

# CUSTOMS PROCEDURES WITH ECONOMIC IMPACT AND FISCAL EFFECTS FROM THE USE OF THESE PROCEDURES IN KOSOVO

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## ABSTRACT

The paper addresses some of the important issues related to customs procedures with economic impact in the Republic of Kosovo, their functioning, impact on budget revenues in Kosovo, and their fiscal role in economic growth and development of the country.

Customs procedures with economic impact are procedures that are developed and applied in order to achieve economic prosperity, and since small and open economies have to devote most of their activity to import, and particularly to the export component, then the use of these procedures will serve greatly to faster economic development and will have a direct impact both in the growth of imports and exports as well as in the possible improvement of overall economic performance

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### **1. General Concept on customs procedures with economic impact and their role in economic development in Kosovo**

In open economies, the economic operators have repeatedly requested the suspension of payments in order to postpone the payment deadline for goods intended for re-export or later sale in the country after a certain processing. For goods that are imported in the country and for which import duties are paid, it is considered that at the time they are put in free circulation they change their status from non-domestic goods they become goods of domestic status.

If there is a request for the same goods to be re-exported, economic operators are also obliged to calculate the customs tax in the sales price. In this case, they will come at high prices and will not be competitive in the international market, regardless of whether they have franchise for those goods in the particular region.

If a domestic manufacturer has technical possibilities for processing the imported goods into a compensating product (final or semi-finished), he will face the import tax for raw materials, in which case they will be non-competitive products in the region and beyond.

If there is a possibility for processing a domestic raw material in another country, when such goods are returned in the country as a product, operators must pay against the new value of goods that are being re-imported. If, under certain circumstances, the import goods are charged with import duties while the product that is acquired as result of processing is

Exempted from such duties on the basis of the classification, domestic producers of the goods released from import duties will be in disadvantage compared to the direct importers of that product;

All these and many other issues of concern that preoccupy economic operators would have remained unresolved without the existence of customs procedures with economic impact.

The customs procedures are granted by competent customs units, however, the relevant authorization must be obtained from these units, which means that the person who has customs liabilities should submit his request for initiation of respective procedure when submitting the customs declaration. The applicant is responsible for *the accuracy of the data and*

*documents and for the compliance with the obligations arising from the authorization given for the use of these procedures.*<sup>1</sup>

If importing company applying for a customs procedure with economic impact meets the requirements for approval of such requested procedure, the authorization is issued as result of the application for approval filed properly by the company and then takes into consideration the fact that company meets all the necessary conditions in order to be able to implement such procedure. The approvals are granted only to:

Persons or companies providing all the necessary guarantees for proper implementation of the activity in the procedure and customs authority may supervise and monitor the procedure without the need to introduce administrative activities in proportion with economic benefit of the approved procedure.

The customs authority may supervise and monitor the procedure without the need to introduce administrative activities proportionate to the economic benefit of the approved procedure.<sup>2</sup>

The authorization will not be issued to persons who do not possess all the warranties necessary for the proper conduct of the procedure, or in cases where the customs administration is not able to carry out reasonable economic oversight and monitoring of the procedure.

**Types of customs procedures with economic impact applicable in Kosovo Procedures with economic impact are grouped as follows:**

- Customs warehouse (DD) (Customs warehousing);
- Temporary import (IP);
- Internal Processing (BP);
- External Processing (PJ); and
- processing under customs control

All these procedures allow the import / export of goods by applying suspensive regimes in order to benefit by postponing them until the next customs treatment.

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<sup>1</sup> Biljanoska,J(2003):Carinski system i carinsko rabotne,FTU,Ohrid,str 191

<sup>2</sup> Rečkoski R (2009) :Carinska Postapki Fakultet za Turizam i Ugostitelstvo, Ohrid

The abovementioned procedures gave the opportunity to economic operators to come up with cheaper prices, both in the domestic and foreign markets. The legal basis for these procedures derives from the Kosovo customs and excise code, which lays down legal provisions on the procedures, authorization, evidencing, transfers, compensatory interest, treatment forms, etc. It should be emphasized that the role of customs as institution in modern societies, where in addition to collection of import and export duties (if such fiscal measure will ever be set) and maintaining security (fighting smuggling of dangerous goods), it also plays a role in regulation of internal market and creating conditions for performance of business activities, which should particularly be in favour of capital investments in Kosovo. With the market regulation we mean:

- Accelerating procedures when processing transactions at the customs;
- Fighting against smuggling; and
- Application of customs facilities provided in the customs code.

All these functions (roles), if applied successfully, will provide for a good investment climate and Kosovo will be a market where free trade rules will apply, where there will be economic development opportunities, creation of new jobs and where fiscal and commercial policy measures will be in the taxpayers' service.

## **2. Customs warehouses (customs warehousing)**

Customs warehouse means any place approved by and under the supervision of the customs where goods may be stored under the conditions laid down<sup>3</sup>.

Customs warehousing provides the possibility of placing goods under customs supervision in a place authorized by the customs (customs warehouse) without paying import duties, thus postponing the payment of customs duties until they are released for free circulation.

The customs warehouse consists of one or more closed rooms, clearly marked and appropriately separated from other environments and spaces.<sup>4</sup>

if necessary, the customs authority may approve goods placed under the

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<sup>3</sup> Customs and Excise Code of Kosovo, article 103, paragraph 2

<sup>4</sup> Dapčević- Marković Lj.(2011): Carine i carinsko poslovanje, Bar. Str.181.

customs warehousing procedure to be moved from one customs warehouse to another.<sup>5</sup>

When they are released for free circulation, the entity shall pay the customs duties for that quantity of goods placed in the market. It also provides the opportunity for re-export of goods to a foreign market, with no duty charged.

It should be borne in mind that goods placed under this procedure must always be covered by a bank guarantee (as a security instrument) for the amount of duty on the goods that are deposited.

The customs warehousing procedure will allow the storing of:

- a) non-Kosovo goods without being subject to import duties or trade policy measures;
- b) Kosovo goods, when Kosovo legislation regulating specific areas provides that placing them in the customs warehouse requires application of measures relating to the export of such goods.

As with the regular clearance, when goods are placed in the customs warehouse, data on such goods are verified in terms of type, quantity, quality, origin and value of goods.<sup>6</sup>

A customs warehouse can be either public or private

Public warehouse is authorized for use by warehouse keepers, whose main job is warehousing of goods stored by other traders (depositors), whereas the private warehouse is for warehousing goods deposited by individual authorized traders as warehouse keeper. It is not necessary for the warehouse keeper to be the owner of goods, but it must be depositor.

#### *Advantages of customs warehousing*

Customs warehousing is especially useful if the warehouse keeper/depositor:

- (a) wants to postpone the payment of customs duties and/ or vat on its imported goods that are deposited
- (b) wants to postpone the customs treatment applicable to imported goods

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<sup>5</sup> Rečkoski R (2009) : Carinska Postapki Fakultet za Turizam i Ugostitelstvo, Ohrid

<sup>6</sup> Rraci, Y. (2010), Bazat e sistemi doganor, Prishtinë, fq 177

(c) wants to re-export non-domestic goods (whereby duties and vat may not be paid at all)

(d) there are difficulties in fulfilling certain specific conditions at the time of import (such as special import permits)

(e) wants to discharge any other customs procedure (such as inward processing) without having to physically export goods; or

(f) wants to use any customs warehouse for co-deposition of goods that are subject to any other customs procedure (such as free circulation, inward processing (ip), processing under customs control (ccp)).

Public warehouse is authorized for use by warehouse keepers, whose main job is the warehousing of goods deposited by other traders (depositors).

Private warehouse is for storing goods deposited by individual traders authorized as warehouse keepers. Warehouse keeper does not necessarily have to be owner of goods, but it must be the depositor.

The warehouse keeper must maintain and operate the warehouse facility in such a way that it meets all the requirements of health legislation. There is a number of requirements that need to be met in order for the subject to be authorized to use customs warehouse. The authorization for storage of goods at the customs warehouse also includes the security for covering liabilities - customs duties.

In this concrete case, a bank guarantee is required. The bank guarantee will be valid for one year period - with extension of the validity period for as long as authorization is valid/ until the customs procedure is completed. The acronym used for customs purposes in the customs procedure with economic impact is im7.

### **3. Temporary import**

temporary import - allows temporary importation of non-domestic goods with full or partial exemption of import duties. Temporary import presents a specific type of foreign trade, during which the status of the owner of goods will not change. Temporary import mainly enables different persons or entities to import goods that are exempt from import duties.<sup>7</sup>

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<sup>7</sup> Biljanoska, J (2003): Carinski sistem i carinsko rabotne, FTU, Ohrid, str 191

goods must not be processed or repaired apart from the usual (routine) maintenance required for keeping them in the state in which they are imported. There are different types of exemptions for temporary import, for example, goods that are meant for fairs, medical equipment, items for actions, various items for testing and laboratory analysis, transit passenger goods, etc.

The temporary import procedure may be granted at the request of the person who wishes to use such goods or takes necessary measures for their use. In all cases and depending on the type of imported goods, entities or persons who want to use this procedure should be located within or outside of Kosovo.

For most cases of imports of goods under the temporary import procedure, the person concerned or different entities must submit a bank guarantee equivalent to the full amount of debt which may unexpectedly arise in respect to import obligations, especially in cases where customs supervision (under which goods are declared - temporary import) is not respected for various reasons.

In all cases when the goods are removed from customs supervision without customs clearance, the amount presented in the bank guarantee may be requested as compensation together with the additional compensatory interest. Whereas in cases where the goods are re-exported or released for free circulation, the person depositing the guarantee is entitled to receive back this guarantee deposited in the customs account.

In order to place goods under temporary import it is required to have an authorization and necessary documentation, which should be presented to customs when goods enter the border.

Temporary importation works in:

- temporary importation with total relief [of import duties], and
- temporary importation with partial relief

Temporary importation with total relief for importation of goods under the temporary importation procedure means all goods, which are exempt from customs duties as long as they are authorized by an authorization issued by the customs of the country. In this case, they must deposit a bank guarantee equivalent to the amount of customs duties that would be paid if these goods would be imported for release for free circulation.

Temporary importation with partial relief from import duties may be claimed to be compensated if the goods do not comply with identified conditions or if they are not listed for total relief.

The full guarantee for the eventual amount of import duties will be required when placing goods under the temporary importation procedure. Once the goods would leave the country, the liability that should be paid (e.g. 3% of the import duties for each month, or fractions (parts) of a month for which goods stayed in the country) must be paid. This means that, together with the declaration of re-export, downloading of the ip (provisional import) procedure, import declaration, must be filed for payment of liabilities.

What is specific in the customs procedure with economic effect "temporary import" is that the temporary imported goods should remain in unchanged condition. In other words, only the repair and maintenance is allowed, including repair and regulation or measures for preserving goods, mainly to meet technical requirements for its use. The purpose of this procedure is to simplify and harmonize procedures with a view of promoting economic, humanitarian, cultural, and social and tourist purposes.

### **3. processing under customs control (ccp)**

The procedure of processing under customs control allows non-domestic goods to be used domestically in operations that change the nature or condition of goods without being subject to import duties or trade policy measures, and allows the products generated as a result of these operations to be released for free circulation at the rate of import duty that is appropriate to them, and these products are referred to as "processed products".

This procedure is of great importance especially for the companies, which, when importing different reproductive material, the customs duty for those materials is much higher, same as for the goods that come out as the final product of that material. Therefore, by using this procedure when importing goods, the duties are suspended, goods enter in processing procedure under customs control, and once the final product is generated it would be subject to tax only as a final product.

The customs tariffs in Kosovo are regulated in such a way that in most cases the processed (produced) goods carry a higher rate of duty than the raw material or constituent parts from which they are produced. In some



cases, however, final products have a lower duty rate than the materials from which they are produced. In some cases, these tariff abnormalities may make it more economical to import ready-made products directly from outside kosovo than to import raw material or constituent parts and to produce products in kosovo.

The pkd procedure is a trade facilitation measure intended to encourage processing in kosovo by allowing some raw materials or certain components to be imported through the duty suspension procedure. After processing, processed products may be declared for free circulation with lowest-rate corresponding to the rate of the raw material. Therefore, in the case of applying this procedure, employment opportunities will increase and production companies will be more competitive with their products in the domestic and foreign markets.

#### **4. Outward processing**

The outward processing procedure foresees the relief of duties when importing from other countries goods, which are produced from domestic materials that were exported earlier. This enables businesses to use the lowest labour cost outside kosovo, while encouraging the use of domestic raw materials for processing final products. Goods may also be temporarily exported in order to be subjected to processes that are not available in kosovo.

This procedure also enables defective goods to be returned to foreign countries for repair or replaced with equivalent goods within the so-called standard exchange system (ses). When a person uses the outward processing procedure, this enables him to benefit from the relief from import duties on domestic goods that have been exported for the purpose of processing, provided that he can prove that the exported goods are used for production, or are an integral part of the products that he is importing. However, before benefiting from exemption under op (outward processing), this person should be authorized to use the procedure.

To be eligible for exemption under the op procedure, exported goods must be domestic goods. Domestic goods are either goods originating from kosovo or goods which have been imported for free circulation within kosovo after all customs formalities have been completed and after import duties have been paid. There are also some special procedures for placing goods from the procedure for release for inward processing (ip) to the procedure for release for outward processing (op).

When a person exports goods under the op procedure, he cannot claim restitution of funds or relief from import duties or any other compensation or financial benefit. He should also pay all export duties or other payments in full.

The standard exchange system (ses) can be used to import replacements of those goods that were exported earlier for repair. If the person concerned needs replacement goods, for example machinery, only for a short time until his goods are repaired and returned to him, it would probably be more appropriate for that person to use the temporary import procedure (ti) – replacement means of production.

The concerned person may need to import replacement products before exporting the goods with errors. This is called "preliminary import". If he wishes to apply ses with preliminary importation, the customs will require him to provide a guarantee for potential liabilities that he must pay for goods he imports.

Under normal conditions, there are only two situations when customs requires a guarantee for goods in op. These are:

- when the person concerned is authorized to use the standard exchange system with preliminary importation or,
- when the person concerned has to clear his goods faster by the customs, but he is not able to submit the required documents to demand relief from duties.

The outward processing procedure is a broadly applied procedure in developed countries, given that their economy is oriented to find places where the workforce is cheap and establish their activities in those countries. This is a "double-edged knife"; it causes the loss of jobs, but at the same time reduces the cost of processing goods, which creates opportunities for calculating favourable market prices.

The fundamental purpose for which it is used or it is important because of the opportunity it gives to various economic entities to send damaged equipment (machinery, devices, etc.) For repair outside the country. It should be emphasized that the repaired value (repair or maintenance invoice) of goods that were sent for repair is declared to the customs administration upon return and the same represents a new added customs value, which is also subject to the customs duty according to the applicable legal provisions.

## 5 .Inward processing procedure

Economic development of a country depends from many factors; mainly industrial development and investment in the manufacturing sector are a prerequisite for increasing revenues of a country. The trends in the world trade have influenced the large economic powers to concentrate on cheap labour. We bear witness to the great movement of the economic giants towards the far east.

The economy of our country has a low level of development where the private sector is limited in terms of its international rights<sup>8</sup> (note: because of status recognition), while the social sector has stagnated due to the weak intensity of the privatization process.

However, investments are expected to come to kosovo, especially in specific economic areas such as mines and energy. However, in order to create conducive conditions for investment in kosovo, the ip procedure (inward processing) did not have such a small impact. The fact that investors are interested in simple processing processes in kosovo has shown the need for movement of goods in the form of raw materials without being subject to customs duties for the purpose of processing and re-exporting such goods as compensating products (final or semi-finished).

Inward processing allows imported raw materials or semi-finished products to be processed (processed, refined or repaired) for re-export without paying import duties and vat on goods.<sup>9</sup>

Customs duties will be collected for those products (compensating products) which fail to be re-exported or even for those residues which will still have a commercial value (secondary compensating products).

This procedure is one of the most important customs procedures. This procedure will largely help domestic manufacturers to preliminarily import raw materials for the purpose of processing and re-exporting. Application of this procedure increases employment opportunities, and manufacturing companies will be more competitive with their products in the foreign market. This procedure also requires application for and approval (authorization) by the customs authorities.

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<sup>8</sup> Nuredin, A. (2016). A lus Cogens Rules in the International Treaty Law. *International Scientific Journal Vision*, 1(1), 17-28.

<sup>9</sup> Jovanovski, P (2006): Javni finansiji, Evropski Univerzitet, Skopje,

When submitting the application, economic interest for using this procedure as well as all information about the goods to be imported and methods of identification of goods before and after the proceeding should be presented in full. Customs will continuously verify the accuracy of these data. The decision on the authorization/ rejection when applying for this procedure will be taken within 30 days. There are two systems in the inward processing procedure.

There are two systems of relief from customs duties, the suspension system and the drawback system. In both cases, there should be the intention to re-export/export generated compensation products from Kosovo and an authorization to import goods under Ipb is mandatory. The goods must be processed within a specified timeframe and records must be kept for all performed operations. If the suspension system is used then it is required to present a report (discharge list), detailing the receipt and departure of the goods.

The inward processing procedure allows the importation of goods for the purpose of processing and re-exporting them as compensating products suspending import duties during the importation (suspension system) or paying them during the importation but with the right to receive the money back in case of re-export (drawback system).

#### 6. Fiscal effect from the use of procedures with economic impact in Kosovo

There is no doubt that one of the most important factors for economic development of countries, which would contribute to social welfare, poverty reduction and economic development of those countries and citizens is facilitation as much as possible of the trade exchange and trade in general.

In this regard, customs play a very important role, not only because they achieve government objectives and measures, but also in securing effective revenue controls in accordance with national laws, guaranteeing security and protecting the society as a whole. Customs procedures with economic impact, i.e., their implementation, had a significant impact on the economic competitiveness of countries, but they also have an impact on increasing turnover in international trade.

Unlike other types of taxes, whose main function is fiscal, at the customs, as a tax type, this function is secondary and the main function is protective function. The imported product is charged with certain custom duties and

therefore, it may have a higher price compared to the same product that is produced domestically, which in turn reduces competition, which is the basic function of customs. Subject of customs clearance, e.g., tax, is the import of goods (rarely export), and the customs base is the value of imported goods.

We may say that in general, customs today is a public mechanism that the state mobilizes for foreign trade, mainly when goods are imported, in order to protect the profitable economy for economic growth and development of national economy. They represent an instrument for regulating international exchange of goods and services. Therefore, customs are the most important instrument for protecting domestic production from external competition. Thus, if a country wants to protect domestic production, it is likely to impose additional duties on imports of these goods, causing a rise in the price of foreign goods. However, foreign producers often complain about long and inefficient procedures related to the conduct of customs procedures. If some goods have it difficult to pass through customs procedures, they are not only charged with additional duties (tariffs), but they may also lose some of the competitive features. For these reasons, customs procedures with economic effects and their introduction may bring an additional benefit to economy.

The level of customs remains unchanged, while the efficiency in providing for the needs of foreign goods may be transferred into providing more efficient domestic production.<sup>10</sup>

Benefits are great, but kosovo still needs to work on their promotion and presenting them as opportunity for foreign investors, especially to large manufacturing companies, which by using these procedures would have it much easier to establish subsidiaries of manufacturing or processing companies in kosovo, thereby creating jobs, using other resources and exporting goods abroad, thus helping economic growth and social welfare and stimulating the export of goods outside of kosovo.

Below we will present a table of the amount of the fiscal revenues from customs (customs duties, vat and excise tax) which have been collected by years based on regular imports and fiscal revenues collected by customs in procedures with economic impact.

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<sup>10</sup> Poposki, Z (2011): Fiskalni efekti od koristewe na poednostavenite carinski postapki, FTU, Ohrid, str.53

Table no. 1. Amount of customs revenue on regular imports and customs revenues in procedures with economic impact (in million euros)

YEAR	CUSTOMS REVENUE FROM REGULAR IMPORT	CUSTOMS REVENUES FROM THE IMPORT WITH CUSTOMS PROCEDURES WITH ECONOMIC IMPACT	TOTAL REVENUES
2014	756,035.47 €	98,852.56 €	854,888.03 €
2015	830,268.25 €	105,913.98 €	936,182.23 €
2016	802,066.03 €	249,353.33 €	1,051,419.36
2017	773,137.04 €	347,960.06 €	1,121,097.10

Source: the analysis issued by the author, based on official data from the customs administration of Kosovo

As we can see in table no. 1 on the structure of fiscal revenues that have been collected in Kosovo for the period 2014-2017, since their introduction in 2014, a considerable amount of fiscal taxes have been collected from customs procedures with economic impacts starting at 11.56% compared to total fiscal revenue collected for 2014, and 11.31% in 2015 and a slight increase in 2016 to 23.71% and in 2017 the fiscal taxes from procedures with economic impact will increase to 31% of the total revenues collected by customs.

From the data above we may conclude that in recent years there is an increase of revenues from taxes resulting from the use of customs procedures with economic impact as the easiest form of economic activity that businesses can use for facilitating trade, and the objective of the Customs Administration of the Republic of Kosovo is gradual abolition or replacement of all procedures that complicate economic activity, and enable the use of procedures that are in the function of trade facilitation.

## 7. Conclusions

The purpose of this paper was to analyse fiscal impacts achieved with the application of customs procedures with economic impact in Kosovo. We can say that the general impression is that the benefits gained from its application are huge, primarily, emphasizing the reduced costs and clearance time.

Customs procedures with economic impact are an important link in the customs procedure, which enables the performance of customs clearance faster and at lower cost, with higher security, and reduces some risks. The benefits of temporary importation, import and export for processing as well as other customs procedures with economic impact will provide to any small and open economy fiscal revenues and other economic benefits that are of greater interest for economic growth of the country.

Customs procedure with economic impact is a complex issue that includes specific rules, regulations and ways through which the goals set for import and export are realized. In order to be able to place goods in a customs procedure with economic impact, it is necessary for the procedure to be approve. This part represents the most important sub-system of customs policy and starts with goals, determinants and criteria, which also represent instruments aimed to achieve certain goals.

This paper emphasizes the importance of Customs Administration as part of the state administration for the development of international trade, as well as the development of the competitive advantage of the state. The Customs Administration in developed world economies plays an active role in increasing competitiveness of its business entities and thus from their previous fiscal roles they become more entities in the service of economy.

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