

Goods evaluation in contest of the customs revenues

PhD Bashkim Arifi

Director of Investigation Directorate of Kosovo Customs

Burim Haliti

Directorate of Kosovo Customs

Abstract

Customs goods evaluation is a particular challenge of the customs system in a country, as it represents one of the most complex issues in the aspect of the goods evaluation for the customs purposes. Evaluation a good means that you must be equipped with sufficient knowledge regarding the value of the goods at the importing moment as well we must have understanding about the qualities, specifics and the nature of the goods, as the value of the goods is determined automatically based on its composition or qualities. Goods evaluation for the customs purpose must be in real manner for the goods cleared and the customs authorities have no right to collect taxes for higher re-evaluated goods as it means so as principle of the fair evaluation of the goods is breached, but one must be careful to do not have undervaluation of the customs goods as it must result in a customs law violation.

Keywords: customs goods, evaluation, customs tax, customs offence, customs system.

Introduction

This scientific research presents an accurate and realistic reflection of the customs scientific phenomena related to the customs evaluation of goods. Through this research, the authors have tried to research from a scientific point of view how customs phenomena and phenomena are explained and interpreted in terms of customs tax as public revenue. Customs scientific theory recognizes the customs tax as an instrument of the state to collect all revenues that are realized from the valuation of customs goods in the case of crossing the border from one country to another. Precisely with this research, the definitions related to customs clearance of goods are explained and the customs clearance procedures of goods are demonstrated in details, starting from: declaration of goods for customs clearance, submission of customs declaration (SAD) according to procedures, physical examination of customs goods, valuation of customs goods, re-evaluation of customs goods and payment of customs duties.

Subsequently, through the scientific evidence, the procedures for the evaluation of the goods are presented in details, applying the methods of evaluation of the customs goods that are also predicted by international treaties such as the Convention on the Customs Value of the goods. Apart from the fact that the methods of valuation of goods are foreseen by international treaties, they are also incorporated within the legislation of sundry states, while in the state of Kosovo they are foreseen by the Customs Code and Excises of Kosovo no. 03 / L-109 in article 32 to article 40 and with the Administrative Instruction no. 11/2009 on the implementation of the Customs Code and Excise Duties of Kosovo, in Chapter IV, Chapters 1 to 6 and these evaluation methods have legal force and are regulated in the legal aspect by presenting the obligation for the customs authorities of the Republic of Kosovo to apply at the time as the customs goods for evaluation are presented. The methods

of valuation of customs goods are: the first method or transaction value, the second method or transaction value of identical goods, the third method or transaction value of similar goods, the fourth method or the value based on the unit price or deductive method, fifth method or calculated value and sixth method or available data.

The documents needed for customs clearance of goods are considered: the invoice of the goods on the basis of which the customs value of goods is declared, the declaration for the customs value of goods, the documents for the use of tariff preferences, transport documents and the packing list of goods. However, when the customs authorities deems it necessary, they may also request additional documents such are: the nature of the goods, transport and other expenses such as documents of origin, sales contract, banking transaction or payment slip, C.M.R., export declaration, invoice for transport costs, invoice for goods insurance costs, various licenses, phytosanitary certificate etc.

Customs duty as public revenue

The country's fiscal system, in addition to other public revenues such as taxes, local and central level taxes, loans, bank loans, donations, etc., also recognizes the customs duties as public revenues. The customs tax is public revenue which is paid on the occasion of the transfer of goods (import-export) from one country to another. The country's customs system recognizes the customs tax as its only instrument, and from these revenues the countries gain economic and fiscal sustainability, and the country's capital expenditures are financed.

Regarding the customs clearance of the goods we have various concepts, hence the Macedonian author Slavovski the customs clearance perceives as the final administrative aspect of customs, where he cites: "Customs clearance procedure of the goods is one of the most important phase, as it is coherently and additionally the final phase of customs administrative procedure".¹

The author in question lines up a great importance to the issue that in order to clearance goods, customs clearance is considered the most important procedure in customs matters and attention should be taken in the application of procedures and compliance with the customs clearance stages of goods. As for the notion of customs duty, the above-mentioned author means that: "Imported customs goods are goods imported or imported from abroad (external customs territory) to the customs territory in our country."² Understanding the notion of commodity certainly has a larger dimension, but it gains the status of a customs commodity when ordinary commodity is introduced into customs clearance procedures, coming from a foreign country to our country and with the completion of all customs procedures.

As far it concern the clearance of goods, the customs science recognizes some phases and having in respect every customs clearance phase:

- Customs declaration for clearance,
- Laying off the declaration for clearance (SAD) according to procedures,
- Physical examination of customs goods,
- **Valuation of customs goods,**
- Re-evaluation of customs goods and
- Payment of customs taxes.

¹ Makedon Slavkovski, Introduction to public law, page 227, publisher the Ministry of Education of the Republic of Macedonia, Skopje, 2012.

² Makedon Slavkovski, Introduction to public law, page 210, publisher the Ministry of Education of the Republic of Macedonia, Skopje, 2012.

Valuation of customs goods

Certainly, one of the most important phase of customs clearance of goods is considered to be the phase of valuation of goods for customs purposes, because at this phase the customs base from which customs revenues are collected is determined and these revenues must be realistic, in order to we have no overestimation or underestimation of customs goods.

After the customs goods are presented or declared for customs clearance and when the physical examination of the goods is completed, then the issue of the valuation of the goods comes to consideration, that is closely related to the previous phases, because the goods and the way the goods have been physically examined directly impacts the goods valuation at this stage, we subsequently may have new specifics of the goods from the declared one, wherein they may affect the value of the goods.

Customs valuation of goods means the determination of the customs base and the exact determination of the value of the goods based on legal procedures and principles. Regarding this issue, in addition to the theoretical aspect, there is also a legal basis on how the customs assessment of goods should be done based on:

- The World Trade Organization (WTO) Agreement on Customs Valuation which sets out the rules of valuation, the valuation methodology and eliminates injustices and impartialities during the customs goods valuation process.
- Customs and Excise Code of Kosovo no. 03 / L-109, approved by the Assembly of the Republic of Kosovo on November 10, 2008, in Article 32 to Article 40 correctly defines the principles, procedures and methods of valuing a goods for customs purpose.
- Administrative Instruction no. 11/2009 on the implementation of the Customs and Excise Code of Kosovo, which entered into force on October 1, 2009, in Chapter IV, Chapter 1-6, which defines exactly and in detail the cases when one should apply the assessment methods, each one the row.

Through the customs valuation of the goods, attention should be taken in the application of the methods valuation of the goods for customs purposes according to the legal customs framework of the country and in the respect of the customs procedures for customs clearance of the goods.

Methods for valuing customs goods

Customs valuation of goods for customs purpose means the application of any of the six valuation methods in order to reach the final customs base of the goods. Customs goods valuation methods are not independent norms of different countries, but are provided for in international treaties as procedures to be observed and are incorporated in the legislation of the Member States or signatories to the World Trade Organization (WTO) agreement on customs valuation of goods. This agreement stipulates that the customs authorities at the time of determining the value of the customs goods must necessarily apply any of the six methods of valuation the customs goods starting from the first method. If the first method cannot be applied to the goods specified for customs valuation, then it is permitted for the customs authorities to apply the following methods which are appropriate for the assessment

of the goods and the methods cannot be ignored if they are not justified why they are not applied subsequently.

Apart from the fact that the methods of valuation of goods are foreseen by international acts, they are also incorporated with the legislation of different states, while in the state of Kosovo they are foreseen by the Customs Code and the Kosovo Excises no. 03 / L-109 in article 32 to article 40 and with the Administrative Instruction no. 11/2009 on the implementation of the Customs Code and Excise Duties of Kosovo, in Chapter IV, Chapters 1 to 6 and these evaluation methods have legal force and are regulated in the legal aspect by presenting the obligation for the customs authorities of the Republic of Kosovo in their application at the time the customs goods for valuation are presented.

Customs valuation methods are:

- First method: Transaction value,
- The second method: The value of the transaction of identical goods,
- The third method: The transaction value of similar goods,
- Fourth method: Value based on unit price or deductive method,
- Fifth method: Computed value and
- Sixth method: Available information.

Application of customs procedures for the valuation of customs goods

After the completion of the physical examination phase of the goods or if the declaration is directly in the valuation phase automatically by the system (yellow channel), then the customs authority is obliged to comply with all customs goods valuation procedures based on rules, principles and legal procedures. First, the declaration of the goods should be analyzed through the single customs administrative document (SAD), then the SAD should be harmonized with the attached documentation and at the end of this phase the exact value of the customs goods should be determined, which concludes the determination of the customs base.

The analysis of the unique customs declaration should be done in the constellation of what if this declaration for the presentation of goods is made according to the prescribed procedures and if it meets the conditions or criteria for further processing. After completing the analysis of the unique customs declaration (SAD), then the procedure of harmonization of SAD with the documentation attached to the declaration should be applied, so that in order to apply clearance to a commodity, then the declarant is obliged to attach the necessary documentation to the case.

Necessary documents for customs clearance of goods are considered:

- The invoice of the goods on the basis of which the customs value of the goods is declared,
- Declaration on the customs value of goods,
- Documents for the use of tariff preferences,
- Transportation documents and
- Packaging list of goods.

However, when the customs authorities deem it necessary, they may also request additional documentation such as: documents for the nature of the goods, transport and other expenses such as origin documents, sales contract, banking transaction or payment slip, CMR, export declaration, invoice for transport costs, invoice for goods insurance costs, various licenses, phytosanitary certificate etc.

The customs body, after concludes that the attached documents are valid and regular,

and then moves to the stage of harmonization of the data in all sections of the SAD with the data of the documentation attached to the declaration. During the analysis of the declaration, care should be taken in the entry or initial data of the SAD such as: exporter, importer, financial beneficiary, dispatching and country of destination, customs agent and carrier data, transport costs procedure and currency applied. The rest of the SAD is considered the main or substantive part, because it can directly affect the underestimation of the goods and the avoidance of customs duties. Of particular importance should be the description of the goods, the correct application of the tariff number, the correct presentation of the gross and net weight, the application of preferences and procedures for customs clearance, the correct declaration of the goods with additional units and the calculation of taxes such as those of customs duty, value added tax - VAT and excise tax on excisable goods. After completion of all the procedures of evaluation and harmonization of the documents, the taxes are automatically calculated based on the evaluation of the goods that have been made and at the end the payment of the calculated taxes must be done. At the moment of payment of customs duty, due to the valuation of the goods made, then two situations arise: the cleared goods receive the status of national goods and the revenues realized from the payment of customs duty are considered public revenues.

At the moment of payment of the customs tax, the goods acquire the status of national goods, gaining the right of free commerce. According to the customs legislation in the Republic of Kosovo, goods that have the right to enter free circulation are those goods that have the status of national goods and means that customs duties have been paid for those goods based on the Customs and Excise Code of Kosovo nr. 03 / L-109, Article 83, paragraph 1: "By placing non-Kosovar goods in free circulation, the goods acquire the status of Kosovar goods, and paragraph 2: This leads to the implementation of trade policy measures, the performance of other formalities of provided for the import of goods as well as the payment of legal obligations".^{3 5} Based on these customs norms, the moment of payment of customs duty on customs goods is very important because, from this moment, two characteristics are being acquired: goods acquire the status of local goods and goods have the right to enter free circulation.

The customs tax as public income is considered any income that is collected in the case of payment of taxes for customs goods that crossing the border from one state to another. Public revenues, especially customs revenues, are very important for countries, as they represent a high percentage of revenues in the state, reaching over 20% of the budget from all public revenues in developing countries, while in developed countries these Revenues are very symbolic, participating with 3%, 4%, 5% but not more than 20%. The customs tax in our country takes an important share as most of the budget is collected through customs taxes where in some periods of time it has gone from 80% to 94% of the state budget, but now it is declining as revenues are also stemming from the country's internal economic development. Revenues collected from customs duties in developed countries are dedicated to various capital investments, while in our country in addition to capital investments are also dedicated to other expenses, as customs revenues are at a high level in the state budget about 70 %.

³ Customs and Excise Code of Kosovo nr. 03/L-109, approved by the Assembly of Republic of Kosovo by 10 November 2008, article 83, paragraph 1 and 2.

Conclusions

Customs valuation of goods certainly is a challenge in itself for the customs authorities, but this matter requires correctness, objectivity and proper legal regulations in order to have a fair valuation of customs goods. Of course, to evaluate a commodity is not enough to know what the commodity is, but you still need to know the exact nature of the commodity, the technical and composition specifics, and the function that the commodity engages. In fact, in valuation of the goods, the authorities should consider and take these steps in order to improve the way of valuing the goods for customs matters:

- The legal aspect for the valuation of goods must be urgently reformed, in order to include the estimated variety of goods, including goods purchased online and mailed. Also in the legal aspect regarding the valuation of the goods, the methods of valuing the customs goods should be clarified correctly and as little as possible there should be room for will or discretion of the customs officials during the valuation of the customs goods, because the possibility of predisposition or subjectivity of the customs official may be evident.
- Customs personnel must be professional staff with high integrity in the case of customs goods valuation, as improper staff can cause great losses to the state budget and unfair valuation of customs goods imported by certain importing and exporting customs entities. The first condition to be shown to the customs staff is the integrity of the customs official to work on his own, according to the legal customs regulations in the case of valuation of customs goods and not to favor any customs entity in case of customs clearance of goods. Also, as a necessary chain criterion is the professional staff, since through this criterion the possibility of errors and omissions in the case of valuation of customs goods is very small.
- The collegial work environment should be appropriate by omitting the administrative procedures and giving more room to the operating procedures of the system and the attractiveness of the work. As a key positive element to be mentioned is the application of the "Paperless" system or paperless work, by motivating customs officials, businesses and customs agencies in the automation of customs procedures in order to have fewer omissions, errors and concerns of all those entities that have business with the customs as a state administration of an executive and independent character.

Recommendations

Actions should be taken that affect the reform of the customs legal framework in the Republic of Kosovo, the integrity and professionalism of customs staff as well as the automation or development of information technology in customs procedures.

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