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CUSTOMS SERVICE UNDER THE GOVERNMENT OF THE REPUBLIC OF TAJIKISTAN

REPORT

SUBJECT: The Customs Service of the Republic of Tajikistan:
Its History of Establishment, Functions and Key Tasks

Department of Customs Tariff Regulation and Foreign Exchange Control

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I. Establishment and Development of the Customs in the Republic of Tajikistan

The review of the establishment and development of the customs of the Republic of Tajikistan would not be complete without a brief reference to the natural and geographic specificities of Tajikistan, which to some or other extent have an impact on functioning of the national customs system. In this sense the territory of Tajikistan seems to be a unique natural and geographical region.

The total area of the territory of the Republic of Tajikistan is 143.1 thousand sq. km: from west to east - 715 km and from north to south - 509 km. The country has a corrugated outlines of the border, the total length of which is 3,709.5 km, of which 1,309 km is the border with the IRI, 199.5 km – with the PRC, 1,106 km – with the Republic of Uzbekistan. The territory of Tajikistan is fully covered by the mountain system of Pamir and Alai. A half of the country's territory is at an altitude of more than three thousand meters above the sea level. The least altitude above the sea level is 300 meters.

The customs operations have an ancient history. In many historical documents the establishment of customs operations is closely related to the emergence of states, their borders and domestic and external markets.

A retrospective view on the primordial, ancient and medieval history of peoples of Central Asia proves that as a result of development and improvement of the social division of labor, international trade relations were being formed and extended gradually.

Further, the flourishing of trade became a reason for the taxation system emergence, including the establishment of customs duties and fiscal bodies.

Due to numerous wars, mutual clan pretensions, a transfer of territories from one ruler to the other, the borders changes frequently, and, consequently, the sizes of duties, customs fees, the location of customs posts and the procedures for goods movement, which was not conducive to the formation of stable tax and customs systems.

In the following historical periods, in particular in XVI-XIX centuries, trade among countries expanded significantly. This period is known in the history as the period of opening up new sea routes, development of international trade and strengthening of confrontations among strong powers aimed at expanding their markets by conquering territories.

This is the very period when a well-establish system of tax and duty collection was put in place, customs borders, customs posts established and the first step taken to apply uniform customs procedures in trade, customs and financial offices dealing with collection of duties and taxes were formed. At that time tax and duty preferences had been introduced for the first time. The mechanism of tariff sanctions for violation of the customs rules had been developed.

After the October Revolution and establishment of the Union of Socialist States, border posts had been established at the external border of the USSR, which were directly subordinated to regional customs inspectorate departments.

Being within the composition of the Soviet Union, in its external economic activities Tajikistan was guided by legal and regulatory acts adopted by the all-Union government authorities determining the expediency for the republic to enter the external market.

In 1925 the Chief Customs Department of Central Asia was established with the responsibility to inspect the property moved through the border, its formation, duty collection and smuggling prevention.

The employees of customs bodies were guided by the Resolution of the Central Executive committee and the Council of People's Commissaries of the USSR on the customs tariff and the Customs Code of the USSR. Pursuant to these regulatory documents, the customs bodies had been entrusted with the functions of control over execution of government decisions on state monopoly on external trade and collection of customs payments.

The structure of customs bodies formed before the 40-s, existed until the mid of 80-s without any significant changes.

In the 80-s, the reform of the bodies of external economic relations of the USSR objectively called for consideration of the viability of the customs system and its matching to new conditions.

On May 29, 1989 by the order of the Chief State Customs Control Department under the Council of Minister of the USSR the Tajik Republican Customs was established, the staff of which consisted of 41 people. The Tajik Republic Customs was managed by the Chief State Customs Control Department of the USSR and the Council of Minister of the Tajik SSR.

The Tajik Republican Customs was to fulfill the following tasks:

- enforcement of customs legislation in the customs territory of the Tajik SSR;
- effective enforcement of customs and tariff regulation measures;
- organization and implementation of anti-smuggling and customs offenses activities;
- promoting development of external economic relations of the USSR and the republic, stirring up external economic activities of enterprises and organizations;
- promoting cross-border trade and trade with adjacent states.

The Tajik Republican Customs started preparing a number of legal and regulatory acts regulating external economic activities and customs operations.

The first steps to enter the world market were painful due to the absence of appropriate regulatory and legal frameworks for external economic activities and lack of experience in performing export and import operations.

Once the Republic of Tajikistan acquired its independency and sovereignty on September 9, 1991, it could start formulating its own customs policy.

The Government of the Republic of Tajikistan, attaching an importance to the issues of customs establishment and ensuring economic security and protection of economic interests of Tajikistan, ensuring the enforcement of the established procedures for movement of goods and vehicles, fighting smuggling and customs rules offences, prevention of illicit trafficking of drugs, arms and items of artistic, historical and archeological assets of the people, carrying out customs clearance and customs control, as well as foreign exchange control, by issuing a Resolution of the Cabinet of Ministers of the Republic of Tajikistan No.14 dated January 22, 1992, established the Chief Department of Customs Control under the Cabinet of Ministers of the Republic of Tajikistan. According to this resolution, the Chief Department and its bodies at a local level were to be maintained by the republican budget. All the customs revenues were to be accrued to the republican budget.

In connection with the economy liberalization, as well as a refusal of the state from monopoly to external trade, many enterprises, organizations and entrepreneurs started to enter the external market independently. As a result, external trade activities has become intensified, the volume of trade flows increased, as well as the number of vehicles moving across the customs borders. The life made the customs body to keep pace with the time – to introduce new customs legislation compliant with widely recognized international norms and rules, to establish developed customs infrastructure, to unify customs clearance and customs control procedures, the procedure of movement of goods and vehicles across the customs borders.

On June 10, 1992 Resolution of the Cabinet of Ministers of the Republic of Tajikistan No.221 approved the Regulation of the Chief Department of Customs Control and the structure of the central office. The number of the staff of customs bodies of the republic increased to 242 people. The procedure of conferment of ranks to managers and specialists, the mechanism for percentage supplements for the years of services, the rules for uniform wearing, issues of incentives to the staff have been elaborated, as well as a complex of measures to bring the structure of the customs system, its material base, technical equipment, staff training and re-training in accordance with qualitatively new tasks of customs bodies have been envisaged.

In December of 1992, at the XVI session of the Supreme Council of the Republic of Tajikistan, alongside with consideration of most important issues of the external political life of the state, the first Customs Code of the Republic of Tajikistan was adopted and the Law of the Republic of Tajikistan “On the Customs Tariff” was put in force.

The Customs Code of 1992 played its positive role in establishing and organizing the customs system in the Republic of Tajikistan. A package of regulatory and legal acts regulating various aspects of activities of the customs bodies of the republic has been developed in its basis.

The customs structure of the Republic of Tajikistan, the mechanism of establishment, reorganization and liquidation of customs and customs posts have been legally stipulated for the first time.

Afterwards, based on the Law of the Republic of Tajikistan “On the Customs Tariff” the Government of the Republic of Tajikistan approved repeatedly customs tariff rates for imported and exported goods.

The current external economic policy of Tajikistan underwent a complicated and painful way of development. Lack of international trade experience, a complicated internal political situation forced the Government to take decisions that were not quite in line with the chosen economic course in the area of regulating external economic activities. For example, the untimely introduction of the national currency, tariff and non-tariff regulation resulted in a significant loss of the national riches of the republic. This was done by introducing restrictions, bans, establishment of the state monopoly in the sphere of external economic activities.

In 1995, alongside with strengthening the material and technical base of the Customs Committee, under the Government of the Republic of Tajikistan, much attention was being paid to selection and placement of employees, their qualifications upgrading according to the tasks assigned to them.

On January 19, 1995 Decree of the President of the Republic of Tajikistan No.159 approved the Disciplinary Charter of the customs bodies of the Republic of Tajikistan and the text of the solemn oath of staff of the customs service of the Republic of Tajikistan. From now on, employees of the customs service of the Republic of Tajikistan are employed after having taken the solemn oath.

Eventually, the Disciplinary Charter promotes the increased vigilance of the staff, tight discipline, efficiency and exemplary execution of their official duties.

The consistent integration of the Republic of Tajikistan into the global economy, the necessity to apply international norms of regulation of external trade relations and a refusal of state monopoly in external trade raised the need of introducing radical changes in the existing customs legislation.

In November of 1995, the second session of the first convocation of the Majlisi Oli of the Republic of Tajikistan adopted the Customs Code of the Republic of Tajikistan and the Law of the Republic of Tajikistan “On Customs Tariff” in the new version, which were at maximum approximated to international standards.

The mentioned legal acts, fully specifying the legal, economic and organizational frameworks of the customs operations, were intended to promote economic relations of the republic with the world community. Once they were adopted, a new stage of formation of the customs policy of the country has been started in the Republic of Tajikistan at a higher level.

Pursuant to the Law of the Republic of Tajikistan “On Adopting the Customs Code of the Republic of Tajikistan and Putting It into Force” dated December 3, 2004, No.62 a new Customs Code of the Republic of Tajikistan was adopted and put into effect as of January 1, 2005.

The preparation and adoption of the new version of the Customs Code have been necessitated by practical problems in development of the economy and external trade of the Republic of Tajikistan, the need of integration of the Republic of Tajikistan to the global economic community.

From the viewpoint of its concept, the new the Customs Code has some advantages as compared to its predecessor. It is based on the Constitution of the Republic of Tajikistan, stipulating equal rights of economic entities, freedom of entrepreneurial activities. Its provisions are closely related to civil legislation, legislation on administrative offences, foreign currency legislation and other regulatory and legal acts on foreign economic activities of subjects.

At present, according to the new challenges faced by customs bodies, specific activities are being carried out to improve the structure of the national customs system. Within the whole complex of activities aimed at improving customs operations, much attention is being paid to the establishment and improvement of customs infrastructure and strengthening its material and technical base.

In recent years the customs service of the republic has established an effective system of information support for trades using electronic and audio-visual communication and other technical tools.

By the level of its activities, stability and predictability of the regulatory basis, as well as technical equipping and information support for traders, the national customs service is more and more approximating its level of operations to that of customs services of developed countries.

The Customs Service of Tajikistan is comparatively young, therefore, as any developing organism, it is in the process of searching for new effective forms and methods of operations.

Further improvement and development of the customs service in the Republic of Tajikistan to a great extent will be related to implementation of state programs of domestic and external economic policy, and the customs of the Republic of Tajikistan is to play an important role in them. This is preconditioned by objective factors of the country's transition to market relations and an increasing role of the national customs as one of the effective tolls of state regulation of external economic activities.

II. Organization and Management in Customs Bodies of the Republic of Tajikistan

1. Organizational Management Structures in the System of Customs Bodies of the Republic of Tajikistan.

In 1992, alongside with the process of drafting and adopting legal and regulatory acts in the Republic of Tajikistan, the period of establishment and organizational strengthening of customs bodies was started.

The Government of the Republic of Tajikistan attaching a great importance to customs development issues, Decree No.9 of the President of the Republic of Tajikistan dated November 30, 2006 "On Improving the Structure of the Central Executive Bodies of the Republic of Tajikistan" transformed the Customs Department of the Ministry of State Revenues and Collections of the Republic of Tajikistan into the Customs Service under the Government of the Republic of Tajikistan.

Resolution of the Government of the Republic of Tajikistan No.612 dated December 23, 2006 "On the Customs Service under the Government of the Republic of Tajikistan" approved the Regulation, the structure of the central office and the management chart of the Customs Service under the Government of the Republic of Tajikistan (attached).

It is worth noting that according to Article 1 of the Customs Code of the Republic of Tajikistan, the customs operations represent a complex of methods and means to ensure the enforcement of customs and tariff regulation, prohibitions and limitations established according to legislation of the Republic of Tajikistan in the area of state regulation of external economic activities related to the movement of goods and transportation means through the customs border.

The overall management of customs operations is carried out by the Government of the Republic of Tajikistan pursuant to legislation of the Republic of Tajikistan.

The authorized body on customs issues ensures direct implementation of customs objectives in the field of customs and the uniform application of customs legislation of the Republic of Tajikistan by all customs bodies in the territory of the Republic of Tajikistan.

Pursuant to Article 460 of the Customs Code of the Republic of Tajikistan, the customs bodies, being the state law-enforcement bodies, ensure the protection of sovereignty and economic security of the Republic of Tajikistan, enforcement of rights and obligations of physical persons and legal entities when moving goods and transportations means across the customs border of the Republic of Tajikistan.

The customs bodies are:

- 1) the authorized body on customs issues;
- 2) regional customs departments;
- 3) customs houses/offices;
- 4) customs posts.

The establishment, reorganization and liquidation of regional customs departments, customs houses and customs posts shall be carried out by the authorized body on customs issues following the procedure as specified by the Government of the Republic of Tajikistan.

The competence of specific customs bodies on carrying out specific functions, performance of certain customs operations, as well as the region of activities of customs bodies shall be determined by the authorized body on customs issues. The authorized body on customs issues has the right to establish specialized customs bodies, the competence of which is limited to certain authority to implement some functions entrusted to customs bodies, or for performing customs operations in relation to certain types of goods.

Regional customs departments, customs houses and customs posts are operating based on the requirements of the current Code, other legal acts of the Republic of Tajikistan, as well as regulations approved the authorized body on customs issues. Customs houses and customs posts can have no status of a legal entity.

The system of customs bodies also includes non-law-enforcement institutions established by the authorized body on customs issues to ensure operations of customs bodies.

According to the regulation on the Customs Service of the Republic of Tajikistan, the Service is managed by the head, who is appointed and dismissed from the position by the Government of the Republic of Tajikistan.

The head shall organize and manage the operations of the service, shall be responsible for fulfillment of the tasks and functions assigned for the customs service.

The head of the service has three deputies, including the first deputy, appointed and dismissed from the positions by the Government of the Republic of Tajikistan upon submission of the head.

A board (collegium) shall be established in the service consisting of 7 members – the head of the Service, deputy heads of the service, included based on their position, as well as other managing officials of the Service. The board members, except for the persons included in it based on their positions, shall be approved by the Government of the Republic of Tajikistan.

At its meeting the board considers key issues within the competence of the Service.

The key objectives of the structural subdivisions of the Customs Service under the Government of the Republic of Tajikistan are:

1. The Organizational and Inspector's Department (lead) – is directly reporting to the head of the Customs Service under the Government of the Republic of Tajikistan, control the fulfillment of instructions issued by the Head at operational meetings of managers, controls the execution of orders and instructions of the management of the Customs Service, conducts control-inspection examinations of activities of customs bodies in the field and, upon instructions

of the Customs Service, conducts official investigations in relation to the staff who violated the procedures of the service.

2. The Customs Control Department (leading) – is one of the key subdivisions in the structure of the Customs Service under the Government of the Republic of Tajikistan.

The department directly organizes the system of customs bodies of the Republic of Tajikistan; conducts customs and control activities; provides methodological guidance for customs control organization; develops technology control schemes; prepares activities on organization of interaction of customs bodies with frontier, sanitary and quarantine and other state bodies involved in preventing the entry into the territory of the Republic of Tajikistan of poor quality products, infectious animal diseases when importing animals, products and raw materials of animal origin, fodder and various veterinary preparations; controls re-import of products in accordance with the regime of processing outside the customs territory; controls operations related to re-export; provides justification for the application of other customs regimes. This department provides the guidance for customs control over the movement of vehicles, air, and river and railways means of transportation across the customs border. For this purpose, to ensure a complete coverage of moved shipments, baggage of physical persons, mailings by customs control, it organizes a network of customs control zones, prepares the list of documentation required.

3. The Department on Organization of Fighting against Customs Offences (leading), in light with the law-enforcement function places on customs bodies, organizes the work on suppression of smuggling and customs rules offences; maintains record-keeping on smuggling and other crimes in the sphere of customs related to preliminary investigation; carries out operative and search activities, proceeding and consideration of cases of customs offences.

4. The Department of International Customs Cooperation (leading) – reviews the situation and trends in development of international customs cooperation, and based on the findings, makes proposals to the management of the Customs Service under the Government of the Republic of Tajikistan; maintains contacts with customs services of the CIS countries and foreign states; prepares recommendations on maintaining cooperation with international customs organizations on application of international norms and rules in practical activities of the customs bodies of the Republic of Tajikistan; prepares draft contracts and agreements on issues of cooperation and mutual assistance in the area of customs affairs and provides for their implementation. The department includes the division of international customs cooperation and the division of protocol, foreign trips and translations.

5. The Department on Personnel, Work with the Staff and Special Works pursues the personnel policy of the customs bodies of the Republic of Tajikistan; provides for training and re-training of the customs staff; coordinates their education in higher customs educational institutions outside the Republic of Tajikistan; manages the training of customs bodies' staff; military and instructional training; submits proposals of staff selection and placement.

6. The Department of Analysis and Customs Statistics maintains customs statistics on external trade, which includes the collection and processing of information on the movement of goods across the customs border; provides for quarterly publications of customs and statistical data.

7. The Department of Customs and Tariff Regulation and Foreign Exchange Control develops proposals on measures of customs and tariff regulation; maintains the commodity nomenclature of external economic activities and introduces it in practical operations of customs bodies of the Republic of Tajikistan; is responsible for organization of complete and timely payments of customs duties and fees by trades, carries out foreign exchange control and identification of the country of origin of goods.

8. The Financial and Economic Department provides financing for operations of the customs bodies and development of customs infrastructure. It is also in responsible for logistics

support and provision of services to the Customs Service as a whole and its structural subdivisions.

9. The Department of Legal Support deals with systematization and codification of customs legislation; provides counseling to subdivisions of the Customs Service under the Government of the Republic of Tajikistan on legal issues; provides opinions on legal and regulatory documents received by the Customs Service from other ministries and agencies of the Republic of Tajikistan; coordinates the work on drafting the system of bylaws implementing the Customs Code of the Republic of Tajikistan; protects the interests of Customs Services in other law-enforcement bodies of the Republic of Tajikistan, as well as in courts.

The central office of the Customs Services under the Government of the Republic of Tajikistan has seven independent divisions, which ensure security, propaganda of customs legislation, adequate operations of customs bodies and the customs service of the Republic of Tajikistan as a whole.

There are 4 supporting services within the structure of the Customs Service under the Government of the Republic of Tajikistan:

- the institute of qualifications upgrading;
- the central customs laboratory;
- the editorial board of the Customs magazine;
- the state unitary enterprise "Printing House".

It is worth noting the significance of the Central Customs Laboratory (CCL) among supporting services. It is the central expertise and research institution of the Customs Service.

Its tasks include conducting material scientific studies and merchandise expertise to identify the classification and value of goods moved across the customs border. Besides, one of the key tasks of the CCL is classification and certification of goods according to the CN of EET, and, based on this, ensure proper assessment and transfer of customs duties, fees and payments for customs clearance to the state budget.

The customs operations in the field are managed by regional customs departments, which are an important part of the system of customs bodies of the Republic of Tajikistan.

The structure and regulations of regional customs departments are approved by the Customs Service under the Government of the Republic of Tajikistan. The Department is managed by the head appointed by the head of the Customs Service.

The dislocation of customs houses in the customs territory of the Republic of Tajikistan is mainly linked to shipment routes and concentration of external economic activities. Depending on the location of the customs houses, they are divided into border and in-land ones.

The primary link of the customs bodies of the Republic of Tajikistan is customs posts (borderline customs facilities), located at the transportation routes crossings at the state border of the Republic of Tajikistan, as well as at airports and river ports. The customs posts also include the check points at the border for road transport (motor-transport crossings).

Customs posts mainly register the goods, transportation means and passengers and control their movement across the border.

In-land customs posts in the Republic of Tajikistan are established:

- at large railroad junctions, where freight trains are formed, containers are loaded;
- at large industrial and mining enterprises with approach railway lines;
- at large administrative centers, where participants of external economic activities are concentrated, for operational traders shipments customs clearance, collection of customs payments and performing other customs procedures directly in the field.

In-land customs offices also execute customs control of arriving shipments – i.e. their customs clearance. Besides, they control the delivery of shipments under the customs transit regime transported from one region of the Republic of Tajikistan to another through the territory of adjacent states to their destination.

2. Functions, Authority, Responsibilities and Accountability of Tajikistan Customs Bodies

As per Article 462 of the Customs Code of the Republic of Tajikistan, customs bodies of the country perform the following functions:

- 1) participate in the development and implementation of customs policy of the Republic of Tajikistan;
- 2) ensure, within their competence, the protection of the sovereignty and economic security of the country;
- 3) ensure compliance with the customs and other legislations of the Republic of Tajikistan, the compliance control of which is vested in the customs bodies;
- 4) ensure compliance with the restrictions and limits established under the legislation of Tajikistan and the international legal acts recognized by Tajikistan with regards to goods moved across the customs border;
- 5) protect the rights and interests of the state and the business entities engaging in foreign trade as regards to customs operation;
- 6) develop material and social infrastructure of the customs bodies;
- 7) implement, to the extent of their competence, the measures for the protection of national security, lives and health of the people, the environment and cultural values;
- 8) exercise customs clearance and customs control, and establish conditions facilitating the movement of goods and vehicles across the customs border;
- 9) collect customs duties, taxes and other customs charges, anti-dumping, special and compensation tariffs, fines on customs offenses; control the correctness of their assessment and timeliness of their settlement; and take measures for their collection enforcement;
- 10) ensure compliance with the procedure of goods and vehicles movement across the customs border;
- 11) ensure, within their competence, the protection of the intellectual property rights;
- 12) combat smuggling and other crime and administrative offences in the area of customs operation, suppress illicit trafficking across the customs border of drugs, psychotropic substances and precursors, weapons and ammunition, explosives, cultural valuables, radioactive substances, endangered species, their parts and derivatives, intellectual property objects and other goods, and also assist in combating international terrorism and preventing illegal interference in the international civil aviation affairs at the airports of the Republic of Tajikistan;
- 13) exercise, within their competence, currency control over the transactions involving movement of goods and vehicles across the customs border, in accordance with the legislation of the Republic of Tajikistan;
- 14) maintain foreign trade customs statistics and Commodity Nomenclature;
- 15) ensure meeting of the Republic of Tajikistan international obligations in customs-related area; and maintain cooperation with customs and other appropriate authorities of foreign countries and international organizations, engaging in customs affairs;
- 16) provide information and advice on customs issues; in accordance with the established procedure provide government authorities, organizations and individuals with information on customs issues;
- 17) conduct research in customs operation;
- 18) exercise other functions as provided by the legislation of the Republic of Tajikistan.

Based on the powers granted by the Government of the Republic of Tajikistan, the Customs Service under the Government has a status of the public governance body.

Customs service is responsible for the implementation of the customs doctrine, and ensuring the legal, economic and organizational framework of the customs policy in the country, and concentrates its efforts on the protection of economic sovereignty and security of the Republic of Tajikistan.

Following the above mentioned documents, the Customs Service issues orders and directives, and develops regulations and guidelines improving the rules of movement of goods and vehicles across the customs border, collection of customs tariffs, customs clearance, customs and foreign exchange control, and maintenance of the customs statistics and Foreign Economic Activity Commodity Nomenclature.

According to Article 467 of the Customs Code, customs bodies have the following powers for the fulfillment of their functions:

- 1) to take measures aimed at ensuring compliance with the customs legislation as provided by the Customs Code;
- 2) to require provision of the information and documents as provided by the Code;
- 3) to examine identity documents of individuals and officials involved in customs transactions;
- 4) to require certification of legal and physical persons' authority to exercise certain activity or actions in the field of customs operation;
- 5) to exercise investigation and retrieval activities as provided by the legislation of the Republic of Tajikistan for the purpose of detection, prevention, suppression and disclosure of crimes, and to conduct urgent investigations and interrogations with regard to cases falling within the competence of the customs bodies under the criminal and procedural laws of the Republic of Tajikistan, with the purpose of detecting and identifying the persons involved in the preparation and execution of criminal acts;
- 6) to conduct urgent investigations and interrogations within their competence as provided by the criminal and procedural laws of the Republic of Tajikistan;
- 7) to take legal action with regard to administrative violations and hold accountable the persons involved as provided by the legislation on administrative violations;
- 8) to use in urgent cases communication means and vehicles owned by organizations or public associations (except for those belonging to diplomatic, consular and other establishments of foreign countries and international institutions), for the prevention of customs-related crimes, pursuit and apprehension of persons involved or suspected in committing such crimes. Losses and costs incurred in such cases are subject to reimbursed as provided by the legislation;
- 9) to apprehend and deliver to the custody suspects or persons involved in crime or administrative violation as provided by the legislation;
- 10) to document and conduct video/audio recording and photographing of facts and events related to the movement of goods and vehicles across the customs border, and transportation, storing and handling of goods under customs control;
- 11) to obtain information from the government bodies, organizations, public associations and other persons, needed for the fulfillment of their functions as per the Customs Code;
- 12) to issue notices in writing to managers of government bodies, organizations and other persons with the requirement to discontinue violations of the customs legislation, and to supervise their compliance with such requirements;
- 13) to file claims and applications with courts on enforcement of customs charges and taxes collection, on taking recourse upon commodities with regard to customs duties and tax collection and in other cases as provided by the legislation;
- 14) to establish and maintain official advisory relations with entities involved in foreign trade with a view of cooperation and interaction on the matters of implementing the most efficient methods of customs processing and customs control;

- 15) to make reservation of hotel accommodation and tickets for any transport means when traveling on business;
- 16) to establish and maintain international customs relations;
- 17) to exercise other authority as provided by the legislation.

With regard to customs control of transport means, the customs bodies are entitled to:

- 1) examine transport means when there are signs of illicit movement of goods subject to customs control;
- 2) detain persons aboard that are suspected criminals;
- 3) pursue and seize vessels in the neutral waters if the necessary signals have been given to the vessel leaving the territorial waters and the pursuit started in the territorial waters;
- 4) seize and retain transport means if signs are available of customs violation, until the resolution of the case under the law of the Republic of Tajikistan;
- 5) escort transport means in cases provided by the customs legislation.
- 6) stop transport means carrying commodities under customs control for the examination of the goods and accompanying documents.
- 7) the time of the commodities and documents customs examination may not be in excess of two hours; forced placement of transport means at the temporary storage warehouse or other place under permanent customs control (Art. 403) is allowed only in cases when legal or administrative actions are taken.

In case of wrongful acts (inaction) of the customs bodies and their officials are subject to:

- disciplinary, criminal or other liability;
- indemnification of damages as provided by the legislation of the Republic of Tajikistan.

Damages inflicted as a result of the lawful actions is not subject to compensation unless otherwise is provided by the legislation.

3.Reform and Modernization of the Customs Administration of the Republic of Tajikistan

Starting from 1991, Customs Service of Tajikistan was facing the need to modernize and reform customs operation in order to get rid from as many manual operations as possible and to accommodate new methods and techniques of customs administration; at that, computerization was the key condition to fulfill this task.

The increasing volume and intensity of the trade flow generates workloads that can not be coped with unless the new methods and technology are used.

To implement its vision, the Customs Service had focused on six main tasks, specifically:

- 1. Increasing customs revenues as much as possible.
- 2. Facilitating trade and commerce.
- 3. Preventing smuggling and ensuring compliance with customs regulations.
- 4. Meeting international commitments regarding customs and trade.
- 5. Ensuring public and environmental safety by preventing trafficking of harmful and dangerous materials and substances.
- 6. Supporting economy sectors and establishing partnerships with private sector to contribute to the development of business in the country.

To address these tasks efficiently, the implementation of the new methods and approaches to customs operation is needed based on the use of modern information and communication technologies. At the present stage, implementation of the efficient electronic automated system in the Tajikistan Customs Service would allow accelerating customs clearing procedures and movement of goods across the customs border of the Republic of Tajikistan, and making the customs regulation system more transparent and open. E.g., electronic payment

systems would enable trading organizations to complete the settlement of trading transactions within seconds instead of hours or days, and the use of electronic documents would allow trading organizations submitting or receiving necessary documents within minutes instead of days or weeks.

Based on the above discussion, we believe that the implementation of modern information and communication technologies in the day-to-day operation of the customs bodies of Tajikistan should be considered as the key element to facilitate the development of foreign trade of our country.

In recognition of the importance of, and the need for, modernization of the system for record-keeping of goods and vehicle movement across the customs border of the Republic of Tajikistan, a Memorandum has been signed between the Government of Tajikistan and the Asian Development Bank. The Memorandum includes a policy matrix which established the priority areas for the modernization of the Customs Service of Tajikistan. Financial, organizational and technical support to the modernization process is provided with the assistance of the Asian Development Bank.

In 2005, within the framework of the Policy Matrix, Customs Service and ADB specialists have prepared the following documents:

- Final TA Report on project preparation for the proposed loan to Tajikistan concerning Customs Service Modernization and Infrastructure Development;
- Report and Recommendations of the President to the Board of Directors on the proposed loans and TA grants to the Republic of Tajikistan for the Regional Project and Customs Service Modernization and Infrastructure Development;
- Memorandum of Understanding and Appraisal Mission Report on the Loan for Customs Service Modernization and Infrastructure Development Project;
- Loan Agreement (Special Operations) between the Republic of Tajikistan and the Asian Development Bank;
- Draft Main Directions for the Development and Modernization of the Single Automated Information System of the Customs Service of the Republic of Tajikistan.

The Draft Main Directions determine the priority principles of composition and structure of the Single Information Space of the Tajikistan Customs Service, ICT environment and the main lines of SIS development. The objective of the draft Main Directions is to foster Tajikistan foreign trade development, simplify customs procedures and facilitate goods movement across the customs border of Tajikistan through the upgrading and modernization of the existing ICT system of the Tajikistan Customs Service.

The above documents and the Legal Opinion approved by the Ministry of Justice and submitted to ADB in the beginning of 2005, provided the legal and methodological framework for the effectiveness of the Loan Agreement with regard to the Regional Customs Modernization and Infrastructure Development Project (2114-TAJ(SF)).

Pursuant to the Loan Agreement, ADB consultants jointly with Tajik Customs specialists carried out the following work to support the Regional Project (2114-TAJ(SF)):

- Master Plan for information and communication technologies has been drafted;
- a short list of seven consulting firms has been prepared and submitted to ADB; the list has been approved by ADB;
- call for bids has been prepared and sent to the short-listed firms inviting simplified technical proposals, and outlining the bid selection method based on bid price and quality;
- an internal order has been prepared and signed establishing the Project Management Center;
- regulation on the Project Management Center has been prepared.

III. Customs Payments and Customs Fees

1. Classification and Features of Customs Payments

Customs payments classification is covered by Section III of the Customs Code of Tajikistan, which includes seven chapters and 41 articles. They review in detail the types of the customs payments that are applied in day-to day practice of the customs bodies of the Republic of Tajikistan.

The following customs payments are currently collected from the goods crossing the customs border of Tajikistan:

1. customs duty;
2. value-added tax;
3. excise tax;
4. customs charges on customs clearance of goods and vehicles;
5. fees for customs escorting of goods and vehicles;
6. fees for goods keeping at bonded warehouses;
7. fees for the issuance of qualification certificates to customs clearance specialists.

Customs duty, tax and excise collections stand for the most weighty part of the total collection.

Customs duty

As per the Customs Code of the Republic of Tajikistan, any goods being moved across the customs border of the Republic of Tajikistan are subject to customs duty collection.

According to the world practice, customs duties are collected both from the domestically manufactured goods being exported - the export customs duty, and from the imported goods – the import duty. Customs duty application to the domestic goods relates, first of all, to restricting and limiting export of those goods the outflow of which from the country is not desirable at the moment.

Owing to stabilization of the economy of the country, bringing export and import operations in line with international norms, normalization of foreign currency transactions, and establishing control over the inflow of foreign currency to Tajikistan, all previously established export duties have been cancelled by Presidential Decree No. 424 beginning from March 1, 1996.

This timely decision encouraged the development of Tajikistan agro-industrial complex enterprises and their orientation towards the adaptation of modern equipment and manufacture of high quality goods meeting the world standards.

Along with the export duties, high importance is attached to the duties collected from the imported goods.

When establishing import duties, the Government of the Republic of Tajikistan first of all proceeds from the premise of protecting the domestic market from the influx of goods similar to those manufactured by the domestic enterprises.

Over 16 years of Tajikistan sovereignty, import duty rates had been revised by the government on multiple occasions. By the Government Resolution No. 450 on Customs Tariff, customs duties have been established anew for 97 groups of goods (see annex) in order to establish favorable conditions for the domestic producers.

Import customs duty is assessed in the same currency as the declared customs value of the goods. Customs duty may also be paid in the domestic currency at the exchange rate stated by the National Bank of Tajikistan at the time of customs border crossing by the goods.

Value-added Tax (VAT)

Under the Customs and Tax Codes of Tajikistan the goods brought into the customs territory of Tajikistan are also levied upon with VAT.

The law provides for taxation of all goods imported to Tajikistan from the non-CIS countries with VAT at the rate of 20% of their value.

VAT is paid by the customs applicant or other person as provided by the legislation at the same time as other customs payments are made, that is prior to or at the time of filing the cargo manifest.

VAT is assessed on the value that includes the customs value of the imported goods, import duty and excise.

As per the tax legislation of Tajikistan, the following items are exempted from the duty on imports:

1. Import of domestic and (or) foreign currency (except that for numismatic purposes), and securities;

2. Import of gold, silver, platinum, palladium (rhodium, iridium, ruthenium, osmium) by the National Bank of Tajikistan, and also Import of gold, silver, platinum, palladium (rhodium, iridium, ruthenium, osmium), natural (whole and cut) diamonds, sapphires, emeralds, rubies, alexandrites, pearls and spinels by the Ministry of Finance of Tajikistan for the State's Vault;

3. Import of goods brought in as humanitarian aid, and also import of goods granted to charity organizations to mitigate the impact of natural disasters, and import of goods granted to the government bodies of Tajikistan;

4. Import of production and technological equipment and component parts to it (being an integral part of it, without which such equipment can not be operated) for raising or supplementing authorized capital of a company or re-equipping the existing production facility, on the condition that such property is directly used for the production of goods, carrying out of works and provision of services provided for in the constitutive documents of the company and does not belong to the excisable goods category, and personal effects brought into Tajikistan by foreign employees of the companies with foreign investments for their personal needs. In cases where such company is liquidated or the above mentioned equipment and component parts to it are not used for four years since its entry in the country or are sold to a different person then the VAT which has not been collected at the time of goods entry will be subject to collection under Article 226 of the Tax Code without tax credits. The list of such production and technological equipment and component parts conforming to the Foreign Trade Commodity Nomenclature is subject to the approval by the Government.

In any case such exemption is granted for no more than four years to newly established enterprises – since the date of their official registration with the state authority, and to the enterprises that were in existence at the time of adoption of this provision – since the time of effectiveness of this tax benefit (as provided by the Law No.239 of March 5, 2007).

5. Import of agricultural machinery, medicines, medical and pharmaceutical equipment and tools in accordance with the list established by the Government of Tajikistan (as provided by the Law No. 114 of December 26, 2005).

6. Import of goods intended for the implementation of targeted projects approved by the Government of Tajikistan that are financed from grants (within their amount) and/ or loans provided by legal entities, individuals, foreign countries or international organizations;

7. Import of goods for high priority projects. The list of such goods and the priority projects is established by the Government;

8. Import (except for excisable goods) of main raw materials, energy and equipment directly imported by the Tajik Aluminum Factory for the production of primary aluminum, in accordance with the list and within the volumes established by the Government;

9. Import of special products intended for disabled people as per the list established by the Government of Tajikistan.

Excise tax

The excise tax plays a great role in replenishing the budget of the country and protecting domestic producers.

Excises are indirect taxes, which are included into the commodity price and are paid by the buyer.

Throughout the world the excise tax is payable on imported goods, namely: alcohol products, beer, caviar, some precious fish products, chocolate, tobacco, carpets, crystal, fur and jewelry products, cars, etc.

The excise on goods imported to the customs territory of the Republic of Tajikistan and the ones exported from this territory are regulated by the Customs and Tax Codes.

The list of goods subject to excise tax is approved by the Government of the Republic of Tajikistan. The customs value of imported goods is the basis for the excise tax assessment.

In recent years the Government of the Republic of Tajikistan reviews the excise tax on imported goods for stabilization of the domestic market of the republic (Government's Resolution No.126 as of April 2, 2005; excise tax (excise stamps) on alcohol and tobacco products as of August 1, 1997).

Customs fees for customs clearance

According to Article 347 of the Customs Code of the Republic of Tajikistan and Resolution No.472 of the Government of the Republic of Tajikistan "On Approval of Rates of Customs Fees for Provided Services" dated December 2, 200 for customs processing, including transportation means moved across the customs border of the Republic of Tajikistan as a commodity, and goods not intended for commercial purposes, moved in non-accompanied baggage, international mailings and shipments, as well as transportation means are subject to customs fee payable in the domestic currency of the Republic of Tajikistan (attached).

For the customs clearance of goods and transportation means outside the designated locations and the time of operations of the customs bodies of the Republic of Tajikistan the customs fee charge is doubled.

The Government of the Republic of Tajikistan has the right to reduce the rate of the customs fees, exempt from their payment, and change the currency in which the additional charge shall be paid.

2. Key Objectives and Existing Problems

Currently the Republic of Tajikistan is searching for the ways to establish close mutually beneficial economic relations with many countries of the world. Under such conditions, the Republic of Tajikistan, as a subject of the world community, is facing a challenge: to develop a new model of external economic relations and bring the external policy theory and practice in line with the international ones.

A smooth functioning of the customs service in any state assumes:

- introduction of progressive customs technologies in operations;
- implementation of a personnel policy aimed at ensuring the customs service has highly frameworks for customs affairs;
- an increased efficiency of customs control over the movement of goods and citizens across the customs border;
- ensuring proper control over the assessment and complete collection of customs payments;
- provision of operational information support to fight smuggling and violations of customs rules;

- develop an information technology of customs and banks' control over external economic activities to improve foreign exchange control;
- implementation of key customs information technologies at all levels: from a customs border post to the central office of the Customs Service;
- to timely receive necessary (detailed) and reliable information on goods moving across the customs border of the Republic of Tajikistan to compiling customs statistics and operational solutions of other tasks assigned to the customs bodies.

Notwithstanding the achieved results, the modern customs system of the Republic of Tajikistan represents a state institution with:

1. Underdeveloped widely spread customs infrastructure. For reference: the Customs Service of the Republic of Tajikistan has more than 50 various buildings, facilities and customs posts, of which only approximately 10 facilities are partially equipped in line with international standards and requirements.

2. Staff qualifications are not matching the current requirements of developing external trade.

3. An obsolete technical base, i.e. computing and communication equipment, which prohibit to further improve the management system, customs operational processes, as well as to improve operational efficiency.

4. Paper-based technologies when processing customs documents.

5. The absence of a single information space of the customs bodies, which is based on using e-mail ensuring operational interaction among customs bodies.

Besides, at present, the customs bodies of the Republic of Tajikistan have a standard customs procedure, the process of customs clearance and inspection of goods is integrated rather than separate, there is no effective system of goods control and monitoring during the procedures, which require much time to execute control, not quite reliable customs statistics, lack of efficiency in the process of customs control, customs processing, as well as other tasks related to operations of the customs bodies.

We believe, that to solve the above motioned issues, the Customs Modernization and Infrastructure Development Project (2114-TAJ (8F)) can play a great role in establishing and developing customs infrastructure of the Republic of Tajikistan, and thus, contribute to the expansion and development of international customs cooperation, promote the development of world trade processes.

Annexes

Annex 1. Regulation on the Customs Service under the Government of the Republic of Tajikistan (Government Resolution No. 612 dated December 28, 2006, as amended by Government Resolution .No.557 as of November 2, 2007)

Annex 2. Structure of the Central Office of the Customs Service under the Government of the Republic of Tajikistan (Government Resolution No. 612 as of December 28, 2006 (the same as described in the main text – the list of departments).

Annex 3. Organizational Chart of the Customs Service under the Government of the Republic of Tajikistan (approved by Government Resolution No. 612 dated December 26, 2006) (this document provided as a list without the organizational chart)

Central Office
 Central Customs Laboratory
 Qualifications Upgrading Institute
 Department of Customs Security and Regime Enforcement
 Regional Customs Department on Gorny-Badakhshan Autonomous Oblast
 Regional Customs Department on Sogdiyskaya Oblast
 Regional Customs Department on Khatlonskaya Oblast
 Regional Customs Department on Dushanbe city
 Regional Customs Department on Tursubzade city
 Customs houses (offices)
 Customs posts
 State Enterprise “Center for Managing the Regional Customs Modernization and Infrastructure Development Project”
 Representations of the customs Service in foreign states
 Editorial Board of the “Customs” magazine
 State Unitary Enterprise “Printing House”

Attachment: Government Resolution No.557 dated November 2, 2007 – on approval of the Regulation, Structure, Organizational Chart and staffing number and financing of the Customs Service from the republican budget).

Attachment: November 1, 2005, Resolution No.363 – Resolution approving the Instructions “On the Procedure of Assessment and Collection of Customs Payments”

Attachment: Instructions “On the Procedure of Assessment and Collection of Customs Payments”

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