FORMATION AND DEVELOPMENT OF CUSTOMS LEGAL RELATIONS IN FOREIGN COUNTRIES

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УДК 341
DOI: https://doi.org/10.32782/NP.2024.3.28

In the member states of the Commonwealth of Independent States, the Customs Code or the Law on Customs Regulation is currently the main legislative act regulating customs issues. The first Customs Code among the post-Soviet states was adopted by the Republic of Belarus on February 3, 1993. 1 (one) month later - on March 9, 1993, the Customs Code of the Republic of Moldova was also adopted. In the last 31 years, the Republic of Belarus and the Republic of Moldova adopted the Customs Code 3 (three) times, and Ukraine 2 (two) times.

Keywords: Law, legislation, customs, foreign, formation

The word customs, in etymological terms, derives from the ancient Greek word 'tèlos' (meaning aim, final payment), the Latin word "teloneum" (duty, toll) [23]. The customs system is considered a mandatory attribute of the domestic and foreign policy of any state, through which the most optimal economic balance is formed, the positive impact of interstate trade on the social life of the state is ensured.

According to A.Sh. Shakaraliyev and Z.A. Shakaraliyeva the customs policy of the state is determined by the basic principles of state regulation of foreign trade activity [19, p. 6].

We would like to note that customs duties actually include all the features and characteristics of taxes.

When we look at the history of customs, we see that the basis for the formation of customs duties and the organized structures that carry out their collection is considered to be the social division of labor, the organization of commodity production, and the emergence of trade. The first information about foreign trade relations and, accordingly, customs traditions in ancient Egypt is attributed to the beginning of the 3rd millennium BC. In the 16th and 12th centuries BC, a primitive taxation system was applied to merchants, and in the 7th and 4th centuries, it was gradually transformed into a tax and duty system for merchants engaged in the trade of goods produced in foreign countries. Merchants brought goods produced in foreign countries mainly by ship. Therefore, their work was directly related to the owners.

Treasury departments controlled the release of goods produced in foreign countries. Officials managed the arrival and departure of numerous Egyptian and foreign ships, monitored the condition of the ports, and supervised customs duty collectors. Already at that time, various punishments were applied for violating trade rules and hiding goods from customs duties [17, p. 5].

Customs duties were collected in the north of Egypt – in Alexandria and in the south – in Elephantine, and internal customs operated in Hermopolis.

The practice of customs duties was gradually adopted by other ancient states of the Mediterranean and became widely recognized in trade relations. For example, the customs duty applied to imported goods in Greece averaged 1/10 (one-tenth) of their price, and in cities dependent on Athens it was 1/20 (one-twentieth). Athens' allies had trade advantag-

es in the form of customs concessions in the amount of 1/100 (one percent) of the price of goods [17, p. 5].

Customs duties were collected in seaports and city markets. Fees were paid in gold and silver. The amounts of customs duties were written in chalk on papyrus, stone and ceramic tiles that were displayed to the public.

The development of customs work in ancient Rome was similar to the customs policy implemented by Greece. During the Republican period (6th-1st centuries BC), as a result of successful wars, Roman citizens were exempted from direct taxes, as well as indirect taxes such as import customs duties. Following the example of Athens, customs duties in Rome were formerly 1/40 (one fortieth) of the price of goods, and later 1/10 (one tenth). During the imperial period (1st century BC – 5th century AD), all revenues, including customs duties, went to the treasury of the emperor.

In the 12th-13th centuries, during the period of consolidation of the feudal monarchy in Europe and the formation of unified national states, customs traditions began to be formed and customs services were created. Unifying traditions in the field of customs policy first appeared in England, where the first attempt to regulate the collection of customs duties and bring them under state control is considered the "Magna Carta Libertatum ("Great Charter of Freedoms")", adopted on June 15, 1215.

The origins of the customs union in France date back to the 14th century, when there was already a special customs-border guard unit and duties were regularly collected from goods crossing the state border [17, p. 5-6].

Until the Middle Ages, customs duties were also levied for the use of roads and bridges.

In medieval Europe, customs duties were both fiscal and regulatory in nature.

In the XV-XVI centuries, the theory of mercantilism (the word "mercante" of Italian origin means "merchant") was formed in European countries. States tried to raise money for the treasury by regulating foreign trade.

We consider it necessary to inform that after the Thirty Years' War (1618-1648), the German customs territory was divided into approximately 1240 (one thousand two hundred and forty) separate territories.

In the 17th and 18th centuries, under the influence of the economic policy of the absolutist period, the idea of customs duties to protect the domestic economy from unwanted competition became more important [16].

Numerous German states came to a single customs union only in the 19th century [17, p. 5].

The official establishment of the customs service in the United States of America cn be attributed to July 31, 1789, because on that date 59 customs districts were established in 11 states by the fifth legislative act of the US Congress. According to this act, customs officials were given the right to collect duties on goods crossing the border of the United States.

On March 3, 1927, the Bureau of Customs was established as a department of the U.S. Treasury Department, and on August 1, 1973, by order of the Treasury Department dated April 4, 1973, the name of that department was changed to the Customs Service [22].

The primary duty of the US Customs Service is to protect the customs borders of the United States and to enforce the laws applicable to goods brought into and out of the customs territory of the United States. In general, in accordance with the legislation, the entire activity scope of the US Customs Service can be divided into the following 4 (four) main areas:

- implementation of customs laws;
- enforcement of laws related to narcotics;
- implementation of laws on export control;
- enforcement of anti-money laundering laws.

Criminal, civil, and administrative liability is defined for violation of customs legislation.

The social division of labor, the organization of commodity production, and the emergence of a simple form of trade and taxation act as the basis for the collection of customs duties in Belarus. It is assumed that the establishment of the first customs institution on the land of Belarus coincides with the second half of the 9th century, that is, at the same time as the establishment of the first principality (principality of Polotsk) in the mentioned

country. At the end of the 10th century, a customs institution was established in Vitebsk, at the beginning of the 11th century in Brest, Novogrudok and Minsk, and at the beginning of the 12th century in Grodno and Gomel.

Customs duties were collected by persons appointed by the knyaz [18].

For a long time, customs duties did not have a border character. However, gradually types of fees paid for entering a certain territory began to appear, which brought them closer to modern customs fees. Thus, in the Statute of 1588 (one of the types of legal act in the law of the Middle Ages) the procedure for collecting fees from traders was specifically mentioned. During the Rzechpospolita period, the customs work was based on the same principles [21; 12].

The Statute of 1588, which included 487 articles and 14 sections, had significant advantages over its predecessors. In that document, the state-legal ideas of that time, the foundations of the public-state structure were clearly reflected. The Statute of 1588 reflected state law norms that were not in the legislative practice of other states at that time, as well as norms on administrative, military, court-procedural, family-marriage, guardianship, inheritance, land and criminal law [20].

Responsibility for both economic and criminal offenses in the customs field was established.

In October 1795, the entire territory of Belarus became part of the Russian Empire.

At the end of the 18th and 19th centuries, the customs service on the territory of Belarus operated within the Russian Empire.

On January 1, 1919, the Belarusian Soviet Socialist Republic was declared. On May 21, 1920, the North-Western Customs-Border District was established in the north-western provinces of Belarus and Russia, with Vitebsk as its center. In March 1921, the Department of Customs Control was established under the People's Commissariat of Foreign Trade of the Belarusian Soviet Socialist Republic.

In 1922, the Belorussian Soviet Socialist Republic became part of the USSR, and normative legal acts of the USSR related to customs work began to be applied in the said Republic as well.

In 1991, with the collapse of the USSR and the acquisition of sovereignty by the Republic of Belarus, fundamental changes took place in the work of customs authorities. Thus, on March 13, 1992, the Law of the Republic of Belarus "On the Basics of the Organization of the Customs Service of the Republic of Belarus", which defines the legal and organizational aspects of customs work in the republic and the main tasks of the customs service, and on February 3, 1993, the Customs Code of the Republic of Belarus, consisting of 7 sections combining 91 articles, was adopted [14].

With the adoption of the new Customs Code of the Republic of Belarus on January 6, 1998, which consists of 273 articles, the Customs Code of February 3, 1993 was repealed [4].

With the adoption of the third Customs Code of the Republic of Belarus dated January 4, 2007 (this Code consisted of 350 articles and 36 chapters), the Customs Code dated January 6, 1998 was repealed [3].

With the adoption of the Law of the Republic of Belarus dated January 10, 2014 "On customs regulation in the Republic of Belarus", which includes 354 (three hundred and fifty-four) articles, 62 (sixty-two) chapters and 9 (nine) sections, the Customs Code of the Republic of Belarus dated January 4, 2007 has been repealed [15]. Some additions and changes were made to the currently valid Law on July 15, 2015, June 19, 2017, December 18, 2019, and April 22, 2024.

In other post-Soviet states, the basis for the formation of customs duties is considered to be the social division of labor, the organization of commodity production, and the emergence of trade. Currently, the Customs Code or the Law on Customs Regulation acts as the main legal document regulating customs issues in the mentioned countries. For example, the Customs Code of Ukraine dated March 13, 2012, which consists of 590 articles (the first Customs Code of Ukraine dated July 11, 2002, consisting of 432 articles, has been repealed since this Code came into force) [11], The Customs Code of the Republic of Uzbekistan dated January 20, 2016, which consists of 412 articles [9], The Code of the Republic of Kazakhstan dated December 26, 2017 on

customs regulation in the Republic of Kazakhstan, which consists of 571 articles [1], The Customs Code of the Republic of Moldova dated August 24, 2021, consisting of 427 articles (the Customs Code of the Republic of Moldova dated June 20, 2000, consisting of 325 articles, has been repealed since the date of entry into force of this Code) [6]. The first Customs Code consisting of 112 articles was adopted in the said country on March 9, 1993 [7] and repealed from the date of entry into force of the Code dated June 20, 2000) [5], The Law of the Kyrgyz Republic on Customs Regulation dated April 24, 2019, which consists of 251 articles [13], The Customs Code of the Republic of Tajikistan dated December 3, 2004, consisting of 508 articles [8], The Customs Code of Turkmenistan dated September 25, 2010, which consists of 360 articles [10] and so on.

Thus, summarizing what has been stated, the following conclusions can be reached:

The formation of customs bodies in each state has its own characteristics and difficulties. Customs authorities are one of the influential structures of every independent state. The role of customs bodies is great both in filling the state budget and in ensuring the country's economic, cultural and environmental security. In other words, the customs system is considered a mandatory attribute of the domestic and foreign policy of any state, through which the most optimal economic balance is formed, the positive impact of interstate trade on the social life of the state is ensured. Foreign trade relations and, accordingly, customs traditions first appeared in Ancient Egypt at the beginning of the 3rd millennium BC, and gradually began to be applied in other countries, including ancient Greece, ancient Rome, other European countries, including Russia, Belarus, and the United States of America.

References

1. Code of the Republic of Kazakhstan On Customs Regulation in the Republic of Kazakhstan // Adopted on December 26, 2017 (with amendments and additions as of June 8, 2024): [Electronic resource] / https://is.gd/iOlohq

2. Customs Code of the Republic of Belarus // Adopted on February 3,1993: [Electronic resource] / https://etalonline.by/document/?regnum=v19302149

3. Customs Code of the Republic of Belarus // Adopted on January 4, 2007: [Electronic resource] / https://etalonline.by/document/?regnum=hk0700204

4. Customs Code of the Republic of Belarus // Adopted on January 6, 1998: [Electronic resource] / https://etalonline.by/document/?regnum=HK9800133

5. Customs Code of the Republic of Moldova // Adopted on August 24, 2021 (with amendments and additions as of 01.01.2024): [Electronic resource] / https://is.gd/kRa4Jk

6. Customs Code of the Republic of Moldova // Adopted on July 20, 2000 (with amendments and additions as of November 9, 2023): [Electronic resource] /https://is.gd/Ey1TOW

7. Customs Code of the Republic of Moldova // Adopted on March 9, 1993: [Electronic resource] / https://is.gd/87U8Ti

8. Customs Code of the Republic of Tajikistan // Adopted on December 3, 2004 (with amendments and additions as of December 24, 2022): [Electronic resource] / https://is.gd/pRamlN

9. Customs Code of the Republic of Uzbekistan // Adopted on January 20, 2016 (with amendments and additions as of February 27, 2024): [Electronic resource] / https://online.zakon.kz/Document/?doc_id=39406709

10. Customs Code of Turkmenistan // Adopted on September 25, 2010 (with amendments and additions as of November 25, 2023): [Electronic resource] / https://is.gd/0qMscN

11. Customs Code of Ukraine // Adopted on March 13, 2012 (with amendments and additions as of 05/09/2024.): [Electronic resource] / https://continent-online.com/Document/?doc_id=31162565#pos=214;-44

12. Kvyatovich, A.A. Establishment and development of customs bodies of the Republic of Belarus: [Electronic resource] / https://is.gd/1oZXBM

13. Law of the Kyrgyz Republic On Customs Regulation // Adopted on April 24, 2019: [Electronic resource] / https://is.gd/mi7y9A

14. Law of the Republic of Belarus "On the foundations of the organization of the

customs service of the Republic of Belarus" // Adopted on March 13, 1992: [Electronic resource] / https://normativka.by/lib/document/500053005

15. Law of the Republic of Belarus on customs regulation in the Republic of Belarus // Adopted on January 10, 2014.: [Electronic resource] / https://etalonline.by/document/?regnum=H11400129

16. Mahnken Daniel. The history of customs from the beginning to the present (June 4, 2020): [Electronic resource] / https://is.gd/XlNMhb

17. Matskevich, V.V. Customs relations / V.V. Matskevich. – Minsk: BSTU,- 2010. – 187 p.

18. Sayapin, V. At the crossroads of trade routes. From toll to duty: [Electronic resource] / https://is.gd/jTTo3Q

19. Shakaraliyev, A.Sh., Shakaraliyeva, Z.A. Organization and management of customs work / A.Sh. Shakaraliyev, Z.A. Shakaraliyeva. – Baku: Economics University Publishing House, – 2015. – 168 p.

20. Statute of the Grand Duchy of Lithuania: [Electronic resource] / https://is.gd/R42HAb

21. Statute: [Electronic resource] / https://is.gd/kyAAIW

22. U.S.Customs and Border Protection. Timeline (Static View): [Electronic resource] / https://www.cbp.gov/about/history/timeline-static-view

23. Wolffgang, Hans-Michael. Emerging issues in European customs law // World Customs Journal: [Electronic resource] / https://is.gd/zCvVMt