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REGULATORY AND LEGAL SUPPORT FOR POST-CUSTOMS CONTROL AND APPLICATION OF THE RISK MANAGEMENT SYSTEM AFTER THE RELEASE OF GOODS IN UKRAINE

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ABSTRACT. The relevance of the research topic is due to the need to take measures to improve the efficiency of post-customs control through the use of the risk management system. Further development of the risk management system and creation of prerequisites for a risk-oriented approach to determining the need for post-customs control will contribute to increasing its effectiveness. The purpose of the article is to analyze the regulatory framework of Ukraine regarding post-customs control and application of the risk management system after the release of goods. To achieve this goal, general scientific methods were used, as well as methods of legal analysis and legal comparativism, critical analysis of systematization and logical generalization. The regulatory framework of this work is based on the customs legislation of Ukraine. The subject of the study is the legal support for the application of the risk management system in the field of post-customs control. The articles of the Customs Code of Ukraine on post-customs control and risk management are analyzed. Amendments to this Code regarding the implementation of some provisions of the Customs Code of the European Union in the context of the article are studied. The National Revenue Strategy of Ukraine until 2030 was considered in terms of outlining tasks to improve the efficiency of post-customs control, conducting documentary audits and other measures in order to comply with the requirements of the legislation of Ukraine on customs through the improvement of approaches and procedures for post-customs control, planning documentary audits through the development of risk management. The provisions of the Procedure for risk analysis and assessment, development and implementation of risk management measures to determine the forms and scope of customs control have been studied. The content of the recommendation and technical pilot project for post-customs control and the State Customs Service reform plan for 2024-2030 has been developed. The conducted scientific research allowed us to highlight the features of regulatory legal acts. The analysis also revealed some gaps in the implementation of post-customs control and the application of the risk management system after the release of goods, and thus identified potential areas for improving the mechanism for applying the risk management system in the field of post-customs control.

Keywords: risk management system, customs control, post-customs control, risk-oriented approach, subjects of foreign economic activity

INTRODUCTION

The use of post-customs control as a form of customs control helps to speed up the access of goods to the customs territory of each state by simplifying customs formalities for conscientious subjects of foreign economic activity (hereinafter – subjects of FEA) (Sivak, 2022).

The introduction of post-customs control in the control and inspection work of customs authorities ensures the formation of a transparent customs system, adequate to modern trends in world trade, capable of protecting the legitimate economic rights of subjects of FEA and state interests. However, this form of customs control in terms of the application of the risk management system (hereinafter – RMS) requires constant updating (Razumei, 2023). After all, the mechanism for applying the RMS to determine the objects of post-customs control is different from the classical one used during direct customs clearance and customs control. It should be implemented both during customs clearance and after the release of goods. Given the limited resources of the customs authorities and the ever-increasing volumes of international trade, it is extremely important to apply a risk-oriented approach to determining the objects of post-customs control (Kostenko, 2018).

At the same time, the Public Financial Management Reforms Strategy for 2022-2025, which was approved by Order No. 1805-r of the Cabinet of Ministers of Ukraine on December 29, 2021, states that „during the implementation of the Public Financial Management Reforms Strategy for 2017-2020, approved by Order No. 142 of the Cabinet of Ministers of Ukraine on February 8, 2017, the task of improving the effectiveness of post-customs control remained unfulfilled” (On Approval of the Strategy..., 2021). The mentioned Public Financial Management Reforms Strategy for 2022-2025, in particular, identified the need to take measures to improve the effectiveness of post-customs control. That is why the further development of the RMS and the creation of prerequisites for the risk-oriented approach in determining the need for post-customs control will contribute to increasing its effectiveness.

It indicates the relevance of the study and the importance of realizing the goal of analyzing legislative and regulatory acts, as well as administrative documents of Ukraine, on the basis of which post-customs control is carried out and RMS is applied after the release of goods. In accordance with the formulated goal, the following tasks are defined: a) establishing the features and forming proposals on ways to improve the domestic regulatory and legal support for the application of the risk management system to select the scope of post-customs control; b) outlining the directions for improving the mechanism for applying the risk management system to determine the need for post-customs control.

MATERIALS AND METHODS

The methodological basis of this article was the use of a set of general scientific and special research methods. Using the methods of synthesis and analysis, deduction and induction, abstraction, dialectical cognition, domestic approaches were studied and the current state of application of the risk management system in the field of post-customs control was established. Methods of legal analysis and legal comparativistics made it possible to work out the regulatory framework for post-customs control and the use of the risk management system in the implementation of such control, and the method of critical analysis made it possible to identify the features and identify some gaps in regulatory acts in the context of the subject of the study. Among the methods that helped in the preparation of conclusions and proposals for improving the effectiveness of post-customs control through the application of the risk management system were systematization and logical generalization. Graphical and tabular methods were used to visualize the results of the study.

The legal framework of our study consists of both laws and acts of a subordinate, departmental and internal nature, which regulate the issues of post-customs control and the application of RMS for its purposes.

RESULTS AND DISCUSSION

One of the key tasks of the State Customs Service of Ukraine is to solve the problem of accelerating the implementation of customs procedures in combination with increasing the effectiveness of customs control in general and post-customs control in particular (Komarov, 2017). The most effective way to solve this problem is the active use of the RMS in the practice of customs authorities and its continuous improvement (Perepelytsia, 2023). At the same time, it is important to analyze the state of regulatory support for the subject of the study, namely the relevance of the provisions of both laws and acts of a subordinate, departmental and internal nature that regulate the issues of post-customs control and the use of RMS for its purposes. This legal framework includes Articles of the Tax Code of Ukraine 3371 „Post-Customs Control", 320 „Selectivity of Customs Control", 363 „Activities of Customs Authorities in Risk Assessment and Management", Order of the Ministry of Finance of July 31, 2015 No. 684 „Procedure for Risk Analysis and Assessment, Development and Implementation of Risk Management Measures to Determine the Forms and Scopes of Customs Control", Order of the State Customs Service of Ukraine of August 21, 2023 No. 411 „On the Introduction of a Recommendatory and Technical Pilot Project for Post-Customs Control". It is appropriate to consider the draft Law of Ukraine on January 16, 2024 No. 10411 „On Amendments to the Customs Code of Ukraine on the Implementation of Certain Provisions of the Customs Code of the European Union" for the proposed amendments and additions in the context of the issues of research and development; the National Revenue Strategy of Ukraine until 2030, approved by the Cabinet of Ministers of Ukraine on December 27, 2023 No. 1218, in terms of outlining tasks for the implementation of the goal „Improving the efficiency of post-customs control, conducting documentary audits and other measures in order to comply with the requirements of Ukrainian legislation on customs through improving approaches and procedures for conducting post-customs control and planning documentary audits by developing risk management", the Reform Plan of the State Customs Service for 2024-2030, approved by the Order of the State Customs Service of May 24, 2024 No. 686.

In accordance with Part 2 of Article 361 of the Customs Code of Ukraine (CCU), the customs authorities apply RMS to determine the goods, vehicles, documents and persons subject to customs control, the forms of customs control applicable to such goods, vehicles, documents and persons and the amount of customs control (Customs Code..., 2012). The RMS should be considered as a set of control methods and tools that use the principle of random selection, which allows customs to apply those forms of customs control that ensure compliance with the law. In accordance with part 2 of Article 363 of the Tax Code of Ukraine, subparagraph 5 of paragraph 4 of the Regulation on the Ministry of Finance of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine on August 20, 2014 No. 375, in order to ensure the selectivity of customs control through the application of RMS, the Order of the Ministry of Finance dated July 31, 2015 No. 684 approved the Procedure for Risk Analysis and Assessment, Development and Implementation of Risk Management Measures to Determine the Forms and Volumes of Customs Control (hereinafter referred to as Order 684). The purpose of preparing this Procedure 684 was the need to ensure the selectivity of customs control through the use of RMS, improving the efficiency of the State Customs Service of Ukraine during customs control, accelerating customs clearance through the use of risk management methods, including risk analysis using information technologies, and targeting. Procedure 684 establishes a unified approach to the implementation by customs authorities (their structural units) of risk analysis and assessment, development and implementation of risk management measures to determine the forms and scope of customs control (On Approval of the Procedure..., 2015). At the same time, the issue of making a decision by the customs authorities to determine the forms of customs control remains important.

Based on the current trends in the development of customs and previous studies, it can be argued that in international practice, the emphasis is increasingly shifting towards customs control after release (post-customs control). Ukraine is not an exception. Thus, the appearance of a new article – 337-1 „Post-Customs Control" in the CCU in 2019 created the prerequisites for providing significant simplifications of customs formalities for enterprises with a high degree of trust and increasing the competitiveness of Ukrainian enterprises in the foreign and domestic markets. At this time, in accordance with Article 336 of the

CCU, post-customs control is a separate independent form of customs control. As a form of customs control, post-customs control should be chosen by customs officials, and only those who carried out customs clearance of goods. For the purposes of post-customs control, the customs authorities have the right to verify the accuracy and completeness of the information contained in the customs declaration, the entry summary declaration, and the availability, accuracy and correctness of the documents on the basis of which the goods were released. This includes the accuracy of the information set forth in the declaration of the declarant or their authorized person to the customs declaration that the declared goods by their characteristics and physical, chemical properties do not belong to cultural property, narcotic drugs, psychotropic substances and precursors, radio electronic equipment and radiating devices prohibited for import and use in Ukraine, military or dual-use goods, hazardous waste, agrochemicals and pesticides (Article 337-1 of the CCU).

According to the current provisions of the CCU, there are 2 options for choosing the forms and volumes of customs control, namely:

- automated risk management system (hereinafter – ARMS)
- customs officials based on the results of the application of the risk management system (RMS).

At the same time, in accordance with part two of Article 320 of the CCU, the forms and scope of customs control after completion of customs clearance are determined in accordance with the procedure established by the CCU.

Affixing appropriate customs securities (including through information technology), other marks on the customs declaration or a document that replaces it in accordance with the law, on shipping and transport documents if they are submitted in paper form, and fulfilling all other customs formalities determined by this Code in accordance with the declared customs regime will be considered completion of customs clearance (part five of Article 255 of the CCU).

In accordance with paragraph two of part one of Article 337-1 of the CCU, post-customs control is carried out based on the results of the application of the risk management system and can be initiated during customs clearance or within 30 calendar days from the date of release of goods. In the meaning of the CCU, the release of goods is the granting by the customs authority of the right to use and/or dispose of goods in respect of which customs clearance is carried out, in accordance with the stated purpose (paragraph 5 of part one of Article 4 of the CCU).

Post-customs control can be started either while or after the items are released from customs in compliance with the intended use.

Part three of Article 363 of the CCU provides that the procedure for analyzing and assessing risks, developing and implementing risk management measures is determined by the central executive body that ensures the formation and implementation of state financial policy. Pursuant to the above provision of the CCU, the previously mentioned Procedure 684 was adopted. In accordance with Procedure 684 in the version approved by the order of the Ministry of Finance on 22.01.2021 No. 32, risk management measures are developed using risk management tools, in particular: (On Approval of the Procedure..., 2015):

1) risk profile – a description of any set of risk indicators, including defined combinations

of risk indicators, resulting from the collection, analysis and systematization of information;

2) targeting - information on persons and/or vehicles that may be used to commit violations of the customs legislation of Ukraine, as well as information on goods that may be the object of an offense, created by the customs authorities (their structural subdivisions) independently based on the results of analytical work or received by the customs authorities (their structural subdivisions);

3) risk indicators – criteria with predetermined parameters, the use of which makes it possible to select the object of control;

4) methodological recommendations on the work of customs officials (customs posts) on the analysis, identification and assessment of risks;

5) random selection - a method of selection of customs control objects for individual forms of customs control or their combination, when each object of the sampling frame has the same probability of being selected.

The following are each of the tools in more detail, with the determination of the possibility of their use for choosing post-customs control and its scope.

Risk Profiles

The main tool of the ARMS is electronic risk profiles. In accordance with the principles of ARMS operation, each specific foreign economic operation is assessed in accordance with the risk criteria defined in the risk profile, their parameters, and the algorithms for their application. If there is an identified risk, the ARMS selects the forms and volumes of customs control, while forming a list of customs formalities, the implementation of which makes it possible to ensure compliance with the requirements of the legislation of Ukraine on customs matters.

It is important to emphasize that the effectiveness of the use of the ARMS during customs control and clearance directly depends on its filling with risk profiles.

In the ARMS, a standard analysis condition (hereinafter – SAC) can also be used, which is a set of risk indicators that can be used in many risk profiles at the same time to describe a particular condition and/or algorithm. A striking example of the application of the SAC in practice is the "subject-oriented criteria", the main purpose of which is to reduce the selectivity of the risk profiles of ARMS during customs control. State Customs Service of Ukraine approves the list of subject-oriented criteria, which are published on its official website.

Such criteria include information about the management of the enterprise; the period of registration with customs; the size of the authorized capital; the number of employees; the main classification of economic activities (Main type of activity); the category of the taxpayer; the state of the taxpayer; the amount of customs payments paid for 365 days; the amount of royalties and other license fees for the last calendar year (On the application..., 2021). Checking for compliance with the established criteria is carried out using information technologies, in particular the ARMS, while using customs and other information received by the customs authorities in accordance with the procedure established by law. For business entities, depending on their compliance with the defined criteria and their value, the coefficients for reducing the share of determining the need for the ARMS to carry out customs inspection and/or additional verification of documents are applied. The parameters of the above criteria are proprietary information that is not published.

Therefore, in accordance with the SAC principle, "Subject-Oriented Criteria", some customs forms and volumes, which are established by the ARMS (risk profile), are not applied, which lowers the amount of such control in each instance of customs control over goods and vehicles.

Orientation

Although Order 684 does not contain provisions restricting its use after the release of goods, it remains undefined whether all risk management tools are correctly used to select post-customs controls initiated after the release of goods. For example, orientation in accordance with the practical content and purpose is used to immediately inform the customs authorities (their structural units) about persons and/or vehicles with which violations of the legislation of Ukraine on customs may be committed, about goods that may be the object of an offense, and about the use of control forms to detect, prevent and stop such violations. It seems logical that it is inexpedient to use orientations within the framework of post-customs control, given the loss of the main meaning of their application, namely, urgent informing.

Risk indicators

Customs officials may use the list of risk indicators that combine multiple alternative (those that are used not only in the case of their simultaneous implementation but also separately from each other) risk indicators related to common risk areas and risk minimization measures during non-automated control using the risk management system to select the forms and volumes of customs control. The list of risk indicators, as a document approved by the Expert Committee on risk management system, contains risk indicators and information on measures to be taken to prevent the occurrence or minimize risks. The risk identified in accordance with the list of risk indicators is actually the basis for the choice of the forms and volumes of customs control by customs officials.

Taking into account the specifics of post-customs control, the possibility of its application after the release of goods, and the operation of a longer period of time for the analysis of documents used during post-customs control, risk indicators should be different from that used during direct customs control and customs clearance. The list of risk indicators for use in order to select post-customs control should mainly contain risk indicators characterizing subjects of foreign economic activity, goods, as well as documents and information declared during customs control and customs clearance.

Methodological Recommendations on the work of customs officials (customs posts) on the analysis, identification and assessment of risks

Methodological Recommendations, as a risk management tool, can determine the list of alternating measures (algorithm of actions) to be taken by a customs official in order to identify and minimize the risk. The Methodological Recommendations on the algorithm of actions of customs officials in the field of post-customs control were approved by Order No. 411 of the State Customs Service of Ukraine on August 21, 2023 (hereinafter referred to as the methodological recommendations). In accordance with paragraph 2 of Part 1 of Article 3371 of the CCU and paragraph 5 of Section 1 of the Methodological Recommendations, post-customs control is carried out based on the results of the application of the risk management system, namely, it can be initiated on the basis of the results of the analysis and risk assessment of ARMS during customs clearance or the results of the application of the RMS by customs officials within 30 calendar days from the release of goods, taking into account:

- the results of the analytical work of the customs audit unit, units to combat smuggling and violations of customs rules, structural units of the customs, whose functional powers include control in the areas specified in paragraph 6 of Section 1 of the Methodological Recommendations, regarding the placed consignment of goods under the declared customs regime;
- information received from the authorized bodies of foreign states regarding a consignment of goods, customs clearance of which has been completed;
- information, the analysis of which indicates possible violations of customs and other legislation, control over compliance with which is entrusted to the customs authorities, received from: a) other customs offices based on the results of the analysis of their previous customs clearance; b) the structural unit of the State Customs Service of Ukraine apparatus, which functional powers include control over the implementation of post-customs control and conducting documentary checks on compliance with the requirements of the legislation of Ukraine on customs and the structural unit of the Customs Service of Ukraine apparatus, which functional powers include counteraction to smuggling and violation of customs rules; c) structural units of the State Customs Service of Ukraine apparatus, which functional powers include the organization of control in the areas specified in paragraph 6 of Section 1 of the Methodological Recommendations; d) other state and non-state institutions, manufacturers of goods, conclusions accredited in accordance with the legislation of experts (Customs Code..., 2012; On the introduction of a recommendation..., 2023).

A separate part of the post-customs control process is the development of its results, which are necessarily taken into account by the RMS for (On the introduction of a recommendation..., 2023):

- selection of high-risk customs declarations in order to plan on-site documentary audits of compliance with the requirements of customs legislation;
- initiation of sending requests to the authorized bodies of foreign states in order to verify the authenticity of documents submitted by the declarant to the customs authority during customs clearance, in the manner prescribed by customs legislation and administrative documents of the State Customs Service;
- determination of the forms and volumes of customs control by the ARMS.

The results of post-customs control can be used during the pre-audit analysis when selecting declarations of enterprises for unscheduled on-site and off-site documentary audits of compliance with the requirements of the legislation of Ukraine on customs. Thus, the cyclical nature of the post-customs control process is ensured, in which the RMS is included as a dynamic tool.

Random selection.

- In accordance with Part 3 of Article 363 of the Customs Code of Ukraine and Section VI of Order 684, random selection is currently applied exclusively in the ARMS. Randomization can be used in the RMS in the formation by State Customs Service officials at the operational level of risk management of a stratified or cluster sample of subjects of FEA in order to determine the forms and volumes of post-customs control. However, this requires an appropriate level of training and proper competence of customs officers.

The existing scheme of the RMS application for the selection of post-customs control in accordance with the provisions of Order 684 in the version approved by the order of the Ministry of Finance on January 22, 2021 No. 32 is presented in Figure 1.

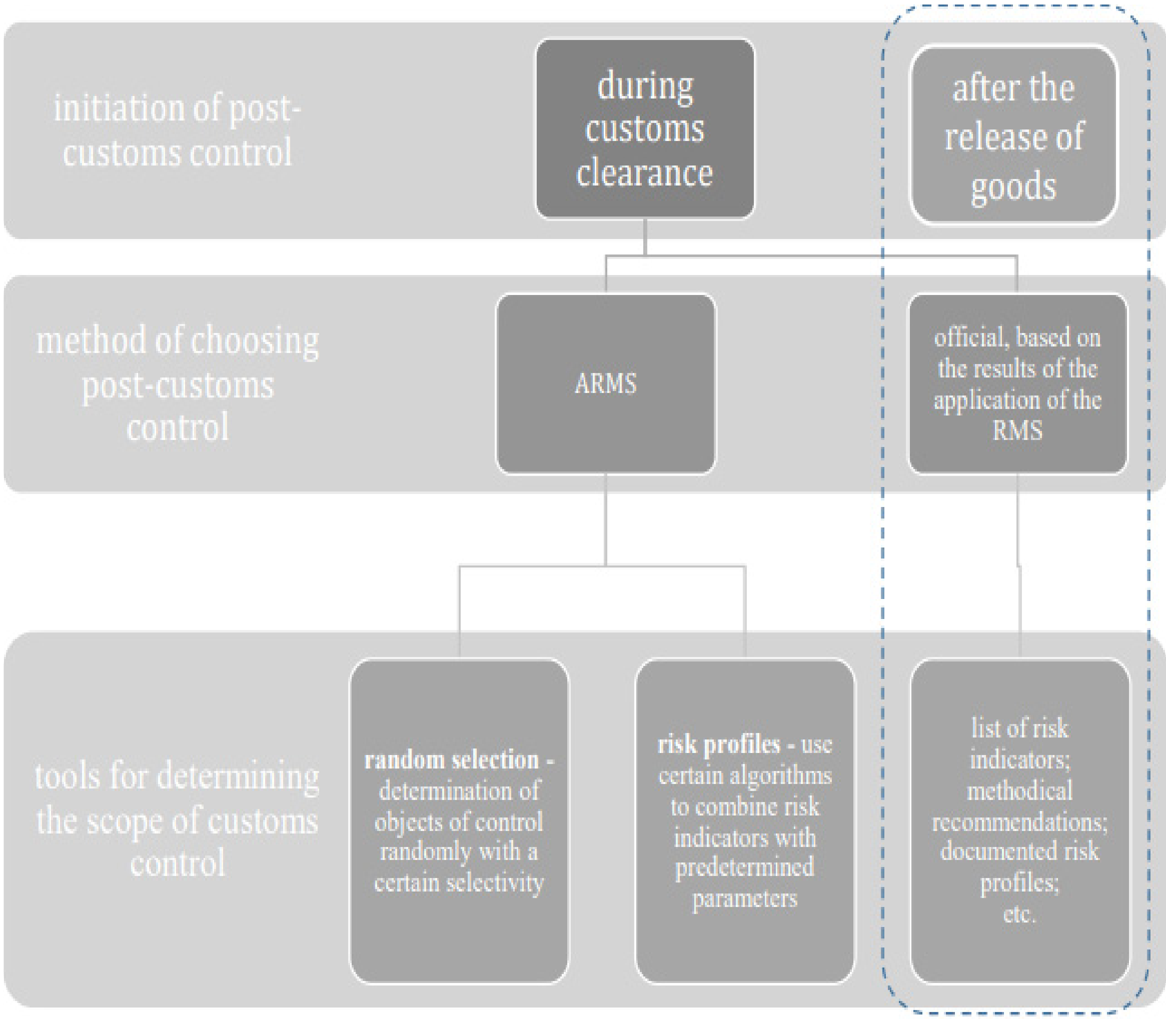

Figure 1. Scheme of the RMS application for selection of post-customs control

Source: based on (On Approval of the Procedure..., 2015)

Today, the ARMS consists of 6 modules that provide automated risk management processes: when moving goods and vehicles across the customs border at checkpoints for road and rail traffic; when processing customs declarations; when processing entry summary declarations (ENS); when processing customs declarations submitted in accordance with the provisions of the Convention on the Common Transit Procedure (NCTS); when processing inter national postal and express shipments.

At the same time, these ARMS modules ensure the selection of forms and volumes of customs control directly during movement across the customs border of Ukraine and/or customs clearance of goods. The possibility of using the ARMS after the release of goods is not currently implemented.

Taking into account the dynamics of changes in the development of domestic customs, substantiated by the European integration processes, we consider it necessary to analyze the draft legislation of Ukraine and some provisions of the current EU legislation related to risk management and post-customs control.

The draft Law on Amendments to the Customs Code of Ukraine on the Implementation of Certain Provisions of the Customs Code of the European Union No. 10411 on January 16, 2024 (hereinafter referred to as the Draft No. 10411) proposes to bring certain issues on the application of the RMS and the implementation of post-customs control into line with European legislation (Draft Law on Amendments..., 2024).

Thus, Project No. 10411 recommended to introduce the concepts of „risk" and „risk management" in Article 4 „Definitions of basic terms and concepts" and bring these concepts to the relevant provisions of European legislation (Table 1).

Customs Code of Ukraine	Project No. 10411
Article 361. Purposes of using the risk management system. The risk management imply operations carried out by bodies of revenues and duties to analyze, identify and assess risks, develop and practically implement the measures aimed at minimizing the risks, evaluate the efficiency and control the application of such measures. A risk shall be understood as a probability that the laws of Ukraine on state customs procedures will not be complied with.	Article 4 „Definitions of basic terms and concepts" 512) risk - the likelihood and consequences of an event related to the import, export, transit, movement or end use of goods moving across the customs border of Ukraine, as well as the stay of foreign goods in the customs territory of Ukraine, which may: a) impede the correct application of measures provided for by the legislation of Ukraine; b) jeopardize the financial interests of Ukraine; or c) pose a threat to the national security of Ukraine, life and health of people, animals, plants, the environment, the interests of consumers; 631) risk management - systematic identification of risks, including through random checks, and taking all measures necessary to reduce the likelihood of risk occurrence.

Source: based on (Draft Law on Amendments..., 2024)

The proposed changes do not fundamentally reformat the current practice on the application of the RMS and the development of risk management measures. However, such changes will make it possible to systematize the activities of customs authorities on risk management. It is necessary to pay attention to the introduction of the concept of „random inspection", which is not regulated by the current customs legislation of Ukraine, but already appears in paragraph 631 of Article 4 of the Project No. 10411.

The current version of the Customs Code of Ukraine uses the concept of „random selection", which is used in the ARMS (part three of Article 363 of the Customs Code of Ukraine). The same concept was used in Procedure 684 in the wording approved by the order of the Ministry of Finance on January 22, 2021 No. 32, as a separate risk management tool.

In the Customs Code of the European Union (EU Regulation No. 952), the concept of „random check" is used in the context of risk management (literal translation „random check", although it is more appropriate to use „random check").

The concept of „random check" is used in the definition of „risk management" (paragraph 25 of Article 5 of Regulation No. 952), in part two of Article 46 of this Regulation, according to which customs control should be based primarily on risk analysis using electronic data processing tools to identify and assess risks and develop the necessary countermeasures based on criteria developed at the national level, at the Union level and at the international level.

Thus, under European law, random checks are used as a way to identify risks in risk management, the choice of which does not depend on the results of the RMS application.

Currently, such a norm of European legislation on random inspections is not fully implemented in national customs legislation. The concepts of „random selection" and „random verification" as a risk management tool is used within the ARMS.

The project № 10411 provides for significant changes in the implementation of post-customs control, namely:

1) documentary inspections of compliance with the requirements of the legislation of Ukraine on customs affairs are proposed to be made a form of post-customs control. Thus, post-customs control is planned to be considered as a broader concept, the implementation of which is carried out in two stages by conducting: pre-audit analysis of customs declarations, customs clearance of which has been completed, and documentary audits of compliance with the requirements of the legislation of Ukraine on customs;

2) the list of objects of post-customs control has been changed. In the proposed version of the Code, the list of documents checked within the framework of post-customs control has been changed. The information of the entry summary declaration is not subject to post-customs control.

It should be noted that in accordance with the conditions of the advisory and technical pilot project of post-customs control introduced by the State Customs Service (On the introduction of a recommendation..., 2023), within the framework of such a pilot project, the information specified in the entry summary declarations, periodic and temporary customs declarations, as well as customs declarations, according to which goods are released for free circulation using the provision of part seven of Article 55 of the Code, is not checked in the direction of post-customs control of the correctness of determining the customs value of goods.

3) as in the current version of the Code, post-customs control is carried out based on the results of the application of the risk management system, but Project No. 10411 proposes changes regarding the timing of initiating post-customs control, namely, post-customs control can be initiated within the terms provided for in Article 355 of this Code for storing documents for three years, as opposed to 30 calendar days from the date of release of goods, as stated in the current Code;

4) the risk management system takes into account information on the results of post-customs control, visualized in Fig. 2.

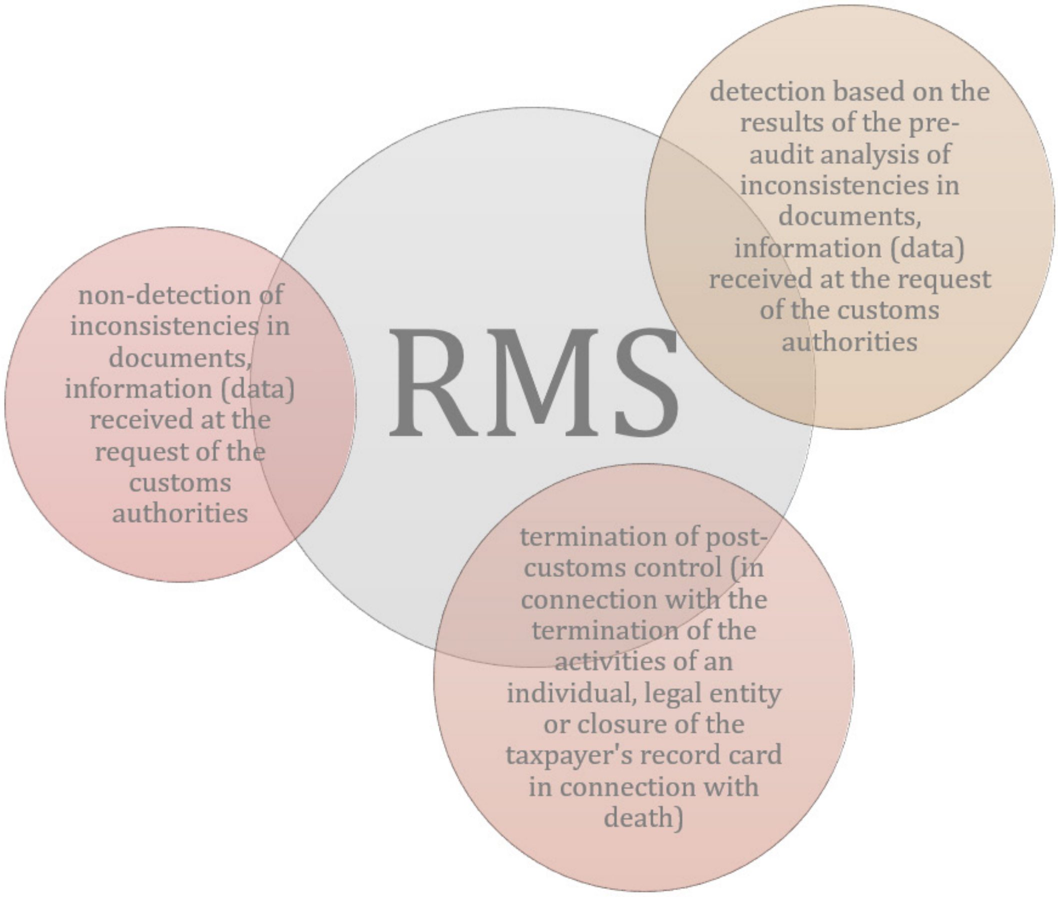

Figure 2. Types of information on the results of post-customs control to be taken into account in the RMS

Source: developed by the authors

Other changes formulated in the Project No. 10411 on post-customs control do not affect the application and/or functioning of the RMS.

In European legislation, the concept of "post-release control" is used, literally translated as "control after release" (Article 48 of EU Regulation No. 952).

According to Article 48 of EU Regulation No. 952, for the purposes of post-release control, customs authorities may verify the accuracy and completeness of the information provided in the customs declaration, temporary storage declaration, entry summary declaration, exit summary declaration, re-export declaration or re-export notification, as well as the existence, authenticity, accuracy and validity of any supporting document, and may check the declarant's records and other internal records in respect of transactions involving the goods concerned or in respect of previous or subsequent commercial (Regulation (EU) No 952/2013..., 2013).

As can be seen from the provisions of the above article, the list of objects of control after release is much wider than proposed in the Project No 10411. The exclusion of the entry summary declaration from the list of objects of post-release control does not comply with European practice.

Part 1 of Article 292 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 on the detailed rules for the implementation of certain provisions of

Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code provides that the competent customs authority may carry out controls after the release of the information supplied and any documents, forms, authorizations or data relating to the transit operation, in order to verify the authenticity of such records, information received and seals. Such control is carried out if there are doubts about the accuracy and authenticity of the information provided or if there are suspicions of fraud (Commission Implementing Regulation..., 2015). It is also carried out on the basis of risk analysis or by random inspection.

Thus, the national practice of choosing such a form of customs control as post-customs control based on the results of the application of the risk management system is generally consistent with European practice, with the exception of the use of random checks as a way of managing risks.

It is worth recalling that the World Customs Risk Management Compendium also provides for the use of random checks as a risk management tool (WCO Customs Risk Management Compendium. Volume-1, 2011). Such checks are used to measure compliance when statistically valid random sampling methods are used to determine the degree of compliance of economic operators, carriers, imported goods, etc. with customs rules and procedures. In addition, the EU Customs Standards (Customs blueprints: pathways to better Customs), which set strategic objectives for customs authorities to build an effective customs system, stipulate that the process of selecting objects of control should include random checks (Standard 11.3) (Customs blueprints..., 2015).

Therefore, given the sufficient amount of policy and methodological materials indicating the need to introduce random checks to select the forms and scope of customs control, there are certain risks that every customs administration should consciously focus on. Thus, special attention should be paid to the study of the creation of prerequisites for the manifestation of corruption risks and the increase in unreasonable cases of intrusive customs control, which may affect the image of customs authorities, additional costs of subjects of FEA, etc. Taking into account the world practice, non-intrusive technologies provide the greatest convenience and quality of control. Standard No. 3 of the "first pillar" of the WCO Framework of Safety Standards recognizes the usefulness of non-intrusive control technologies for trade facilitation and recommends that customs administrations have and use non-intrusive control equipment in accordance with the results of risk assessments.

All of the above allows to state that modern changes and the mainstream in the customs sphere indicate the importance of continuous development of risk management in the field of post-customs control. The strategy for reforming the public financial management system for 2022-2025 (hereinafter referred to as the Reform Strategy), approved by the order of the Cabinet of Ministers of Ukraine on December 29, 2021 No. 1805-р, and later – the National Revenue Strategy (hereinafter referred to as the Revenue Strategy), approved by the order of the Cabinet of Ministers of Ukraine on December 27, 2023 No. 1218-р, in particular, the need to improve the efficiency of post-customs control, conduct documentary audits and other measures in order to comply with the requirements of the legislation of Ukraine on customs (On Approval of the Strategy for Reforming..., 2021; On Approval of the National Revenue Strategy..., 2023). Further development of the RMS and creation of prerequisites for the risk-oriented approach to determining the feasibility of post-customs control will contribute to increasing its effectiveness. One of the vectors for achieving the strategic result is currently the modernization of approaches and procedures for conducting post-customs control and planning documentary audits through the development of risk management, and an indicator may be the introduction of amendments to Order 684, according to which the RMS are used to determine the need for and scope of post-customs control.

Ways to further improve the regulatory framework for the use of the RMS by customs authorities for the selection of post-customs control should be related to the consideration of the following issues:

- determination of the list of risk management tools that can be used after the release of goods to select the forms and volumes of customs control;
- features of customs formalities specified by the ARMS and/or an official based on the results of the RMS application after the release of goods, as well as recording the results of such formalities in the information systems of the customs authorities.

However, for the full use of the random inspection tool, it is necessary to amend Article 320 of the Code, which regulates the possibility of choosing the forms and volumes of customs control by random inspection.

The Order of the Ministry of Finance on 24.06.2024 No 305 approved amendments to the Procedure for risk analysis and assessment, development and implementation of risk management measures to determine the forms and scope of customs control. The relevant order was registered with the Ministry of Justice of Ukraine on June 26, 2024 under No. 964/42309 and entered into force on July 13, 2024. The above author's visions on ways to further improve the regulatory framework for the use of the RMS by customs authorities for the selection of post-customs control are mainly reflected in the new version of Order 684. Thus, Order 684 has been supplemented with a new section „IX. Application of the RMS after the release of goods" which, in order to ensure the selectivity of customs control, actually determines the algorithm of actions of application of the RMS for the purposes of post-customs control. In particular, the mentioned section states that the development of risk management measures to determine the forms and volumes of customs control after the release of goods is carried out using risk management tools developed in accordance with sections II, IV, V of Procedure 684, namely, risk profiles, risk indicators and methodological recommendations. Therefore, post-customs control does not employ targeting as a risk management strategy.

The same refers to: regulation by the current domestic customs legislation of the use of the RMS to select the scope of customs control in the form of documentary verification of compliance with the requirements of the legislation of Ukraine on customs matters, including timeliness, reliability, completeness of accrual and payment of customs payments; determination of the scope of post-customs control by applying the ARMS during customs clearance and/or an official of the customs authority (its structural unit) based on the results of the application of the RMS after the completion of customs clearance and release of goods. It is noted that at the time of determining the necessity of post-customs control, a list of customs formalities is formed to be performed after the completion of customs clearance. The results of the implementation of such formalities from the list of customs formalities are entered after the completion of post-customs control.

The consistency in the approach to ensuring the integrity of the customs control process is indicated by paragraph 5 of Section IX of the updated Procedure 684 under study, which refers to the consideration by the customs authorities (their structural units) during the development and implementation of practical risk management measures to determine the forms and volumes of customs control of the results of customs control after the release of goods (On Approval of the Procedure..., 2015).

It should be noted that random selection in the wording of the order of the Ministry of Finance on June 24, 2024 No. 305 is not an independent risk management tool, but is used during automated control using the RMS – in fact, in the ARMS.

In order to ensure the efficiency and selectivity of customs control and optimize the implementation of the control functions of the State Customs Service in accordance with the defined measures of subparagraph 5.2.2 of the Revenue Strategy and a number of subparagraphs of paragraphs 2.4 and 2.5 of the Reform Strategy for the future, the following key areas can be outlined to ensure the development of a mechanism for applying the RMS for post-customs control purposes:

- institutional and communication (increasing the functionality of the competence center based on the results of reviewing the organizational and technical aspects of post-customs control regarding changes in the list of customs formalities; improving the intra-agency and inter-agency exchange of information in real time, which can be used for risk analysis and assessment within the framework of post-customs control, as well as identifying and stopping violations of customs legislation);
- methodological (continuous improvement of methods and approaches to the application of the RMS in the field of post-customs control in order to prevent cases of unreasonable determination of the scope of such control and minimize the intrusiveness of control);
- information and technical (provision of IT support for the implementation of a system of automated distribution of subjects of FEA depending on the characteristics and history of their activities; creation of a comprehensive the RMS automated monitoring system; use of additional mechanisms for verifying the results of post-customs control, including through the use of means of recording the implementation of customs formalities; expansion of the information database of the RMS; digitalization of information available in the customs authorities; retroconversion of historical data; use of open sources of information);
- personnel (improvement of the system of professional training of State Customs Service officials on the use of RMS for the purposes of post-customs control; provision of education and training of persons hired for the first time in the customs bodies of the lists of risk indicators on risk management in the field of post-customs control)

CONCLUSIONS

Thus, the improvement of regulatory support for the RMS in general (with the simultaneous introduction of the latest approaches to risk management) and the creation of conditions for ensuring the development of a mechanism for the application of the RMS in the field of post-customs control will contribute to increasing the efficiency of the customs authorities in determining the forms of customs control and customs clearance. The implementation of the Reform Strategy will ensure the effective functioning of a modern, adapted, multifunctional RMS in Ukraine, which will be constantly improved and developed both at the central and regional levels, and the main goal of which is to achieve an optimal balance between simplifying international trade procedures and ensuring an appropriate level of customs control, including post-customs control.

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