concerned. The Customs Code establishes a simplified procedure for the application of the international transit procedure. It is possible if the places of arrival and departure of transit goods coincide. With the permission of the transit customs authority, the goods may be transferred from one vehicle to another. Thus, the transit can be made under the condition of partial unloading of goods at several points of arrival in the country or outside it including the TIR Carnet. This action shall be carried out without intermediate reloading, in road vehicles, combinations of vehicles or in containers, across one or more frontiers, between a customs office of departure of one country and a customs office of destination of another or the same country, provided that a certain part of the TIR operation between its beginning and its end is carried out by road transport. Goods transported under this procedure shall be exempt from customs duties and intermediate customs duties. As a rule, they are exempt from customs clearance.

Customs processing regimes. These regimes at a certain stage involve the movement of goods across the customs border of the Republic of Moldova, carried out both before and after certain processing operations. These regimes are divided into three types:

- processing in the customs territory (used for imported goods that are subject to exported processed products from the customs territory of the Republic of Moldova);
- processing under customs control (used for imported goods with the subsequent release into free circulation of the processed products);

- processing outside the customs territory (used for the goods exported from the Republic of Moldova, followed by imports of processed products), processing.

If the processing takes place in the customs territory of the Republic of Moldova, regarding the used products, all the prohibitions and restrictions established by the customs legislation shall apply, regarding the state regulation of the foreign trade activity.

In the course of processing, the object of foreign trade also faces the problem of recovery of production residues and waste after the expiry of the processing period, as it is difficult to establish the customs value of the obtained waste, including in terms of the transfer of ownership on them if they are left in the country. Then there is the problem of changing the customs regime to a permanent one. Under processing regime in the customs territory (processing under customs control) in case the goods are left on the territory of the Republic of Moldova, they are to be declared and paid in accordance with the provisions of the legislation.

When authorizing processing regimes, the customs body will also take into account the processing terms, which are established by law. When processing in and outside the customs territory, such a period may not exceed two years, and for the processing under customs control - one year. At the reasoned request of the person concerned, an extension of the processing period shall be allowed.

Temporary import (export). This is a customs regime under which foreign goods are used for a certain period in the customs territory of the Republic of Moldova with total or partial exemption from the payment of customs duties and taxes and without the application of economic policy measures. The application of this procedure is possible provided that the goods can be identified by the customs authority when they are re-exported. An exception can be the cases established by the rules of international treaties, when it is allowed to replace temporarily imported goods with the same type of object. Temporarily imported goods can usually be used by the person who obtained the permission (authorization) to do that. He is responsible for paying customs duties. Goods placed under this procedure must remain in their original state, except for changes due to wear and tear and natural losses under normal conditions of transportation and operation. However, it is allowed to carry out operations necessary for their preservation, including repairs (except general overhaul and modernization), technical maintenance and other operations, which are necessary for the preservation of the properties of consumer goods.

The Government of the Republic of Moldova establishes the list of categories of temporarily imported goods, which are not subject to customs duties and taxes. It also determines the causes of this exemption, as well as the terms of temporary import, especially in case:

- temporary import of containers, pallets and other types of containers and multi-returnable packaging;

- when the temporary import is carried out in the framework of the development of external trade relations, international relations in the field of science, culture, cinema, sports and tourism;
- if the purpose of the temporary import is to provide international assistance. The term of temporarily imported goods is three years and it is established by the customs body of the Republic of Moldova, depending on the purpose and circumstances of these imports. The Customs Code provides for obligations in the presence of which it is possible to suspend the temporary admission period. These include:
 - confiscation of goods or their withdrawal, in accordance with the legislation of the Republic of Moldova;
 - placing temporarily imported goods in the customs warehouse;
 - an application by the person who obtained the temporary import permission, when temporarily imported goods are partially exempted from the payment of customs duties and their placement under other customs procedures which do not provide for the release of goods into free circulation.

No later than the deadline, temporarily imported goods must be exported from the customs territory, or declared under a different customs procedure, or released into free circulation.

Customs warehouse. Of all the special arrangements used, the customs warehouse is the most favorable. In some cases, it is not profitable for an entrepreneur to "freeze" the money paid in the form of customs fees. He is interested in buying goods abroad and selling or using them after a certain period of time. These are, for example, the peculiarities of the activity of the enterprises engaged in repairs, maintenance, etc. For them the most favourable way is the customs warehouse.

Based on the content of the procedure, we can state the following: the goods placed in the warehouse, are stored under customs control without levying customs duties and without the application of economic policy measures during storage. Goods for export are stored under customs control by the provision of services provided for by the legislation in force. Thus, a legal warehouse, including its adjacent territory, is a controlled customs area. In this way, any product can be placed, except those that are prohibited for the introduction through the customs border of the Republic of Moldova, all types of energy, as well as elements used for the operation of the customs warehouse (loading and unloading equipment, refrigeration equipment, etc.). Goods that may cause damage to other goods or that require special storage conditions must be stored in specifically fitted premises. If the dimensions of the product do not allow it to be kept in a customs warehouse, it may be stored at a reasonable distance and with the written permission of the customs authority. The term of keeping the goods in the customs warehouse is determined by the person who deposited them, but within the limit of the term of authorization of the deposit.

Re-import is a customs regime whereby goods, previously brought out of the customs territory of the Republic of Moldova, are brought back within the set deadline with no payment of customs duties and with no application of economic policy measures, when the exported goods have been released into circulation.

The term of re-import shall not exceed three years from the day following the day when the border has been crossed.

The identity of the goods placed under the re-import customs procedure is the obligation of the subject of the external economic activity who should prove these circumstances.

The customs regime of re-export applies to foreign goods, including those imported on the territory of the Republic of Moldova, in violation of import prohibitions established by law. These goods are exported outside the customs territory of the Republic of Moldova without payment or with refund of the amounts paid by import customs duties. Exemption from the payment of import customs duties or from the refund is made if it is provided at the end of the customs regime under which the goods are in the customs territory of the Republic of Moldova.

This regime is often used in the case of the supply of products that have manufacturing defects. These goods may be defective or they do not meet quantity, quality, description or packaging criteria. For these reasons, a decision is taken to return the goods to the supplier or to another person specified by him. However, in such a situation, the application of the re-export regime is possible if these products have not been used and have not been repaired in the Republic of Moldova, unless such use has been necessary to detect deficiencies which have led to the return of the goods and provided that: they can be identified by the customs authorities, they have been taken for six months since the date of their release into free circulation.

Destruction. When this regime is applied, foreign goods are destroyed under customs control, including rendering them unusable. At the same time, customs duties and taxes are not levied and economic policy measures do not apply to the goods.

Foreign goods introduced in the customs territory of the Republic of Moldova and previously placed under one of the following customs regimes may be placed under one of the following "destruction" customs regime: transit, customs warehouse, duty free shop, processing in the customs territory with suspension, processing under customs control, temporary import, free zone.

In exceptional and duly justified cases, foreign goods brought into the customs territory of the Republic of Moldova, which have not been placed under any customs regime, may be placed under the "destruction" customs regime.

Placing of goods under the "destruction" customs regime is allowed if these goods completely lose their quality and value of initial use when using the destruction method.

The following items cannot be placed under the "destruction" customs regime:

- a. goods seized in cases of smuggling and violation of customs rules or of committing other legal frauds;
- b. radioactive substances and harmful wastes;
- c. cultural values;
- d. goods that are not available to the declarant.
- e. goods in free circulation.

Destruction of goods is not allowed if this action does not comply with the requirements of the legislation of the Republic of Moldova on the environmental protection.

The following methods may be used to destroy property: thermal, chemical, mechanical or other destruction, such as dismantling or demolition.

The destruction of goods is carried out by the person who requested it at his own expense. The destruction of property must not significantly harm the environment or pose a direct or potential danger to human life and health.

The following items can be placed under **abandonment to the state customs** regime:

- a) foreign goods introduced into the customs territory of the Republic of Moldova that have not previously been placed under a certain customs regime and have a commercial value;
- b) goods previously placed under a customs regime (except for export and import) and have a commercial value.

There cannot be placed under "abandonment to the state" customs regime:

- a) goods prohibited for import into the customs territory of the Republic of Moldova;
- b) goods in free circulation;
- c) goods that have no commercial value.

Duty-free shop. This scheme is used in most countries of the world and it is known to many tourists through the chain of stores "Duty free". Here, domestic and foreign goods are sold under customs control in the customs territory of the Republic of Moldova, without the collection of customs duties and without the application of prohibitions and economic policy measures on goods. Thus, the goods sold in duty-free shops have a lower price compared to those identical to them that are sold in the country, due to the non-inclusion of customs duties.

The activity of duty-free shops is allowed by the Licensing Chamber, with the approval of the Customs Service, which issues the license for legal entities for the retail sale of goods under duty-free regime, in foreign currency and Moldovan lei, on board of aircrafts operating in foreign traffic of passengers.

The supply of foreign goods to duty-free shops can be done:

- a) directly from abroad;
- b) from free zones;

c) from the country when the goods are under customs warehousing regime.

The introduction of goods into duty-free shops is done only under customs supervision.

During storage, the goods are exempted from the guarantee of the customs obligation.

The transfer of goods from a duty-free shop to another one is allowed only with the consent of the customs office, using the procedure provided for the transfer of goods from one warehouse to another.

The justification of goods sales through duty-free shops is done through tax receipts or invoices. The fiscal invoices will contain the following data: the name of the authorized legal person and the fiscal code; the number of the fiscal receipt (the numbers are given in ascending order); identity of the buyer: name and surname, type and number of the state border crossing document; flight number, in case of air transport; the type of goods sold; unit of measurement; the amount; unit and total value; date of sale.

The invoices will be used for durable products, such as: cameras, electronic devices, household appliances, etc. In addition to the information contained in the fiscal receipts, the invoices will highlight the brand, type, series of products sold, as well as other elements required by the regulations in force.

IV. CONCLUSION

In conclusion, we can mention that one of the basic institutions in the implementation of customs policy is the customs system. This type of system differs from one state to another depending on the organizational structure, trade and customs policy they practice, but in most states where they are organized they have the same responsibilities, have similar functions and are in constant search of the best practices in order to implement them in the activity they carry out. [15], [16], [17]. The customs system, in the sense described above, is one of the basic tools, which guarantees the interaction of the national economy with the world economy, aimed at the participation of our state in the international labor division, leading fair competition between domestic and foreign producers both on the domestic market and on the world one. Numerous factors contribute to the appreciation of the customs system's role in contemporary economies, such as: goods and services production, international transport, computerization, new forms of transactions, new legal means to facilitate this cooperation and give commercial operations

legal certainty, modern measures risk insurance; development and generalization of property and personal insurance, etc.

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