

Control of Import Goods under Customs Law - Case in Vietnam

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ABSTRACT

In an increasingly globalized trend of trade, the establishment of trade-linked legal systems takes place at a bilateral, multilateral and global level. Accordingly, this context requires neighboring countries to make efforts to open up import-export activities and strengthen the system of policies and legal systems to effectively control international trade. Control is a specific and historic activity in state management in any country. Customs has also formed borders control activities ever since. Therefore, the role of customs is very important, including cohesion and assurance of compliance with import, export and immigration activities as well as the transport of vehicles from one country to others. For goods, the increasingly open global trade has resulted in the inevitable changes of control. Based on the conceptual framework of controlling imported goods under customs law, the article “Controlling imported goods under customs law - The case in Vietnam” clarifies some theoretical and legal issues on control of imported goods according to Vietnamese customs law. Specifically, the author raised a number of customs control concepts from the perspective of theoretical and legal perspective, the content, methods and factors affecting the current customs control activities in the process of trade integration trade in Vietnam from a cognitive and practical perspective

Keywords: Reasoning, customs, imports, borders, controls

I. INTRODUCTION

Vietnam is a country in Southeast Asia that is striving to promote and develop the economy in accordance with the trend of deeper and deeper cooperation with countries around the world. The equitable development of the economy and the priorities for changing the structure of policies, legal systems and international relations towards mutually beneficial cooperation have made them compatible with the policy system, international law, especially in the field of international trade.

In the trend of increasingly international economic integration, especially in foreign trade activities, the control of import and export goods plays a very important role. Trade development, the relationships resulting from these activities also strongly impact on the system of economic policies and legal policies of the countries. When the context of Free Trade Agreements is set up

and operated, it requires countries to “internalize” commitments, both ensuring economic security stability and ensuring the “openness” of trade international. The article “Controlling imported goods according to the customs law - The case in Vietnam” aims to clarify the concept of control and control of imported goods under customs law from the perspective of theory and Vietnamese law, control content and factors affecting the control of imported goods in Vietnam nowadays. The research subjects of the article are issues of theoretical and legal sciences drawn from the scientific works of a number of scholars, current Vietnamese customs laws and documents. Previously, the article related to the Kyoto Convention law related to the issue of control of imported goods across borders. The research subjects are mainly cited and analyzed according to Vietnamese law. Since then, there are multidimensional and interdisciplinary research directions.

The paper uses the following methods: Descriptive research, Exploratory Research, Analysis Research; Explanatory Research, Interpretive Research to clarify goals.

II. PERCEPTION ON CONTROL OF GOODS IMPORTED UNDER CUSTOMS LAW

1. The concept of controlling imported goods according to customs laws

In commercial activities, importing goods is the basic stage of foreign trade activities. Imports of goods take place from various forms to scales; it is not only a separate activity but also creates a globalization trend.

According to the Vietnamese Dictionary, import means bringing foreign goods or capital into the country (Phe, 2003, p. 73). From that concept, it can be understood that import is an activity where goods or capital are brought into the territory of another country and has foreign elements.

Clause 2, Article 28 of the 2005 Commercial Law stipulates: "Import of goods means the goods brought into the territory of Vietnam from abroad or from special areas within the territory of Vietnam which are regarded as separate customs areas. According to regulations of the Law Import of goods across borders is a commercial activity whereby goods are moved into the customs territory of another country controlled by customs authorities and authorities in accordance with the law national and international treaties.

According to the Vietnamese dictionary (1996), "Control is the consideration to detect deterring what is against the regulations" (Phe, 2003, p. 513).

Jones and George (2003) consider that control is a "process by which authorities monitor and regulate the effectiveness of an organization or an individual. Control also means keeping the activities of organizations and individuals in the right direction and anticipating possible events"

(Hoa, 2009).

Another author said: "Control is understood as a total of means to grasp and manage the objects or managed objects. Accordingly, control means that superior control by subordinates through measures or policies; this entity controls another entity through significant influence or control based on interests and interests; internal units control each other through rules and regulations" (Quynh, 1998).

Thus, it is understandable that control is the way of considering acts performed in a specific issue to detect and prevent those which are against regulations. It is the review, evaluation, and monitoring to prevent any contrary to the prescribed regulations.

Compared to inspection, examination, supervision and control, the control has a broader scope of review and evaluation, with a richer and more diverse manner. Control involves supervision, inspection, examination, monitoring, etc. Performing the function of review and evaluation of control is all entities exercising state power. The subject of state control is quite diverse, which can be the people, socio-political organizations, or the state (state agencies), even groups international organization, etc.

According to the author, the concept of import control under Vietnam's customs law is all activities to review, monitor and evaluate including inspection, supervision and control of cross-borders imported goods are carried out by the customs office, other agencies and organizations as prescribed by the state. Thereby, to prevent and eliminate risks and wrongdoing of entities in the management, organization and implementation of the provisions of the customs legislation, ensure the desired purpose and achieve. High efficiency, promoting trade liberalization and goods security.

2. Subject to control

Subject of the State:

This is a special subject and mainly when performing the functions and tasks of controlling cross-borders imported goods in accordance with customs laws. Starting from the control of imported goods is a specific task of the customs industry, which is considered as the “national economic gatekeeper” and the “special barrier” for the management of any nation in the economic field. The customs office is the entity that controls cipher and carries out professional activities prescribed by law and in accordance with the policies of the Party and the State. In addition, for controlling of cross-borders imported goods, other state agencies also coordinate and support specialized control or protect goods security and national security, combat smuggling and fraud such as Ministry of Industry and Trade, Ministry of Science and Technology, Ministry of Health, Ministry of Agriculture and Rural Development, etc.

Social subjects:

This is the subject that is not required to perform control tasks as prescribed in Vietnamese legal documents. However, social entities such as the masses, social organizations, traders, etc. also carry out their civic responsibilities in supervising and protecting the nation in the field of trade through images, the methods of struggling, denouncing and information on illegal acts of customs, etc. help the State to manage and control well the increasingly complicated and open trade of goods import activities.

3. Scope of control

Customs area:

Currently, goods are imported into the territory of Vietnam through many different routes including quota, official quota, through the main border gate, trails and openings of border residents.

Clause 1, Article 7 of the 2014 Customs Law stipulates the geographical areas of customs operation, including: a) Areas of land border gates, international intermodal

rail terminals, international civil airports; seaports, inland waterway ports engaged in export, import, exit, entry and transit activities; areas where goods are being kept under customs supervision, export processing zones, customs preference areas; places where customs procedures are carried out, bonded warehouses, international tax suspension warehouses, international post offices, customs declarants' offices upon post-customs clearance inspection; places for checking export and import goods within the customs territory; b) Other areas and places that meet the requirements of state management, are allowed to export, import, transit goods, exit, enter or transit means of transport under the Prime Minister's decisions.

As such, the customs authorities and other control forces will carry out and coordinate the implementation of goods inspection, goods control, and goods supervision at road and border checkpoints inland waterway boundaries; border gate international railway station inland; border gates of international civil airports; border gates of seaports and inland waterway ports with activities of export, import, exit, entry and transit; international post office; in areas outside the border gate; and in other areas and locations according to the above provisions.

Type of import and export:

Control of imported goods is allowed by the law on all types of imports. The control of imported goods in Vietnam stipulates that the competent authority is allowed to control the goods imported from foreign territories into the country through inspection, supervision and control of goods by operations and facilities vary by location, time, and physical and human conditions. Thus, the scope of control has clearly defined the types of control in the area of goods trade between traders with foreign elements and types of export and import.

III. METHOD OF CONTROL OF IMPORT GOODS UNDER CUSTOMS LAW

1. Customs inspection

In the movement of import and export trade of goods, the determination of customs inspection contents is very important. There are two different views on customs inspection. Firstly, the author believes that customs inspection must be understood in a broad sense such as observation inspection, regular monitoring is constantly ready to work by positive measures to tie and direct the direction of activities. subjects subject to inspection by the customs management regulations; check by patrol and other operations to ensure goods are transported on the right routes, etc.; Inspection by specific acts such as physical examination. Second, the author believes that customs inspection is limited to customs by specific acts that directly affect the subject of the inspection to assess compliance with customs laws such as inspection records documents, goods inspection (Quynh, 2001).

In Chapter 2, the Kyoto Convention stipulates that “Customs inspection” is understood as measures taken by the customs to ensure compliance with customs laws (Chapter 2, Convention, Kyoto, 2000).

In Clause 8, Article 4 of the 2001 Customs Law, “Customs inspection is the inspection of customs dossiers, relevant documents and physical inspection of goods and means of transport carried out by customs authorities”.

In Clause 12, Article 4 of the 2014 Law on Customs, customs inspection means checking the customs dossier, relevant documents and documents, and physically checking goods and means of transport.

On the basis of inheriting the theoretical perceptions, views and provisions of domestic and international laws, the author introduced the concept that: “Customs inspection operates regularly of customs

authorities and other agencies prescribed by the State to carry out professional activities on checking customs dossiers, documents, documents and actual inspection of goods and means of transport going in and out of border gates to implementing the objective of effective management of import and export “.

The contents of customs inspection of goods imported across borders include inspection of customs dossiers and physical inspection of goods; Customs inspection process includes pre-clearance inspection, clearance inspection and post-clearance inspection.

2. Customs control

Currently, there are many concepts of customs control given in the theoretical and legal perspective. In the basic Customs Curriculum, Customs control is purely understood as an anti-smuggling and trade fraud activity by customs forces (Hau & Huyen, 2011).

Chapter 2 of the Kyoto Convention controls customs as measures taken by customs to ensure the enforcement of customs laws (Chapter 2, Convention, Kyoto, 2000).

Article 4, Clause 10 of the 2001 Customs Law states: “Customs control is a measure of patrol, investigation, verification or other professional measures applied by customs authorities to prevent and combat smuggling and illegal transportation. allowing goods across borders and other acts of violating the customs legislation”.

Article 4, Clause 11 of the 2014 Customs Law stipulates: “Customs control is a measure of patrol, investigation, verification or other professional measures applied by the customs authorities to prevent and combat smuggling and illegal transportation allowing across- borders goods and other customs offenses”.

Thus, customs control is a professional task, carried out by secret, investigation, control and patrol combined with mass mobilization, coordinated use of internal and external forces and measures customs

authorities to detect, prevent, investigate, and handle acts of smuggling and illegal transport of Vietnamese goods, foreign exchange and money across the borders (Hau & Huyen, 2011). Customs control includes the following activities:

Firstly, organizing activities of collecting, analyzing and processing customs professional information, serving modern customs management, proactively preventing and combating smuggling, trade fraud and handling legal violations customs law. This activity is typical of customs officers and authorities as prescribed by law. The organization of collection, analysis and handling of customs operations will have a positive effect on the state management, prevention and control of smuggling, trade fraud and sanctions handling violations of customs legislation.

Second, detect, prevent and prevent acts of smuggling or illegal cross-borders transportation of goods. This content is in line with the commercial management requirements of the customs authorities, actively detecting, preventing and coordinating with competent agencies and the masses to actively participate in preventing and preventing trafficking acts smuggling and illegally transporting goods through border gates.

Thirdly, investigate and handle violations of customs laws and international customs cooperation. This activity is professional and enforces the State's requirements for the management of cross-border import activities, investigation and coordination in customs cooperation among countries.

3. Custom's supervision

Many concepts of customs supervision are brought about according to theoretical perceptions and legal sciences. In the Customs Control curriculum, customs supervision is a professional measure taken by the customs authorities to control the integrity and authenticity of quantity, quality and external situation. of exported,

imported, transited goods, transport means on exit, entry and in transit (Hau & Huyen, 2011, p. 2005).

Clause 9, Article 4 of the 2001 Customs Law stipulates: "Customs supervision is a professional measure applied by the customs office to ensure the status quo of goods and transport means subject to customs management".

Clause 5, Article 4 of the 2014 Customs Law states in more detail: "Customs supervision is a professional measure applied by the customs office to ensure the status quo of goods and the compliance with the law. in the preservation, storage, unloading, transportation, use of goods, exit, entry and transit of means of transport being subject to customs management".

Based on the approach of the concepts, the author said: "Customs supervision is a specific activity of customs authorities and state management agencies on import and export activities in order to verify compliance with the law. laws of entities doing cross-border import and export, checking the legality and integrity of goods, preserving, storing, loading, unloading, transporting, using goods, leaving and entering countries, scene of means of transport being under the management of the customs office".

Supervision of imported goods in accordance with the customs law can be understood as the "specific activities of the customs authorities and state management agencies in charge of importation in order to verify the compliance with law of implementing entities. the import of goods across borders, inspection of the legality and integrity of goods, preservation, storage, loading, unloading, transportation and use of goods subject to the management by customs offices".

As such, customs supervision is a professional measure aimed at verifying the transparency, status quo and compliance with the law on import and export of goods through the border gates of entities

conducting international trade activities. Depending on historical circumstances, economic conditions, political, cultural and social regimes, the law stipulates and scholars the basic concept of customs supervision to meet the requirements of security control. economic and trade liberalization. Awareness issues on control of imports across customs boundaries from a theoretical perspective and legal commentary have a multidimensional understanding of state management of imported goods into the territory customs. The introduction of the concepts and connotations of this activity will positively impact the awareness as well as legislative and law enforcement work of customs officials, state agencies and the masses, promoting developing economy, creating trade in goods and protecting national security, combating acts of importing goods in violation of laws and international commitments.

IV. REGULATIONS ON CONTENT OF CONTROL OF IMPORTED GOODS UNDER CUSTOMS LAW

1. Checking goods names and codes

Vietnamese customs laws have specified in detail the content of checking the names of goods and codes of imported goods through the inspection of customs dossiers and factual goods as well as the handling of check results. Specifically, at Point a, Clause 1, Article 24 of the Ministry of Finance's Circular No. 38/201 /TT-BTC dated March 25, 2015, providing for customs procedures, customs inspection and supervision, imported and exported duties and tax management for imports and exports which is stipulated the content of checking the goods names and codes when checking customs dossiers are: "Checking the declaration contents and the accuracy of goods names, codes, and tax rate on the customs declaration with information on documents in the customs dossier. The handling of inspection results is divided into 3 cases: 1) In case the declarant declares the

goods name, goods code, clear and complete tax rate without the differences in the goods names with the information recorded in the documents in the customs dossiers, the customs office shall accept the contents of the declaration of goods names, goods codes and tax rate of the customs declarers; 2) In case there are sufficient grounds to determine that the declarant declares incorrectly the name of the goods name, goods code and tax rate; it will be instructed and requested the declarant supplies as prescribed and handle violations as prescribed law. In case the declarant fails to make additional declarations, the customs office shall re-determine the goods codes and tax rate and tax assignation, and, depending on the level of the violations, it will be handle according to the regulations of laws and updates of inspection results into databases and customs clearance of goods after customs declarant has fully paid taxes and fines (if any) according to regulations; 3) In case of detecting the declared information about the goods name, description of goods that are inconsistent with the goods codes, or discrepancies between the information on the documents of the customs dossiers and the information declared on the declaration. If there are insufficient grounds for determining the names of goods, codes, or tax rate; the declarants shall additionally submit technical documents or sale contracts or product composition analysis.

Through checking additionally submitted documents, if the customs office has sufficient grounds to determine that the customs declarer make incorrect declarations of goods name, goods code and tax rate, they shall guide customs declarant to make additional declaration. If the declarant fails to submit the documents at the request of the customs office or through checking the documents, the customs office does not have sufficient grounds to determine the goods name, code, and tax rate; a sample analysis will be conducted and assessed according to the regulations of Minister of Finance on goods classification,

analysis for goods classification, quality inspection and food safety inspection of exported and imported goods or reporting to the Director of Customs Department deciding to check factual goods.

The content of checking goods name and code when checking in reality is: "Checking the content of declaration and the accuracy of goods name and code on the customs declaration with the fact of exported and imported goods.

Clause 2, Point a, Article 24 of Circular No. 38/2015/TT-BTC stipulates: When checking the fact of goods, customs officer must determine the goods name and code according to the criteria in the list of Vietnam's exported and imported goods, the tariff uses for exported and imported goods".

Clause 2, Point b, Article 24, Circular No. 38/2015/TT-BTC regulating the result of factual goods is prescribed as follows:

"1) In case there is no discrepancy in goods name and code on the customs declaration compared to the actual exported or imported goods; there is no discrepancy in tax rate with the applicable tariffs in force at the time of inspection, the customs office accepts the contents declared on goods name, code and tax rate of the customs declarant;

2) If there are sufficient grounds for determining that the declarant declares incorrectly goods name, code and tax rate; the declarant is instructed and asked to make additional declaration as prescribed in Article 20 of this Circular and solving violation according to law provisions. In case the declarant fails to make additional declaration, the customs office shall re-determine the goods code and tax rate and impose tax assessment, and, at the same time, depending on the level of the violation between declaration contents and actual inspection to handle as prescribed by law and update the inspection results into the database, customs clearance of goods after

the declarant has fully paid tax and fine (if any) according to regulations;

3) In case it is impossible to determine the exact name and code of goods according to the criteria in Vietnam's List of Export and Import, the applicable tariff to exported and imported goods, customs officer and declarant take samples to carry out analysis and expertise according to the regulations of Minister of Finance on goods classification, analysis for goods classification, quality and food safety for imported and exported goods".

2. Check the quantity and quality

In Clause 5 and Clause 6 Article 29 of Circular No. 38/2015/TT-BTC:

Checking the quantity of goods: "The customs office shall base itself on the contents of the customs declaration, the inspection result of actual goods or the inspection result provided by the customs declarant (if any) to determine the quantity and weight of export and import goods".

Checking the quality of goods: "When checking the fact of goods, customs officer must determine the quality of exported and imported goods as a basis for applying tax policy and policy on management of exported and imported goods excepting for quality inspection prescribed by specialized laws.

In the case of manual method or machine and equipment at Department of Customs, the place of customs inspection, the customs official checks the factual goods which are not sufficient grounds for determining the accuracy with the content declaration of the declarant about the weight and volume of goods. Customs offices shall base themselves on conclusions of assessment service-providing organizations to decide customs clearance.

3. Checking the customs value

Clause 1, Article 4 of Customs Law in 2014 defines the concept of customs value, specifically: Customs value is the value of

exported and imported goods for tax calculation and customs statistics purposes.

Circular No. 39/2018/TT-BTC Amending and supplementing a number of articles in Circular No. 38/2015/TT-BTC dated 25 March 2015 of Minister of Finance, providing for customs procedures; customs inspection and supervision; exported and imported tax and tax management on exported and imported goods: "Customs value is the selling price of goods up to the export border gate excluding international insurance fee(I), international transport fee (F), determined by sequentially applying the methods specified in Clauses 2, 3, 4 and 5 of this Article and stopping immediately at the method of customs value".

Determinating the customs value will have a great impact on the process of tax law enforcement, legislation on commodity policy and imported statistics when goods cross the border. Accordingly, in Clauses 1 and 3 of Article 86 states: 1. Customs value is used as a basis for calculating export tax, import tax and statistics of export and import goods; 3. Customs value of imported goods is the actual price payable up to the first import border gate, in accordance with Vietnamese laws and international treaties to which the Socialist Republic of Vietnam is a signatory. For this provision, Vietnam's customs law has emphasized and clearly demonstrated how customs valuation based on the basis of prices is calculated at the first import border gate.

Article 25 of Circular No. 38/2015/TT-BTC stipulates: "Customs office conducts customs inspection of customs declarant on the customs declaration to determine cases where there are sufficient grounds to reject Abrogation of declared values and cases of doubting declared values but not sufficient to reject:

a) Exported and imported goods have sufficient grounds to reject the declared value in one of the following cases:

a.1) the declarant fails to declare or

declares incorrectly or insufficiently the criteria related to the customs value on the exported goods declaration; imported goods declaration or value declaration (if any);

a.2) the contents of the value, delivery conditions on the commercial invoice do not match the corresponding contents (if any) on the bill of lading or other transport documents of equivalent value according to the provisions of law.

b) Exported or imported goods that have doubts about the declared value but they are not sufficient to refute are cases where the declared value is lower than the value of risk information in the price database as prescribed by General Department of Customs".

The Vietnamese customs law also clearly stipulates handling inspection results in two cases: 1. Where there are sufficient grounds to reject the declared value; 2. In case of doubt about declared value but not enough grounds to reject Clause 2, Article 25 of Circular No. 38/2015/TT-BTC.

Clause 1 and Clause 2, Article 25 of Circular No. 39/2015/TT-BTC dated March 25, 2015: "Source of information, construction, supplementation, amendment of reference prices attached to the list of exported and imported goods risks in value ": Accordingly, this law stipulates in the open direction, that is, the inspection of customs value by customs officers in order to carry out the operation of obtaining information to determine Actual inspection prices include sources of information from the customs authorities (Clause 1) and sources outside the customs authorities (Clause 2). This regulation is accordance with the international rules and modern customs control, creating a more transparent legal corridor in the management process.

Thus, the legal provisions on customs value of goods circulating in import and export

activities have been governed by customs laws and other legal documents. The issue has important issues, defining the contents of the customs value legislation that have met the management requirements for tax laws, commodity policies and other relevant regulations. In particular, the above adjustments have ensured consistency, synchronization and compatibility with the world customs system in terms of customs value.

4. Origin check

Article 26 of Circular No. 38/2015/TT-BTC stipulates: When inspecting the origin of goods, customs office shall base themselves on certificates of origin, customs dossiers, actual goods and information relating to goods and the provisions of Article 15 of the Government's Decree No. 19/2006/ND-CP of February 20, 2006, the Circular guiding the implementation of preferential and non-preferential rules of origin of the Ministry Industry and Trade and related guiding documents;

Customs office shall accept documents of origin in case of slight differences, without prejudice to the validity of certificates of origin and the nature of origin of imported goods, including:

- Spelling or typing errors;
- Differences in marking in the boxes on C/O: marked by machine or manual, marked with “x” or “√”, confusion in marking;
- Small difference between signature on C/O and sample signature;
- Difference in units of measurement on C/O and other documents (invoices, bills of lading ...);
- The difference between the paper size of C/O submitted to the customs office and the C/O form as prescribed;
- Differences in ink color (black

or blue) of contents declared on C/O;

- Minor differences in description of goods on certificates of origin and other documents;
- Difference of code on C/O with code on the declaration of imported goods but without changing the origin of goods.

In case the customs declarant submits the certificate of origin issued to the whole goods lot but only imports a part of the goods lot, the customs office shall accept such certificate of origin for the actually imported goods;

If the actual quantity or weight of imported goods exceeds the quantity or weight indicated on the document of origin certification, the excess quantity of goods is not eligible for incentives under international treaties to which Vietnam is a tablet;

Customs declarants are not allowed to arbitrarily correct the contents on C/O, except for cases where the repairs are granted by competent agencies or organizations themselves according to the provisions of law;

If the content of information on the certificate of origin is not consistent with the customs dossier and regulations on inspection of origin of imported goods or the signatures and seals on the certificate of origin do not match samples of signatures and stamps kept at customs offices, except for the cases specified at Point c of this Clause, customs offices shall request customs declarants to explain and provide additional documents to prove the origin of goods. If the content of explanation and documents provided are appropriate, the certification of origin is accepted.

In case the customs office has sufficient grounds to determine that the certification of origin is not appropriate, suspend the application of special preferential tax rates and calculate of the MFN (Most Favored Nation) tax rate or usual tax rate.

When carrying out customs procedures, if there is a doubt about the validity of a certificate of origin but there is not enough basis to refuse, the customs office temporarily calculates of the MFN (Most Favored Nation) tax rate or usual tax rate.

In the course of post-clearance inspection, if there is any doubt about the validity of the certificate of origin but there are not enough grounds to refuse, the customs office shall verify and base on the verification results to decide the application of special preferential tax rate.

As such, the current customs law in Vietnam has quite specific provisions on the content of inspection of the origin of imported goods. In addition, Vietnam's customs law also provides verification of the origin of imported goods, the verification time for imported goods, and the processing of verification results of imported goods.

In addition, Vietnam's customs law also regulates the control of imported goods through predetermined codes, origins and customs value.

Pre-determination of code, origin and customs value means the customs office determination of code, origin and customs value of goods before carrying out customs procedures in Clause 26, Article 4 of the Customs Law 2014.

Clause 1, Article 28 of the 2014 Customs Law states: "In case the declarant requests the customs office to pre-determine the code, origin and customs value of the goods expected to be exported or imported, customs declarant shall provide relevant information and documents, samples of goods to be exported or imported to customs office for determination of customs code, origin and value. In case it is impossible to provide samples of goods for export or import, customs declarant must provide technical documents related to such goods.

Customs office shall base on the provisions

of law on goods classification, origin, customs value and relevant information and documents supplied by customs declarants to pre-determine code, origin, customs value and a written notice to customs declarants of the pre-determined results. In case there are not enough grounds or information to determine at the request of the declarant, the customs office shall notify the declarant or request additional information and related documents.

5. Check intellectual property right

According to Clause 2, Article 3 of Circular No. 13/2015/TT-BTC, protecting intellectual property right in the field of customs is the application of inspection, supervision, control and temporary suspension of customs procedures for imported and exported goods requiring intellectual property protection under the provisions of Article 216 of the Intellectual Property Law and Articles 73, 74, 75 and 76 of Customs Law in 2014 and documents relevant legal documents to detect, fight and handle acts of infringing upon intellectual property right in the customs domain. Customs legislation in Article 73 of Customs Law in 2014:

Regulations on principles of inspection, supervision and temporary suspension of customs procedures related to imported goods that require protection of intellectual property right. Accordingly, in order to ensure consistency, there is a basis when customs officer controls imported goods across the border of law requiring intellectual property rights holders protected under the provisions of law. Intellectual property rights may request customs offices to apply measures to inspect, supervise or suspend customs procedures for export and import goods showing signs of infringement of intellectual property right. This is a regulation showing the necessity of the law to ensure the legitimate rights and interests of intellectual property right holder.

On the other hand, in order to carry out the duty of ensuring the efficiency factor when implementing control activities for goods

with related requirement on the protection of intellectual property right, the law also clearly stipulates the customs office decisions to suspend customs procedures for exported or imported goods only when the intellectual property right holder or the lawfully authorized person submits a written request and proof of lawful ownership of intellectual property right, evidence of infringement of intellectual property right and they have paid a sum of money or guarantee documents of a credit institution to ensure compensation for damages and expenses incurred in accordance with law due to the propose to suspend customs procedures incorrectly.

V. FACTORS AFFECTING CONTROL OF IMPORT GOODS UNDER CUSTOMS LAW

1. The legal system

For the nation, the law has always been an important tool for the state to manage society in a unified order. Despite the changing historical circumstance, the movement of trade and purchase of various goods due to the impact of political and social relations, the law has always been an important factor to help countries effectively control the situation of expoted and imported goods in particular. Therefore, the legal system has a great impact on the control of imported goods across borders. From a growth perspective, the law is the standard framework to operate the activity of the norms and requirements for imported goods into the country, creating a legal corridor for goods, limiting barriers on conflicts of national laws and international treaties, regulations on fast and convenient clearance of goods. The fact that nations have stepped up the implementation of open market policy, strengthening the establishment of economic relations through trade agreement, and establishing joint actions on the customs system has created positive effects for international trade. However, in order to implement policy to protect domestic production, ensure

economic security, food hygiene, environmental protection, etc. impact laws restricting the openness of import trade.

Therefore, for the legal system, it basically needs to be built in accordance with the context of the nation's economic, political, cultural, social and historical circumstance. The legal system of customs with respect to control of imported goods should comply with commercial commitments, international customs commitments and the requirement to internalize those commitments in the Vietnamese national legal system. In order to ensure a transparent, convenient legal system and meet the requirements of customs law reform, promote national economic development. The State needs to develop a transparent, clear and consistent system of legal policies and policies in line with international rules.

2. Customs offices and customs officers

In the current context, strengthening the management of the State of Vietnam in the field of Customs is a necessary requirement. This activity both ensures the consistency of direction from superior management agency to the implementation system of customs official at the lower level, ensuring both lawfulness and promoting international trade. Therefore, the control of imported goods across borders must closely follow their objective, content and functional functions in order for the direction to be effective. Enhancing the professional, theoretical and practical capacity for managers must be identified as a key task on the basis of acquiring foreign scientific advancements in applying the right purpose and suitability.

On the other hand, the role of customs officer is also factors that influence the position of the customs industry for the task of being the “economic gatekeeper” for the country. The qualifications and capability of customs officer affect the consultation, development, planning, and implementation of policy and law on control of imported goods across border. The development of

laws and mechanisms for the control of imported goods must not only be consistent with international commitments, but also domestic conditions. Therefore, if the cadres do not have good moral quality and high professional qualifications, no matter how good is policy, it may be disabled and the promulgated policy will not be effective. It will affect the goal of state customs reform. On the other hand, the State should have preferential regimes suitable to the function and task assigned to customs officials to enhance the effectiveness of the actual management and implementation.

3. International cooperation on customs

“International cooperation in customs is becoming increasingly important and promoted in various cooperation forums with diverse, flexible and rich forms of cooperation. In recent years, the international integration and cooperation activities of Vietnam Customs have made strong changes, contributing to promoting the modernization process of the Customs sector in particular and the Finance sector in general (Trang, 2017). Thus, the development of international customs cooperation plans is an urgent requirement of Vietnam in the process of international trade integration. When goods are circulated between countries related to trade with Vietnam, the issue of cooperation requirements on import and export goods in general and border import in particular is even more important. Assessing the impact of international customs cooperation on control of imported goods helps us access new advances and science on modern customs. At the same time, customs cooperation will help Vietnam to build a system of control of imported goods in the commitments of international treaties on customs to which Vietnam is a signatory, making it easy to detect acts cross the border. On the other hand, this cooperation will improve the qualifications of customs officer in the management and implementation of trade agreements, and the capacity to carry out tasks such as

regulations on customs value and inspection, post-clearance inspection, risk management, goods classification, quality inspection, origin of goods, anti-smuggling, trade fraud investigation, infringement of intellectual property of goods.

4. Compliance with the law of the business

Enterprises - the main subject to the state management over the process of implementation of purchase and sale of goods at home and abroad. For importing goods across borders, the role of enterprises has a great impact on the customs control of goods. Enterprises that grasp the laws, the sense of compliance with and observance of national regulations on imported goods will abide by the laws, promote international trade development, control of goods. The customs authorities also facilitate and facilitate the implementation of risk management methods for goods circulated through customs, ensure goods security, protect the environment, combat smuggling and trade frauds and infringement of intellectual property of imported goods. On the other hand, the enterprise is also a protection and assistance partner to help customs authorities identify and promptly prevent and handle violations when provided by the information provider. Therefore, compliance with the laws of the business will help the state to improve the control of imported goods across borders and facilitate the openness of international trade in the current integration situation.

VI. CONCLUSION

Thus, controlling imported goods under customs law is an extremely urgent requirement for Vietnam countries in the current trade integration. The awareness of legal and theoretical issues on the control of imported goods under customs laws will directly and indirectly affect the trade and management of foreign-origin goods between countries in the world.

The paper introduced the concept and the theoretical issues of multi-dimensional

approach on the awareness of control of imported goods including goods inspection, goods monitoring and control of imported goods. The control of these activities is considered under the influencing effects, so it can objectively assess the role of customs legislation in promoting and controlling import and export goods through national customs border gates.

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