

FEATURES OF THE POST-CLEARANCE AUDIT IN UKRAINE

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1. Introduction

XXI century is characterized by a considerable strengthening of the role of globalization and integration in the world, because of the orientation of many economic systems in building a market economy requires the development of comprehensive international economic relations to realize the economic potential on international markets. Each year as the result of close cooperation between countries the volume of international trade steadily increasing. Therefore, Customs administrations all over the world are faced with new problems to solve which they should apply completely new and innovative approaches.

In the current context of globalization and integration, expansion of international relations, Ukraine strives for harmonize and standardize customs procedures. The main condition for achieving this goal is the implementation of post-clearance audit.

2. Review of post-clearance audit in international customs regulations

Audit-based control methods are normally implemented as a part of Customs modernization package. Post-clearance audit means audit-based Customs control performed subsequent to release of the cargo from Customs' custody. The purpose of such audits is verifying the accuracy and authenticity of declarations and covers the control of traders' commercial data, business systems, records, books. Such an audit can take place at the premises of the trader, and may take into account individual transactions, so-called "transaction-based" audit, or cover imports and/or exports undertaken over a certain period of time, so called "company based" audit [1].

Post-clearance audits can be conducted by case basis focusing on targeted operators, selected on the grounds of risk analysis of the commodity and the trader, or in a planned, regular way to set out in an annual audit program. Furthermore the audit could also be used as criteria to offer special treatment to certain economic operators.

A special place among all custom standards belongs to the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention). According to Kyoto Convention customs control systems shall include audit-based controls [2]. Chapter 6 of the General Annex of the Revised Kyoto Convention sets out a large number of recommended standards relating to all aspects of Customs control, including the using of audit-based controls including the audit of traders' commercial systems (Standard 6.6. and 6.10).

Also principles and standards of the EU customs practice are concentrated in Customs Blueprints. This is a set of practical measures, developed by European customs experts. One of 22 directions of Customs Blueprints is post-clearance audit, which includes the promotion of international trade by establishing a balance between the simplification of trade procedures, on the one hand, and ensuring effective customs control and security on the other [3].

According to Customs Blueprints there are some objective conditions for the implementation of post-clearance audit:

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1. Development of comprehensive legal basis which gives customs officers' necessary powers to carry out audit/post-clearance controls efficiently and effectively.
2. Development of an organizational structure which enables auditors and their managers to carry out their duties with the maximum efficiency and effectiveness.
3. Development of an audit management system which ensures efficient, quality-controlled audits using appropriate methods and establishes an operational quality assurance program ensuring that standards of an acceptable quality are being applied to audit activity.
4. Development of training strategy to ensure that auditors and managers have all necessary knowledge and skills to plan and imply their duties.
5. Development of national audit planning policy with planned short-term and long-term controls, in accordance to priorities based on risk analysis and risk assessment.

Thereby, in foreign countries post-clearance control is a separate activity of customs authorities, which is developing rapidly and has its own subject, object, goals, objectives and performs several important functions in the area of economic security. About 30% of all customs duties in developed countries comes from holding post audit, because the customs procedures at border minimized.

3. Regulation and implementation of post-clearance audit in Ukraine

Significant influence on the process of implementing the post-clearance audit has Ukraine's accession to the Kyoto Convention. According to many authors, it will facilitate the development of official relations between customs and businesses overcome the closure of customs regulations and encourage collaboration in the improvement of customs legislation and its application.

On June 1, 2012 new Customs Code of Ukraine came into force. This document provides new opportunities for citizens and entities to facilitate foreign trade and greatly simplify existing customs procedures. Code introduced special simplified customs procedures for conscientious business. Ukrainian organizations, which have been operating in the market, have no debt, do not allow substantial violations to be able to obtain the status of the incumbent operator of economic activity.

Article 345 of the Customs Code of Ukraine regulates the carrying out documentary checks by customs authorities. In particular, states that the customs authorities may carry out customs control through on-site documentary (scheduled or unscheduled) and off-site supervision of documentary compliance of Ukraine for state customs of:

- 1) the correct definition of the tax base, timeliness, accuracy, completeness, of accrual and payment of customs duties;
- 2) the validity and legitimacy of providing (receiving) benefits and exemptions;
- 3) the accuracy of classification by UCCFEA goods which Customs held;
- 4) the compliance of the actual uses displaced through the customs border of Ukraine goods to declared aim of the movement and / or compliance with financial and accounting documents, reports, agreements (contracts), calculations and other documents of the company, information specified in the customs declaration, declaration of customs value, which are carried out customs clearance of goods in the respective customs regime;
- 5) the legality of movement of the goods across the customs border of Ukraine, including the import of goods to the territory of free customs zone or export from this territory [4].

Also should be said that the Customs Code of Ukraine defines the basis and procedures for documentary site inspections by customs authorities.

Thereby, in the Customs Code of Ukraine the concept of post-clearance audit is not defined, however, it contains a provision in inspection of foreign economic activity after the customs clearance, which corresponds to the essence of the customs audit.

The subjects of customs audit are the State Customs Service of Ukraine, its specialized departments and officials who are authorized to do control with application of audit methods. Figure 1 illustrates the organizational scheme of carrying out the post-clearance audit in Ukraine.

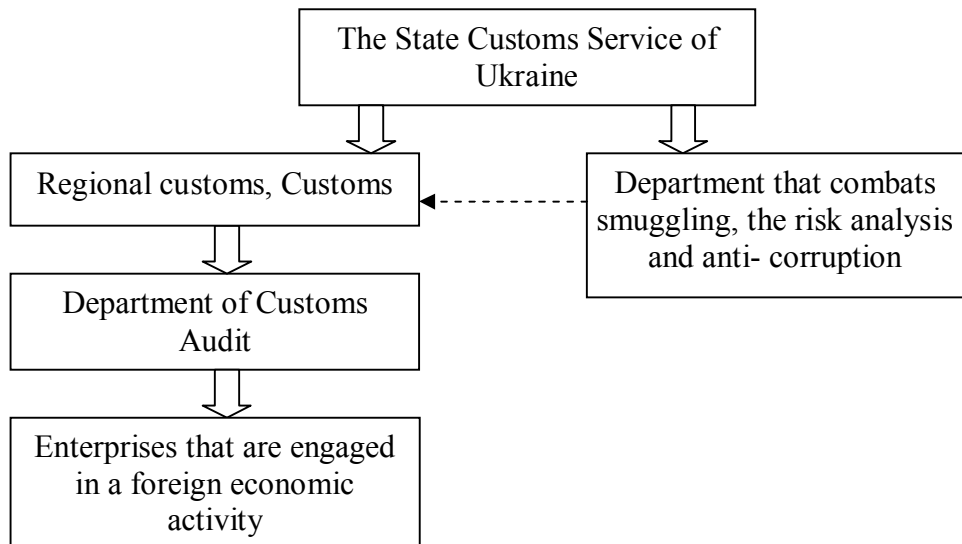


Fig. 1. Organizational scheme of carrying out of the post-clearance audit in Ukraine

Department that combats smuggling, risk analysis and anti-corruption is a regional Customs, which within its competence provides comprehensive monitoring of compliance with customs legislation, directs and coordinates the activities of other regional customs in combating smuggling and violations of customs regulations, analysis, control and verification of, anti-corruption.

The Department is a unit of customs, which provides in the area of customs inspection of documentary compliance with the legislation of Ukraine on customs issues, including the timeliness, the accuracy, completeness, calculation and payment of customs duties.

To sum up this in recent years the process of implementing inspection after customs clearance of goods has improved. In particular, enhanced legal framework formed the appropriate verification agencies that already show the proper result of customs revenues from the post-clearance audit.

But for introducing the system of effective audit requires not only making legislative changes, but also to bring this idea to the public for a clear understanding that such arrangements will withdraw from the shadow trade imports and eliminate the possibility of obtaining illegal profits [5, p.11]. Practical implementation of the above requires:

- the development of scientific theory of post-clearance audit, including experts from the customs affairs, public administration, government regulation and control foreign economic activity, etc;
- an implementation of foreign experience in carrying out post-clearance audit in Ukraine;
- standardization of control activities forms and methods carried out by customs authorities;

- the promotion of more effective customs controls in each customs post without increasing the administrative or enforcement costs through harmonized approach to post-clearance audit

4. Conclusions

Customs administrations, especially those in the developing world, confront significant challenges in balancing their responsibilities for collecting revenue, protecting national borders, and facilitating trade. Consequently, customs administrations increasingly look to post-clearance audit as means of implementing customs control and allocating scarce resources more effectively.

Post Clearance Audit is a new and important area for the State Customs Service of Ukraine. Successful implementation of post-clearance audit in Ukraine will help strengthen enforcement and provide the necessary support and confidence in the implementation of trade facilitating measures and simplified procedures in cargo processing and valuation specifically.

Effective program of design and implementation demands a range of responses – in legislation, in institutional reform, in building the capacity of customs and other relevant actors, and in monitoring project progress. Program may also face financial and human resource challenges that may dictate the initial scope of the program; the developing country customs administrations should scale their efforts appropriately.

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Summary

World practice shows that post-clearance audit, which became the worldwide way of harmonization and simplification of customs procedures, provides a clear and comprehensive picture of compliance with customs procedures applicable to the subject of economic activity. The article describes regulatory of post-clearance control in the context of international and Ukrainian legislation and identifies areas for the modernization of customs control in this area.

Key words: foreign economic activity; modernization of customs control; post-clearance audit.

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