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# RISK MANAGEMENT IN CUSTOMS INSPECTION OF GOODS

## ABSTRACT

The article reveals the main applied aspects of the procedure of inspection of goods and commercial vehicles at the present stage of development of the customs sphere and the legislation of Ukraine on customs matters. In the context of legislative innovations and changes in customs practice, the authors highlight the basic aspects of the implementation of such principles of customs control as selectivity and minimization of customs control when checking the customs declaration for risk in the Automated Risk Management System. In

addition, the authors highlighted the features of the choice of forms of customs control by the Automated Risk Management System. It is determined that the automatic system, which is a risk management system, does not perform the format-logical control (does not check the authenticity of consignment, shipping and commercial documents (their structural construction), does not check the authenticity of prints on the forms of these documents, etc.). In this case, the application or non-application of forms of customs control in case of failure of the risk management system (green) will be based on professional qualities and special principle stand of the customs official of the State Customs Service of Ukraine, which is authorized to conduct customs control and customs clearance of goods and vehicles of the commercial purpose under such customs declaration. Through the prism of the study of the provisions of the order of the Ministry of Finance of Ukraine dated May 29, 2012 № 623 “On approval of the Procedure for inspection and re-inspection of goods, commercial vehicles” it is concluded that some of its provisions regulate time standards (of the head of customs clearance and the declarant, the carrier) of the notification of the inspection of goods, commercial vehicles (“notorious” 10 minutes). It is proposed to change the time of notification (head of the customs clearance department and the declarant, the carrier) about the inspection of goods, commercial vehicles up to 30 minutes. It is noted that 10 minutes is not enough to analyze the forms of customs control generated by the risk management system, and sometimes even to study and understand the customs official of the State Customs Service of Ukraine, which is authorized to carry out customs control and customs clearance of goods, commercial vehicles for commercial purposes under the customs declaration.

*The key words:* forms of customs control, customs formalities, risk management system, customs clearance, customs declaration, indication of the results of automatic verification of the customs declaration.

## **Introduction**

For the last decade, Ukraine has been in the process of political association and economic integration with the European Union. At the same time, the legislation of Ukraine, including on customs issues, is rapidly approaching the standards of the European Community. This especially applies to the provisions of the Customs Code of Ukraine, which is subject to continuous improvement and transformation.

Along with this, the reform of domestic customs control bodies proved to be very protracted and problematic, the main vectors of which were the change of the organizational structure, legal status and some operational and functional responsibilities of customs control bodies.

It should be noted that currently the key task of the customs authorities of Ukraine is the implementation of customs control. Customs control is based primarily on the automatic generation of special software and information systems of the State Customs Service of Ukraine customs formalities, which are based on forms of customs control. As an example, it is possible to cite a surprisingly progressive experiment conducted by the State Customs Service of Ukraine regarding the automatic clearance of a customs declaration. Therefore, the theoretical and practical significance of the study is beyond doubt.

### **Methodology**

The following scientists paid attention to the study of certain aspects of selectivity and minimization of customs control when checking the customs declaration for risk in the Automated Risk Management System, determining the place and tasks of customs formalities in the risk management system at different times: YU.M. D'omin, O.O. Zotenko, S.V. Kivalov, B.A. Kormych, Yu.D. Kunyev, S.H. Levchenko, V.YA. Nastyuk, P.V. Pashko, S.N. S'omka, O.P. Fedotov and others. But a comprehensive research on the implementation of the indication of the results of automatic verification of the customs declaration using the Automated Risk Management System, which uses the following colours: green, blue, yellow, red – in the customs of Ukraine was not conducted. In view of the abovementioned, it should be noted the significant relevance of the research topic, which, taking into account the risk factors and criteria used in the Member States of the European Union in conducting risk analysis based on targeting and selectivity, requires

Careful attention. The purpose of the article is to study the legal component of the issue of risk assessment, which is based on the verification of customs declarations and consignment, shipping and commercial documents.

The methodological basis of the study is a set of such special scientific methods as formal-legal and formal-logical, which allowed to analyze the peculiarities of customs officials' choice of forms and volumes of customs control based on the results of risk management system in checking customs declarations and transport, commercial documents. The application of methods of modeling, synthesis and analysis allowed to formulate proposals for improving the provisions of Ukrainian legislation on customs matters in terms of risk assessment in the process of automatic verification of customs declarations and consignment, shipping and commercial documents.

### **1. Principles of selectivity and minimization in the forms of customs control**

Forms of customs control are formalities carried out by customs officials in order to fulfill and achieve customs goals.

It should be noted that one of the most interesting and meaningful forms of customs control is the inspection. At the same time, for a long time there was a discussion between the legislator and scholars: how to ensure maximum effectiveness of reviews and, at the same time, avoid the so-called "human factor", formalisms and subjectivisms in this matter? After all, such customs formality requires much more time than other forms of customs control, personal presence of the declarant / owner of goods, use of technical means of control, additional means of identification, certain types of inspection operations, and sometimes additional costs (loading and unloading, excessive use container equipment, storage of goods in warehouses in ports, unpacking, weighing, etc.) and often leads to other inconveniences for the subjects of foreign economic activity.

The principles of customs control such as selectivity and minimization were aimed at solving this problem.

*Selectivity* is an automatic program selection of a certain number of customs formalities (tasks) that are performed by customs officials in relation to goods moving across the customs border of Ukraine and declared using a customs declaration (another document that replaces in international trade practice customs declaration), confirm or deny the existence of risk indicators.

*Minimization* is an automatic program selection of the minimum customs formalities (tasks), which are worked out by customs officials in relation to goods moving across the customs border of Ukraine and declared using a customs declaration (another document that replaces the customs declaration in international trade practice) in order to confirm or deny the existence of risk indicators.

It is significant that selectivity and minimization as principles of customs control are directly related to the Automated Risk Management System.

## **2. Selectivity and minimization of customs control when checking the customs declaration for risk in the Automated Risk Management System**

Automated risk management system is a set of software and information systems that ensure the functioning of the risk management system (hereinafter – RMS) during customs control and / or customs clearance of goods and vehicles (Order approving the Procedure for risk analysis and assessment, development and implementation of risk management measures to determine the forms and scope of customs control, 2015).

The use of information technology to effectively perform risk management is an effective and efficient tool to achieve customs goals. After all, it allows conduct a faster analysis of risk indicators by random sampling, in contrast to the non-automatic method of such analysis. Automation of such processes allowed the State Customs

Service of Ukraine to create an Automated Risk Management System as a national information database containing information on all foreign trade agreements and transactions with goods moving across the customs border of Ukraine, and a brief description of all risks, risk areas, profiles risks and their indicators (clearly defined selectivity criteria: product code, customs value, country of origin, completeness of documents, expediency of the transportation route, etc.) for further selection by the Automated Customs Clearance System of individual customs declarations (hereinafter – CD) with signs of risk.

It should be noted that the Automated Risk Management System allows customs officials to selectively analyze and, in the future, additionally check individual CDs with signs of risk in their customs clearance.

At the same time, the Automated Risk Management System, which ensures the functioning of the RMS, is constantly updated for the official needs of customs officials in order to further identify risk indicators that are changing rapidly.

### **3. Selection of forms of customs control by the Automated risk management system**

In order to implement the indication of the results of automatic inspection of CD with the use of RMS in the program “Inspector-2006” of the Automated system of customs clearance, the following colours are used: green, blue, yellow, red. At the same time, the view of the forms of control generated by the Automated Risk Management System (according to the colour indication “low”, “medium”, “high” degree of risk) is available immediately after assigning the CD serial number. Each customs formality has a corresponding code contained in the “Classifier of customs formalities that can be determined by the application of the risk management system”, which was approved by the order of the Ministry of Finance of Ukraine dated May 29, 2012 № 623 “On approval of the List of departmental classifiers

state customs affairs, which are used in the process of registration of customs declarations, and the Procedure for their maintenance”.

If the RMS does not generate to the official of the customs authority a form of customs control for the CD, which is checked, then such CD is marked in green. That is, in this case, the official of the customs authority independently decides on the application or non-application of forms of customs control, and, accordingly, on the completion of customs clearance of goods and/or commercial vehicles. In the case of generating forms of customs control, the official completes customs clearance only after their full completion. It is necessary to emphasize that as a result of full performance of the generated RMS tasks in the program “Inspector-2006” of the Automated system of customs registration there will be a change of colour (blue, yellow, red) to green.

Based on the results of control with the use of RMS in each case, the level of risk is determined, as well as the corresponding forms and scope of customs control to be performed by customs authorities during customs control, namely:

- low level (blue colour), at which the results of the application of the RMS does not establish the need for customs formalities. Therefore, in this case, the RMS generated an information message for the customs official on the degree of risk at a “low level”. With the formed customs formalities of “low level”, the official of the customs authority independently decides on the development of the generated forms of customs control to perform the relevant tasks on a specific CD, which is checked during customs clearance of goods and commercial vehicles.
- medium level (yellow colour), which establishes the need for customs formalities not related to customs inspection (re-inspection) of goods and vehicles. In this case, the RMS generates an information message for the official of the customs authority on the identified risk of CD, which is checked, and formulates a list of customs formalities that the official of the customs authority in carrying

out customs clearance must perform and enter the results of these customs formalities to CD. The established customs formalities of the “medium level” are connected with the need for a more detailed analysis of the submitted documents for customs clearance of goods and commercial vehicles. “Medium-level” customs formalities are directly related to the verification of: countries of origin of goods; classification of goods according to the codes of the Ukrainian classification of foreign economic activity; numerical value of the customs value of goods, the presence of declared goods in the register of goods containing objects of intellectual property rights (codes of customs formalities: 101-1; 105-2; 106-2; 107-3; 108-3; 109-4; 110-4; 111-5; 112-5; 113-6; 114-6; 115-7 (Classifier of customs formalities that can be determined by the results of the application of the risk management system). At the “medium level”, when the RMS generates an information message for a customs official of the State Customs Service of Ukraine (which is authorized to carry out customs control and customs clearance of goods, commercial vehicles under such CD) on the identified degree of risk, involved in the verification of CD and other customs officials of the State Customs Service of Ukraine (representatives of the following customs divisions of the State Customs Service of Ukraine: Department of Customs Value Control, Classification, Origin of Goods and Forecasting of Customs Receipts of the State Customs Service of Ukraine; the departments of prevention and counteraction to smuggling and violation of customs rules of the customs of the State Customs Service of Ukraine (code of the initiator of customs formalities: 21; 24 (Classifier of initiators of customs formalities, which can be determined by the results of the risk management system). Thus, in practice, the relevant officials of these customs departments of the State Customs Service of Ukraine are involved in the operation of forms of customs control of both “medium” (yellow) and “high” (red). These customs officials of the State Customs Service of Ukraine are involved in their direction of operation both during the operation of the RMS, and these customs



officials of the State Customs Service of Ukraine may initiate customs formalities that can be determined by the results of the RMS.

- high level (red colour), which establishes the need for customs formalities, which, in particular, involve the implementation of customs inspection (re-inspection) of goods and vehicles. In this case, the RMS generates an information message for the customs official on the identified high risk and accordingly the RMS forms a list of customs formalities that the customs official must perform when performing customs clearance and enter the results of these customs formalities in the CD. The formed customs formalities of “high level” are connected with necessity of carrying out inspection of the goods and vehicles of commercial function (codes of customs formalities: 201-1; 202-1; 203-1; 204-1; 205-1; 206-7; 207-8; 208-1; 210-1 (*Classifier of customs formalities that can be determined by the application of the risk management system*)). For example, when one of the codes of customs formalities triggers, which involves the inspection of goods and commercial vehicles, the head of the customs clearance department of the State Customs Service of Ukraine or the customs post of the State Customs Service of Ukraine may determine certain tasks for the customs official of the State Customs Service of Ukraine (who is authorized to carry out customs control and customs clearance of goods, commercial vehicles under such CD): check of weight, description and marking of the goods according to CD, integrity of customs security or other means of identification, etc., the condition of complete luggage compartments of vehicles, etc. It should be added that the list of customs formalities, which forms and generates an official of the customs authority of the RMS in the implementation of such an official customs control and customs clearance of goods, commercial vehicles, can be from five to seven **tasks** for a particular CD. To such customs formalities as inspection of goods and commercial vehicles (customs formalities codes: 201-1, 202-1, 203-1, 204-1, 205-1, 206-7, 207-8, 208-1, 210-1 (*Classifier of customs formalities that can be determined by the results*

of the application of risk management system) may also be added photo, video recording (use by customs officials of the State Customs Service of Ukraine of photographic and video equipment during inspection, review of goods and vehicles) (Resolution on approval of the Procedure for photo, video recording of customs and other formalities carried out by regulatory authorities; Order approving the Guidelines for the use of photographic and video equipment during the inspection, re-inspection of goods and vehicles, 2014) and/or weighing (use by customs officials of the State Customs Service of Ukraine of weighing systems to measure the weight of goods and commercial vehicles in motion (it is an active vehicle, mainly automobile, rarely rail)) (Order approving the General requirements for weighing systems for measuring the mass of vehicles in motion, 2015), and/or the use of inspection and maintenance equipment (the use of customs officials of the State Customs Service of Ukraine maintenance X-ray television equipment, X-ray equipment visual inspection and inspection complexes (stationary and portable at sea, automobile, railway, air checkpoints) for the purposes of customs control and customs clearance of goods, commercial vehicles (Order approving the Procedure for the use, provision and accounting of technical means of customs control in the customs of the SFS, 2015; Order approving the Requirements for X-ray television inspection equipment used for the purposes of customs control and customs clearance, 2015) and/or the use of service dogs (use by customs officials of the State of the Customs Service of Ukraine means of cynological odorology during customs control and customs clearance of goods, commercial vehicles moving across the state border of Ukraine at road, railway, sea and air checkpoints (Order on cynological support in the State Fiscal Service of Ukraine, 2015; Letter on Methodical recommendations for the introduction of cynological odorology in the implementation of customs control of goods moving across the customs border in containers, 2019) – codes of customs formalities: 911-1,901-1, 902-1, 903-1, 904-1 (Classifier

of customs formalities that can be determined by the application of the risk management system).

### **Conclusions**

Thus, the analysis of applied aspects of the procedure for inspection of goods and commercial vehicles at the present stage of development of the customs sphere and the legislation of Ukraine on customs matters allows us to draw the following conclusions:

first, not surprisingly, but the automatic system, which is RMS, does not carry out format-logical control (does not check the authenticity of consignment, shipping and commercial documents (their structural construction), does not check the authenticity of the prints on the forms of these documents, etc.)!

Format-logical control is an automatic check of correctness of filling of data of CD and return of the results of check; verification of CD and other documents for authenticity and legality; implementation of statistical, currency control, control of accrued customs payments, control of the correctness of the application of measures of non-tariff regulation of foreign economic activity.

The automatic system, which is the RMS, is simply not able to analyze the transport, shipping and commercial documents required for customs control and customs clearance with the data specified in the columns CD. Therefore, the application or non-application of forms of customs control in case of failure of the RMS (green) will be based on the professional qualities and special principles of the customs official of the State Customs Service of Ukraine, which is authorized to carry out customs control and customs clearance of goods and vehicles of the commercial purpose for such CD.

Secondly, certain provisions of the order of the Ministry of Finance of Ukraine of May 29, 2012 № 623 “On approval of the Procedure for inspection and re-inspection of goods, commercial vehicles” regulate the time of notification (head of customs clearance and declarant, carrier) on inspection of goods, commercial vehicles (this

is, so to speak, the “notorious” 10 minutes). In our opinion, the time of notification (head of the customs clearance department and the declarant, carrier) about the inspection of goods, commercial vehicles should be changed in terms of increasing the time of informing the relevant persons: (head and later-declarant, carrier) to 30 minutes.

In practice, such a need arises for a customs official of the State Customs Service of Ukraine, which carries out customs clearance under such CD, in connection with the study and analysis of consignment, shipping and commercial documents submitted by the declarant, and, accordingly, conducts format-logical control. In addition, 10 minutes is not enough to analyze the generated RMS forms of customs control, and sometimes – even for their study and understanding by a customs official of the State Customs Service of Ukraine, which is authorized to carry out customs control and customs registration of goods, commercial vehicles for such CD.

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**Федотов О., Зотенко О. Система управління ризиками у митному огляді товарів. – Стаття.**

У статті розкрито основні прикладні аспекти процедури огляду товарів та транспортних засобів комерційного призначення на сучасному етапі розвитку сфери митної справи та законодавства України з питань митної справи. Авторами у контексті законодавчих новацій та змін практики здійснення державної митної справи висвітлено базові аспекти реалізації таких принципів митного контролю як вибірковість та мінімізація митного контролю при перевірці митної декларації на предмет ризикованості в Автоматизованій системі управління ризиками. Крім того, авторами виокремлено особливості обрання форм митного контролю Автоматизованою системою управління ризиками.

Встановлено, що автоматична система, якою є система управління ризиками, не здійснює формато-логічний контроль (не перевіряє автентичності товаротранспортних, товаросупровідних та комерційних документів (їх структурну побудову), не перевіряє достовірності відбитків печаток на бланках цих документів тощо). При цьому, застосування або незастосування форм митного контролю у випадку неспрацювання системи управління ризиками (зелений колір) буде здійснюватися, виходячи із професійних якостей та особливої принциповості посадової особи митниці Державної митної служби України, яку уповноважено на здійснення митного контролю та митного оформлення товарів, транспортних засобів комерційного призначення за такою митною декларацією. Через призму дослідження положень наказу Міністерства фінансів України від 29 травня 2012 р. № 623 “Про затвердження Порядку проведення огляду та переогляду товарів, транспортних засобів комерційного призначення” зроблено висновок про те, що окремі його положення регламентують часові нормативи повідомлення (керівника підрозділу митного оформлення та декларанта, перевізника) про проведення огляду товарів, транспортних засобів комерційного призначення (“горезвісні” 10 хвилин). Пропонується змінити час повідомлення (керівника підрозділу митного оформлення та декларанта, перевізника) про проведення огляду товарів, транспортних засобів комерційного призначення до 30 хвилин. Зазначається, що 10 хвилин вкрай недостатньо для аналізу згенерованих системою управління ризиками форм митного контролю, а іноді навіть для їх вивчення та усвідомлення посадовою особою митниці Державної митної служби України, яка є уповноваженою на здійснення митного контролю та митного оформлення товарів, транспортних засобів комерційного призначення за митною декларацією.

**Ключові слова:** форми митного контролю, митні формальності, система управління ризиками, митне оформлення, митна декларація, індикація результатів автоматичної перевірки митної декларації.

***Федотов А., Зотенко О. Система управления рисками при таможенном досмотре товаров. – Статья.***

В статье раскрыты основные прикладные аспекты процедуры досмотра товаров и транспортных средств коммерческого назначения на современном этапе развития сферы таможенного дела и законодательства Украины по вопросам таможенного дела. Авторами в контексте законодательных новаций и изменений практики осуществления таможенного дела освещены базовые аспекты реализации таких принципов таможенного контроля как избирательность и минимизация таможенного контроля при проверке таможенной декларации на предмет рискованности в Автоматизированной системе управления рисками. Кроме того, авторами выделены особенно-

сти избрания форм таможенного контроля Автоматизированной системой управления рисками. Установлено, что автоматическая система, которой является система управления рисками, не осуществляет форматно-логический контроль (не проверяет подлинности товаротранспортных, товаросопроводительных и коммерческих документов (их структурное построение), не проверяет подлинности оттисков печатей на бланках этих документов и т.п.). При этом, применение или неприменение форм таможенного контроля в случае срабатывания системы управления рисками (зеленый цвет) будет осуществляться, исходя из профессиональных качеств и особой принципиальности должностного лица таможи Государственной таможенной службы Украины, уполномоченного на осуществление таможенного контроля и таможенного оформления товаров, транспортных средств коммерческого назначения по такой таможенной декларации. Через призму исследования положений приказа Министерства финансов Украины от 29 мая 2012 г. № 623 “Об утверждении Порядка проведения осмотра и досмотра товаров, транспортных средств коммерческого назначения” сделан вывод о том, что отдельные его положения регламентируют временные нормативы уведомления (руководителя подразделения таможенного оформления и декларанта, перевозчика) о проведении досмотра товаров, транспортных средств коммерческого назначения (“пресловутые” 10 минут). Предлагается изменить время уведомления (руководителя подразделения таможенного оформления и декларанта, перевозчика) о проведении досмотра товаров, транспортных средств коммерческого назначения до 30 минут. Отмечается, что 10 минут крайне недостаточно для анализа сгенерированных системой управления рисками форм таможенного контроля, а иногда даже для их изучения и осознания должностным лицом таможи Государственной таможенной службы Украины, уполномоченным на осуществление таможенного контроля и таможенного оформления товаров, транспортных средств коммерческого назначения по таможенной декларации.

**Ключевые слова:** формы таможенного контроля, таможенные формальности, система управления рисками, таможенное оформление, таможенная декларация, индикация результатов автоматической проверки таможенной декларации.

