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CUSTOMS MODERNIZATION: NEW CHALLENGES IN AN ERA OF GLOBALIZATION AND REGIONALIZATION

У статті розглядаються проблеми, що постають перед митними органами в епоху глобалізації та регіоналізації. Висвітлюються шляхи і напрями модернізації митниці.

В статье рассматриваются проблемы, возникающие перед таможенными органами в эпоху глобализации и регионализации. Освещаются пути и направления модернизации таможни.

The article deals with the problems which Customs faces in an era of globalization and regionalization. The ways and directions of Customs modernization are cleared up.

Key words. Globalization, regionalization, customs, modernization, diagnosis, planning, human resources, risk management.

Introduction

Customs is one of the oldest professions in the world. The Bible, for instance, refers to a customs collector called *Zacchaeus* – who was corrupt but, happily, reformed (*Luke 19: 1-10*). There is also enough proof that customs existed even in the ancient civilizations. This is due to the fact that Customs goes hand in hand with international trade and that nations have been trading with each other right from the ancient world, through the Middle Ages, the Modern Period up to our post-modern contemporary world.

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However, it should be noted that the old form of foreign trade concerned the exchange of goods from one national market to another. The network of political economies that characterizes our own age was still a long way off. The situation today is rather different. Hence, Customs must keep on “re-inventing” itself. And the keyword here is **customs modernization**. But first of all let us briefly highlight the current situation characterized by both globalization and regionalization or regionalism.

The current situation:

1. Globalization

Globalization can be described as a process by which the people of the world are unified into a single society and function together. This process is a combination of economic, technological, socio-cultural and political forces. Globalization, as a term, is very often used to refer to *economic globalization*, i.e., the integration of national economies into the international economy through trade, foreign direct investment, capital flows, migration, and spread of technology.

There are many actors (and in some sense, “wire-pullers”) in globalization but it is necessary to say a few words about the following:

- **Industrialized states:** Traders in industrialized states require markets for their specialized and premium quality products that exceed the demands of their domestic economies. They are largely able to find such markets in other industrialized states and, to a certain extent (especially concerning the consumer goods industry), in developing countries. Consequently, trade policies of industrialized states usually favor the opening-up of markets particularly in relation to high-value industrial products.

- **Transition economies:** Owing to relatively low salaries and living costs such countries are able to forge links to the world economy, encourage economic growth and thereby achieve a reasonable standard of living. On the other hand, an opening-up of the market and orientation towards global markets often leads to a drastic structural change that can put a considerable number of companies out of business that are not internationally competitive.

- **Developing countries:** These are characterized generally by political instability, weak law and order and inadequate infrastructure. They are usually unable to attract productive foreign investment even if they offer the lowest salaries. This further hinders economic development. Many of these countries have adopted high rates of duty to protect their fragile economic structures and obtain revenue. On the other hand, competitive products from developing countries (particularly agricultural products) have little chance of competing on the markets of industrialized countries owing to the latter’s high rates of duties or application of import quotas. In addition, many developing countries are dependent on the export of one or two raw materials with the result that fluctuations in international market prices can have a catastrophic effect on their economies.

- **Transnational organizations:** Nowadays, there are many companies which produce and distribute their goods throughout the world. These multi- or transnational companies (the so-called *global players*) can use differences in labor costs, investment, tax and other conditions in countries to their benefit within the corporate association. It is

estimated that global players account for 2/3 of world trade and approx. 1/3 of world trade takes place between a parent and its subsidiary companies. Transnational organizations are increasing their importance within the globalization process because they can exercise influence over political decision-making at national and international level. In this respect, it should be pointed out that decision-making is no longer matter of state sovereignty. Transnational organizations are indeed a great driving force behind globalization.

Although globalization is not entirely a new phenomenon, we cannot fail to recognize that the rate and extent of the current form of globalization is enormous. For sure, globalization has created and it is still creating new challenges. Just think, for instance, of the current **financial/economic crisis**: Less-developed and developing economies did not contribute to the ultimate causes of this bitter recession, but through the mechanism of international trade in goods and financial flows they have been affected by the downturn.

2. Regionalism

Another outstanding phenomenon of our time is the **proliferation of Regional Trade Agreements (RTAs)** such as free trade areas, customs unions and less comprehensive, partial preferential reductions of trade barriers. The recent statistics show that:

Some **421** RTAs have been notified to the GATT/WTO up to December 2008. Of these, **324** RTAs were notified under Article 24 of the GATT; **29** under the Enabling Clause; and **68** under Article V of the GATS. At the same time **230** agreements were in force. If we take into account RTAs which are in force but have not been notified, those signed but not yet in force, those currently being negotiated, and those in proposal stage, *we arrive at a figure close to 400 RTAs which are scheduled to be implemented by 2010!* Of these RTAs, free trade agreements (FTAs) and partial scope agreements account for over 90 %, while customs unions account for less than 10 % (see WTO.org; emphasis added).

There are already so many Regional Trade Agreements; and yet many more agreements are being negotiated! Some months ago, for instance, Russia stopped the negotiations for its accession to the World Trade Organization (WTO) because it wants to first form a customs union with Kazakhstan and Belarus. It is envisaged that this customs union will come into force in January 2011. Thereafter, the three countries intend negotiate a group for accession to the WTO (see T. Riecke and A. Rinke, *Handelsblatt*, 11.06.2009).

This proliferation of Regional Trade Agreements is a cause for alarm both politically and economically. The so-called “*spaghetti bowl*” of criss-crossing Regional Trade Agreements has serious negative consequences with regard to trade costs, efficiency and the conditions of competition in global markets.

Customs administrations are particularly challenged by the proliferation of Regional Trade Agreements, for it is their duty to administer and implement these agreements. Take for instance the “jungle” of different tariffs and rules of origin caused by the “*spaghetti bowl*”: Customs is usually the agency responsible for enforcing these various rules of origin. And this can be quite costly particularly for developing economies.

There is no need to sound so negative about regionalization, for it also entails some advantages. In fact, there are many regional initiatives which have made important contributions to economic welfare and political stability. Moreover, it is undisputable that just like globalization, regionalism is here to stay. But the fact remains the existence of so many Regional Trade Agreements creates a lot of legal, practical and technical challenges for customs administrations - hence the need for well qualified customs officers who can ably handle these challenges.

CUSTOMS MODERNIZATION

In this globalized world, customs modernization refers to the organization of a customs service in such a way that it balances its various responsibilities to ensure a high level of compliance with revenue objectives and other regulatory requirements (e.g. security, environmental and IPR issues) while at the same time intervening as little as possible in the legitimate movement of goods and people across borders.

Surely, nobody will say that customs modernization means one and the same thing for all customs administrations across the globe. As we all known, conditions differ greatly across countries. Hence each customs administration ought to match its modernization efforts to national objectives, implementation capacities and resource availability. However, there are some core principles the adoption of which certainly leads to customs modernization. And those are the principles I want to elaborate.

Good diagnosis and planning

It is common knowledge that effecting a good change requires planning; and, that good planning calls for adequate analysis of the status quo. This simple principle is not only important in our day-to-day private lives but it is also extremely important for big organizations such as Customs. A good initial diagnostic work which identifies the weaknesses of the existing system is therefore paramount for customs modernization. This should be followed by adequate planning which clearly defines the reform strategies.

Well, it is true that in the last two decades many developing countries have made significant steps towards modernizing Customs. International organizations such as the World Bank and the World Customs Organization have also played an important role in supporting these reform projects by providing funds and offering technical assistance. However, there has often been some lack of substantive diagnostic analysis. This is especially true with regard to a significant number of Technical Assistance operations (see Michael Engelschalk and Tuan Minh Le, 2004). Obviously, comprehensive analyses that address a number of core aspects of Customs also ought to be conducted so as to make realistic plans which take into account the country's capacity to implement, the time that is required, the various stakeholders involved, and the level of political support that is required.

With regard to diagnosis and planning one may strongly encourage those concerned to make maximum use of the relevant instruments of the World Customs Organization such as the *Customs Capacity Building Diagnostic Framework* (published in 2005) and the Revised Kyoto Convention. Up to today 64 states have ratified the revised Kyoto Convention. The European Community, its member states and a lot of countries across the globe belong to that group; unfortunately the Ukraine is still missing in the “club”.

Management of human resources (*Capacity building)

Human resources are a key element of Customs – and indeed of any other organization. Here, the catchword is: “good management”. But it is possible to add that managing human resources is not a walk-over! This is because it involves a number of aspects such as recruitment, training, staff remuneration, promotion, and capacity building.

In the contemporary world which is characterized by rapid changes in technologies, booming international trade, new methods of management, new security threats, etc., it is incumbent on customs administrations to pay maximum attention to the question of human resources. This requires that the general educational background of all staff is sufficiently high to ensure that they can acquire and maintain the necessary skills. Consequently, recruitment should be based on the “**know-how**” rather than “**know-who**”! In addition, where expertise is required (in aspects of Information Technology, intelligence, Auditing etc.), it would be reasonable to employ some experts.

There are various core aspects of human resources (e.g. remuneration, integrity, and promotion issues). One aspect, however, cannot be overlooked. And that is “**capacity building**” – a theme which is particularly relevant to all of us.

Capacity building is a necessity in every customs administration. You cannot ever dream of customs modernization without investing in capacity building. That is a fact! The World Customs Organization knows it very well – it has even a whole Directorate dedicated for capacity building. Customs administrations across the globe are increasingly recognizing the importance of capacity building. Even Universities know it and gather in the International Network of Customs Universities. Yes, the momentum should continue, for capacity building is a necessary ingredient of customs modernization.

However, it should be remembered that **coordination** between all the stakeholders in capacity building is very important. Generally speaking there is still some lack of coordination in capacity building programs. There is a need for coordination between different donor countries/agencies. Likewise, there should be coordination within the country or region in which capacity building is carried out. Of course we cannot fail to recognize the fact that stakeholders are increasingly getting aware of the importance of coordination.

One I cannot overemphasize the fact the World Customs Organization has a number of instruments and programs the use of which can yield lots of “customs modernization fruits”. The *Columbus Program, Aid for SAFE trade* is a good example. It is actually the largest and most comprehensive Customs Capacity Building initiative on record. Its main aim is full implementation of the SAFE Framework of Standards. But there is also the PICARD program which aims at advancing customs academic research and professionalism. That said: let us turn to another indispensable tool for customs modernization which is “information technology” (IT).

Optimal use of Information Technology

Rapid developments in information technology over the last two decades have not only created new challenges for customs administrations, but (and most importantly) they have also created new opportunities. Many customs administrations all over the world are moving towards paperless operations (e-Customs). This is because a customs administration which makes optimal use of information technology can greatly increase transparency, efficiency and enhance security.

Currently there is no customs administration which does not use information technology of some sort. There are various IT systems used by different customs administrations across the globe. Using different IT systems per se is not a problem. What is important is such systems are interoperable. Let us admit that in this regard the European Union is no good example. More or less 27 different IT systems in the member states were developed; more or less independently. Now we are facing the problem of interoperability.

It is also important to note that information technology can greatly contribute to customs modernization only if it is effectively integrated in modern methods and practices of customs management. This actually reminds us of the issue of planning which elaborated above. Here, the message is that each customs administration needs to identify realistic targets and objectives which are tailored to its own specific circumstances, while at the same time minding the interoperability or even compatibility with other relevant regional or international IT systems.

Intelligence and reliance on risk management

Trade facilitation is currently one of the commonest terms used in trade, customs and development fora – definitely not without reason. With huge volumes of goods traded in across borders it is very important to make regular improvements in the efficiency of administrative and logistic steps associated with the international trade of goods. We know very well that Customs is at the forefront of the various agencies that intervene in international trade of goods. This means that Customs can play a very central role in facilitating or, sadly, in blocking trade.

Well aware of the benefits of trade, and hence, in an effort to strike a balance between trade facilitation and regulatory control, customs administrations are increasingly abandoning the classic “gateway” checks and now applying the principles of risk management. This is a positive move and it is definitely in line with the principles of the Revised Kyoto Convention (see chapter 6 of the General Annex, which includes Standards on risk assessment, risk management, audit-based control, etc.).

It is not so easy to examine all the complexities of risk management. It is worth pointing out that Customs needs to make a kind of risk chart which identifies the potential vulnerabilities of its processes so as to decide how best its procedures can be geared towards the realization of its goals. And increased use of intelligence and post-clearance audit is indispensable for the realization of effective risk management.

With regard to intelligence, Customs has to reckon with the horrible fact of international terrorism. We have already witnessed terrorists use means of transport like aeroplane, trains, cars, etc. to commit atrocities. In the last six years there have been a lot of discussions about supply chain security. Various programs, for example the Customs-Trade Partnership against Terrorism (C-TPAT), Authorized Economic Operator (AEO), etc. have been initiated. Some customs administrations have even resorted to increased scanning. Above all, the World Customs Organization adopted the SAFE Framework of Standards to Secure and Facilitate Global Trade. And it is encouraging to see that there currently over 150 Members of the WCO who have expressed their intention to implement the SAFE Framework of Standards (see WCO website, 15th June 2009).

In all this, however, it is important to know that whereas customs administrations have the duty to cater for the safety of citizens; they must do so in a manner which does not hinder international trade. Introducing “100% scanning”, for instance, does not seem to be a good measure. That is why intelligence and risk management are a real necessity, indeed an indispensable element of customs modernization.

Cooperation with other relevant agencies and with the private sector

Everybody knows that Customs is not the only agency which deals with the movement goods and people across borders. Many other government agencies and private organizations (e.g. police, bureau of standards, health agencies, etc.) are often involved. Lack of cooperation between the different agencies concerned with a given issue is very likely to be costly in terms of time, money and even security.

There are many initiatives which can enhance cooperation among the concerned agencies. The single window concept, for instance, can be very instrumental in hindering the duplication of functions, wastage resources; thereby contributing to efficiency. And if the single window is supplemented by the *One Stop Shop* which allows the performance of all necessary controls and administrative formalities at the same place, no doubt, efficiency would increase. And as we know, efficiency is highly valuable this globalized world. Yes, failure to be efficient amounts to going “out of business”.

Transparency and Integrity

There is a brief notion about transparency and integrity. These are partly legal issues and partly moral. We all know how important they are for the realization of customs modernization. But the biggest problem lies in putting them into practice.

Transparency basically concerns the publication of customs and trade-related laws, regulations and rulings in a prompt and easily accessible manner. Obviously, it also calls for the administration of such laws in a uniform, impartial and reasonable manner. This is very important for promotion of investment. If Company X wants to sell its products in Country Y one of the first steps taken by the manager is to acquaint himself with the various customs rules applicable in that country. The question is: are those rules readily available?

It is true that many countries and customs unions have recently updated their customs laws and, to a great extent, aligned them to relevant international conventions such as the Revised Kyoto Convention, WTO's Customs Valuation Agreement, etc. But the question is: can a trader, investor or traveler really be confident that such laws will be administered in an integral manner? If “yes”, then it is well and good, for that would be very significant in terms of customs modernization.

Conclusion

It is high time customs administrations and other stakeholders realized that globalization and regionalization are here to stay. Our task ought to be “giving these phenomena a human face” by mitigating their negative aspects while supporting the positive ones. Customs modernization can help. But customs modernization requires concerted effort from all players. The “*I Know It All*” mentality which is sometimes perceptible in donor countries may actually do more harm than good. But with better trained and formed personnel, we cannot but expect the best for customs modernization.