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Review of Precedents in Appealing against Decisions of Customs Authorities

Disputes between importers and customs authorities are complex cases. The implementation of electronic declaring and a risk management control system, as well as a change in the approach of customs control led to an increase in customs audits of participants of foreign economic activity, and, consequently, to an increase in the number of customs disputes.

Additional charges during the customs audits come down mainly to the following two factors: adjustment of the customs value of goods and change in the classification code of the goods. In this article, we will analyse the above grounds for additional charges and the current precedents of appealing against decisions of the customs authority.

Customs Value

The accuracy of the declared customs value is verified by the customs authority both at the stage of customs clearance and after the goods are released. Therefore, even at the stage of customs clearance, the declaration of goods passes through a risk management control system to assess the probability of the goods value underestimation. If the customs authority "detects" such an underevaluation, then it requires the importer to provide an indefinite list of documents, including:

- ▶ commercial details of the delivered goods, including accounting documents;
- ▶ information on the physical characteristics, quality, goods market recognition and their impact on pricing;
- ▶ data on sales of similar goods to other counterparties to confirm fair prices;
- ▶ price list;
- ▶ export declaration of the country of departure, often in the original.

To save costs of storing goods in a warehouse and not to violate obligations to counterparties, as well as not to waste time collecting a large number of documents during a short time-frame, importers are forced to agree for adjustment of the customs value (increasing). The customs authorities then use the fact of such "forced consent" of the importer to the increased customs value of the goods as an "affirmative" argument for the "legality" of the customs authority actions. Sure, this creates negative precedents for importers.

However, even the submission of a full package of documents does not guarantee the importer that the customs authority will consider the provided information and admit the value of goods as proven according to the first method of the customs value determination (based on the value of the transaction with imported goods). Practice shows that in most cases, the customs authority adjusts the customs value of imported goods based on its own information on prices.

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