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BEST PRACTICES

BEST PRACTICES IN CUSTOMS PROCEDURES

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Abstract

The paper presents the main aspects related to the modernisation process of the European Union customs legislation and identifies a series of benefits that arise from implementing the measures of the Modernised Community customs code. In this context, foreign trade companies must adapt their logistics strategies to the new customs system, a necessary condition in order to obtain competitive advantages. In an increasingly competitive global environment, best practices in the customs activity have a positive influence both on the international trade as well as on the consumer safety and protection. The results of implementing best practices are also found in rankings made by different institutions and international organisations regarding the competitiveness in logistics and ease in the development of foreign trade transactions. They mainly relate to reducing the time for the necessary clearance procedure and reducing the logistics costs by decreasing the number of physical and documentation checks, giving a priority treatment to consignments when they are selected for control, the possibility to choose the location for customs controls and less information to submit in summary declarations.

Keywords: best practices, customs, customs procedures, international trade, logistics performance index

JEL Classification: F23, K33, K39

Introduction

The activities regarding the clearing of goods are covered by the logistics activities carried out in the case of an export-import operation (Johnson and Bade, 2010). The responsibility of the logistics operations lies with the exporter or the importer according to the Incoterms delivery terms mentioned in the international trade contract, while the transit options

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(method of transport, execution, etc) as well as the consequences of the chosen transport solution on the contractual partners (costs, risks, responsibilities) are found in the logistics solution. The value chain represents a sequence of activities that a company from a certain economic sector must achieve in order to deliver a product or a service to the market. Risk sources (Lessard, 2013) associated with the global value chain have diversified recently and they include both factors from the internal market- trade policies, fiscal policies, the consumer (purchasing power, cultural differences) as well as natural factors (earthquakes, extreme weather events), delays caused by man (armed conflicts, labor disputes) as well as innovation (the new technologies, the business model).

Each risk source has a potential impact on the categories of actors: the multinational companies involved in the globalisation process, the institutions and the international/domestic organisations, the consumers. In this context, the customs authorities have new functions, such as promoting the social-economic development of a country, creating conditions for economic growth, clearance controls and ensuring the security and protection of the citizens (Truel, 2010).

The customs system in the European Union is in the process of modernisation of the customs legislation, the new measures will be applied gradually. At the end of the implementation period of the modernised customs code, the economic operators will benefit from the simplification of the customs legislation, restructuring customs procedures and a new philosophy of customs controls. In the Romanian customs practice, a member country of the European Union, there have been, in the last 8 years, a series of changes in the area of customs legislation, regarding preferential treatment in terms of intra-community customs trade operations (between member states) and of the extra community operations (between EU Member States and non-EU countries) and replacing customs declarations with statistical reports (Intrastat) in the case of intra-community trade operations.

1. Literature review

The complexity of the global business environment has determined a reform of the customs institution; it took over new functions, such as the protection of the economic actors, the protection of the customers and environmental protection (Figure no.1).

| | |
|--|---|
| Collects customs taxes | • The efficient collection of the customs taxes based on the tariff classification, customs value and the origin of the goods |
| Ensures the protection of companies (national industry) | • Applying the measures required to discourage the trade with counterfeit goods |
| Ensures the protection of the consumers (health and safety) | • Reviewing the Kyoto Convention and a new approach for risk management |
| Facilitates commercial trades; Ensures the safety of the whole logistics chain | • Adopting safety standards, for example, the aggregated economic operator status |
| Ensures the protection of the environment | • Adopting initiatives in the green customs area |

Figure no.1: Functions of customs authorities

Source: Mikurya, 2007

Currently the customs legislation applied to merchandises that are involved in extra-community commercial trade is given by the European Union customs code and the provisions supplementing or implementing it, the Integrated Tariff of the European Union (TARIC), by the provisions regarding the establishment of a system of the European Union for the exemption from customs duties and international agreements that contain customs provisions in so far as they are applicable in the European Union (Albert, 2013).

The process of modernising the Community customs legislation was determined by the current economic climate but also by the emergence of new risks in the global logistics chain. The new modernised customs legislation aims to simplify the customs procedures and to unify the application of regulations at the level of the 28 customs administrations in the European Union. Emphasis will be placed on the computerisation of customs procedures and the participants in the process of customs clearance of goods will be able to declare the goods traded electronically and will be able to communicate online.

The provisions of the new Modernised Customs Code have entered into force on the 30th of October 2013 and their full implementation will be done at the end of the year 2019. The main objectives of the new customs code are facilitating trade and ensuring a high level of safety.

The goods subject to extra-Community trade under the Modernised Customs Code, can be placed under a regime of free circulation, export customs regime or special treatment. The first two types of customs regimes are related to definitive or joint customs procedures and special schemes involve obtaining a permit for entry of goods for the following cases: use of inward or outward development, the temporary admission regime or the end-use regime; use of storage facilities for customs warehousing of goods, unless the operator is the customs authority itself.

The new Customs Code will result in the restructuring of the customs procedures. More specifically, the inward processing relief (suspension or drawback) and the customs procedure for processing under customs control will be included in a single customs regime, the inward processing customs. Following this change, at the application for authorisation for placing goods under the inward processing regime, the company no longer has to prove the intention of re-exportation of the compensating products resulted from the imported goods. Another amendment aims to make the free zones from customs destination into customs regime, becoming similar to the customs warehousing. This means that non-Community goods that are to be placed in a free zone in the EU, to be stored, will be submitting customs declarations and will have to guarantee the customs debt, these are obligations that currently do not exist.

Customs procedure represents all the necessary formalities for the clearance of goods made for export or import. (Popa, 2008). In order to obtain clearance, the customs declarant may choose the common customs procedure or a simplified procedure. (Dechaume and Venturelli, 2014). All Member States implement the EU legislation regarding the submission of a simplified statement and an incomplete statement in a similar way, but there are still differences in the clearance procedures.

From the year 2016, under the Modernised Customs Code, the foreign trade firms will benefit from the new customs procedures, such as the self-assessment procedure and the centralised clearance procedure. The self-assessment procedure will be available for economic operators from the 1st of May 2016; under this procedure, the customs authorities

can authorise a company that holds the economic operator status authorised to carry out certain customs formalities, such as determining the customs debt or making certain customs controls. Therefore, the customs authority representatives will no longer interfere with the clearance process and the company will ensure that all the customs regulations are applicable to the goods subject to import and export operations are respected.

In order to simplify the customs formalities, from the 1st of June 2016 the centralised clearance procedure is detailed and simplified. This procedure allows the declaration of goods in the Member State where the company is established (example Romania), even if the goods are physically present in another Member State / other Member States. Also, the procedure will work within a Member State. For example, a customs declaration may be lodged at a customs office in Oradea, even if the goods are physically presented at the customs office in Constanta. After obtaining the customs release the goods will be able to move freely from Constanta to any point in the European Union.

2. Best practices in customs clearance for goods in the European Union

Customs regulations provide economic operators that are involved in foreign trade a number of advantages aimed, primarily, to reduce the time needed to achieve the clearance procedure and to reduce the costs for this logistics activity. The clearance activity for goods, a component of the logistics solution is a condition for the profitability of an export / import operation. The total duration of the logistic operations (the *transit time*) is also determined by the duration of customs clearance formalities and the total cost of the logistics operations also includes customs clearance costs.

The Integrated Community Tariff (TARIC) and the database regarding tariff quotas and quota management (QUOTA) provides useful information to both economic traders as well as for customs administrations in the European Union regarding the tariff classification of the goods subject to extra-EU trade and the tariff and non-tariff trade policy measures. If a foreign trade company has difficulty regarding the tariff classification of goods, it can submit to the customs authority a request for compulsory tariff information. At EU level, there is a management system for tariff information through which businesses can obtain the correct tariff classification of the goods subject to foreign trade operations.

Another example of best practice is the **status of authorised economic operator**, it gives the holder (exporter / importer) a number of advantages (Gwardzińska, 2012), such as: easier access to customs simplifications, reducing the number of physical and documentation checks, priority treatment for transports if selected for control, a choice for the location for customs controls and less information to fill in the summary declarations.

The status of authorised economic operators includes the following types of authorisation: the AEOC certificate (*Authorised Economic Operator Customs*) - authorised economic operator for customs simplifications, allows the holder to benefit from certain simplifications in accordance with the customs legislation; the AEOS certificate (*Authorised Economic Operator Safety and Security*) - authorised economic operator for security and safety, which gives the holder the right to facilities security and safety; the AEOF certificate (*Authorised Economic Operator Full*) includes the above types of licenses that can be held simultaneously.

Since the 1st of January 2008, economic operators in the European Union could request the status of authorised economic operator, benefiting from the advantages offered by this status. In 2014, there were 12,047 registered authorised economic operators and the countries with the most approved operators were Germany, Netherlands, France, Italy, Spain (Figure no. 2). Since June 2016, this status will become mandatory, any company that will require a customs authorisation, for example an authorisation to apply the simplified procedure for clearance or self-taxation will have to have this status.

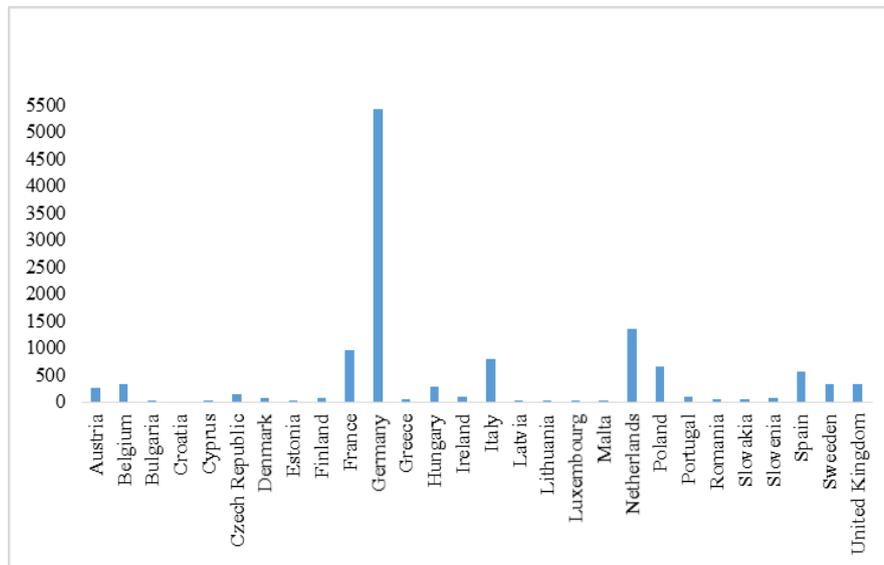


Figure no. 2: The number of approved economic operators

Source: KPMG, 2014

In our country, a first facility was granted to the AEO certificate holders, as of 25th October 2013, through which they can pay the import VAT through the reverse charge mechanism. Another advantage given to the AEO licensed companies aim at ensuring the VAT exemption from import duty when the import of goods is followed by an exempt intra-Community delivery.

Another example of best practice is the **simplified customs procedures**. The simplified declaration procedure, the incomplete declaration procedure and the procedure for home clearance are part of the category of simplified customs procedures. In recent years, a growing number of businesses from the European Union have resorted to simplified customs procedures so that in the case of imports, these procedures accounted for 77%, for exports the share of simplified procedures was 70%.

In the European Union there are no differences in the application of customs formalities specific to simplified or incomplete clearance. The same thing does not happen in the case of local clearance, where there are some differences related to the time slot in which the economic operators can perform customs clearance for goods using the simplified procedure or the obligation to give prior notification to the customs authorities on the entry / exit of the goods.

In Romania, we recommend some changes in the home clearance procedure in order to adapt it to best practices existing at EU level. The necessary amendments refer to the waiver of prior notice and the possibility of applying this customs procedure 24 hours a day and 7 days a week.

Deferment of payment of customs duties, another good practice, provides foreign trade economic agents with a major advantage. According to a survey by KPMG of a group of 14 member states of the European Union (2014), the Community customs legislation does not provide sufficiently clear information on the procedure for deferment of payment of customs duties, in practice there are differences in the application of this facility. There are countries where deferred payment of customs duties is possible, but also countries where this advantage is not offered to importers. The diagram below shows the results of the applied measures for the procedure for deferment of payment of customs duties in the 14 countries that have been the subject of the research report mentioned above (Figure no. 3).

| Very efficient | Efficient | In some degree | Low efficiency | Ineffective |
|--|--|--|---|---|
| <ul style="list-style-type: none"> • Germany • The Netherlands | <ul style="list-style-type: none"> • Poland • Luxembourg • Belgium • Portugal • Spain • Sweden | <ul style="list-style-type: none"> • Estonia • Hungary | <ul style="list-style-type: none"> • Denmark | <ul style="list-style-type: none"> • Romania • Slovakia • Slovenia |

Figure no. 3: Efficiency of application of the procedure for deferment of payment of customs duties

Source: KPMG, 2014

Electronic customs (e-customs) offers a range of facilities for both the business environment as well as for the representatives of the customs authorities. The implementation of this modern version of clearance of goods will lead to the simplification of customs formalities, to the reduction of administrative costs, to the compliance with applicable requirements and to the decrease in the time required to obtain clearance. According to the World Bank calculations, each day of delay in customs causes a loss of 1% in trade between countries.

The first steps required to implement the electronic customs procedures have been made and today they are at the level of each administration of the 28 EU member countries elements specific to the electronic customs environment such as the Import Control System (first phase of the Automatically Import System), Export Control System, the New Computerised Transit System, the registration and identification number of economic operators (*Economic Operator Identification and Registration*, EORI) and the status of Authorised Economic Operator (AEO).

In the Community customs practice, the customs declarations are filed, mostly, electronically so that the electronic export declarations account for 99.7% of all customs declarations submitted and in the case of the import, the customs declarations' share is 96.5%.

In our country, the customs administration provides the economic operators of the Romanian system for processing the customs declaration, an electronic system that allows

the automated processing of import and export customs declarations, making Romania one of the most advanced EU countries in this respect (the percentage of customs declarations on paper filled and submitted to the Romanian customs authorities in 2014 was negligible).

The new Modernised Customs Code proposed in the e-customs area, new concepts such as the single window, the single access point, self-imposition and centralised clearance. All these measures are aimed to simplify the necessary formalities for customs clearance of goods.

Customs control, under the new modernised Customs Code, will be based, in the case of economic agents that hold an AEO status, on the preliminary audits and subsequent audits rather than on the individual control of a load of goods. In the context of the computerisation of the Community customs, the control will be much simpler, reducing the costs for companies and ensuring a more efficient risk management. Therefore, it will ensure a greater degree of security at the level of the customs union and the majority of checks are carried out electronically.

A good practice in customs clearance is also the enforcement of intellectual property rights, that is achieved through risk management applied at the level of the 28 EU customs administrations. This ensures the health and safety of consumers, the EU producers are protected by combating the trade with counterfeit products made mostly in an insufficiently regulated environment. In 2012, a new Customs Action Plan of the European Union was adopted that aimed to combat the breach of intellectual property rights for the period 2013-2017. The two main objectives of this plan were combating the trade with goods that infringe the intellectual property rights in the global supply chain and the implementation and monitoring of the new Community legislation on the enforcement of intellectual property rights by customs authorities.

In the last European Commission report on the protection of intellectual property rights, it shows that the representatives of the customs authorities have detained about 36 million products suspected of infringing intellectual property rights in 2013. From Figure nr. 4 below, a reduction in the number of goods suspected of infringing intellectual property rights in the recent year is observed. The customs control based on an efficient risk management has discouraged the trade with such products.

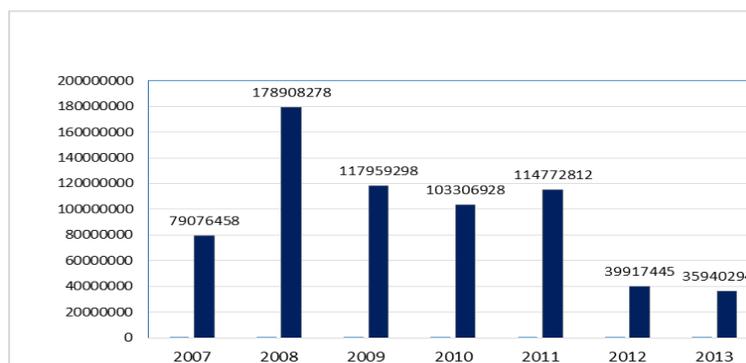


Figure no.4: Number of products suspected of infringing the intellectual property rights

Source: European Commission, 2014a

Regarding the origin of counterfeit products, they were produced in China at a rate of 66.12%, 13.31% in Hong Kong, 5.83% in Greece, 3.68% in Turkey. Most counterfeit products were identified during customs control when placing goods under the import customs regime (Figure no. 5).

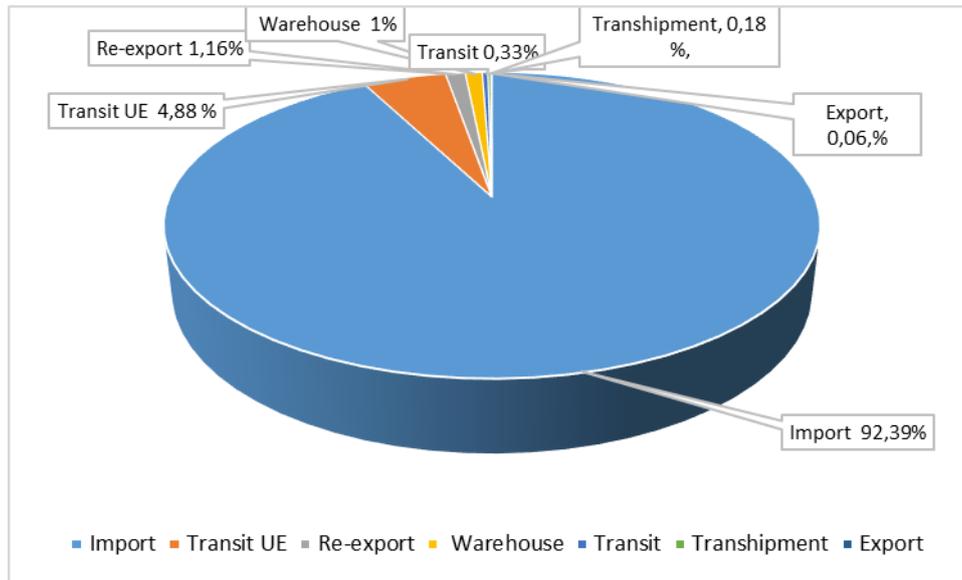


Figure no. 5 : Counterfeit goods found during customs procedure

Source: European Commission, 2014a

In the European Union the regulations on security / safety for the products sold are very strict and most of the dangerous products are detected at EU borders, while making customs procedures.

At the Community level, two early warning systems were implemented to detect dangerous products. A first warning system is intended for non-food products (RAPEX - *Rapid Alert System for dangerous non-food products*) and is based on the rapid exchange of information on dangerous products between the European Commission and the Member States of the European Union. According to the latest report issued in 2014 2,500 notifications have been sent, most alerts issued have been for toys (28%), clothing (23%), electrical and electronic equipment (9%) (European Commission, 2014a).

A second rapid alert system for food and feed (RASFF - *Rapid Alert System for Food and Feed*) plays an important role in terms of food safety throughout the supply chain (from producer to final consumer). The system applies to the countries in the European Union but also in countries such as Norway, Liechtenstein and Iceland. The alert system allows a rapid identification of risks and their elimination from the European markets by issuing real time alerts to the national authorities from EU countries, thereby increasing the consumer’s confidence in the products sold on the markets of the European Union. According to the report for 2013 the alert system for food and feed is an important tool in the tracing and the withdrawal of products if they endanger the health / safety of consumers. In the last reporting year 3205 notifications were registered via the alert system, a decrease in

notifications by 9% compared to 2012. The most notifications were made for products from China, India and Turkey (Figure no.6)

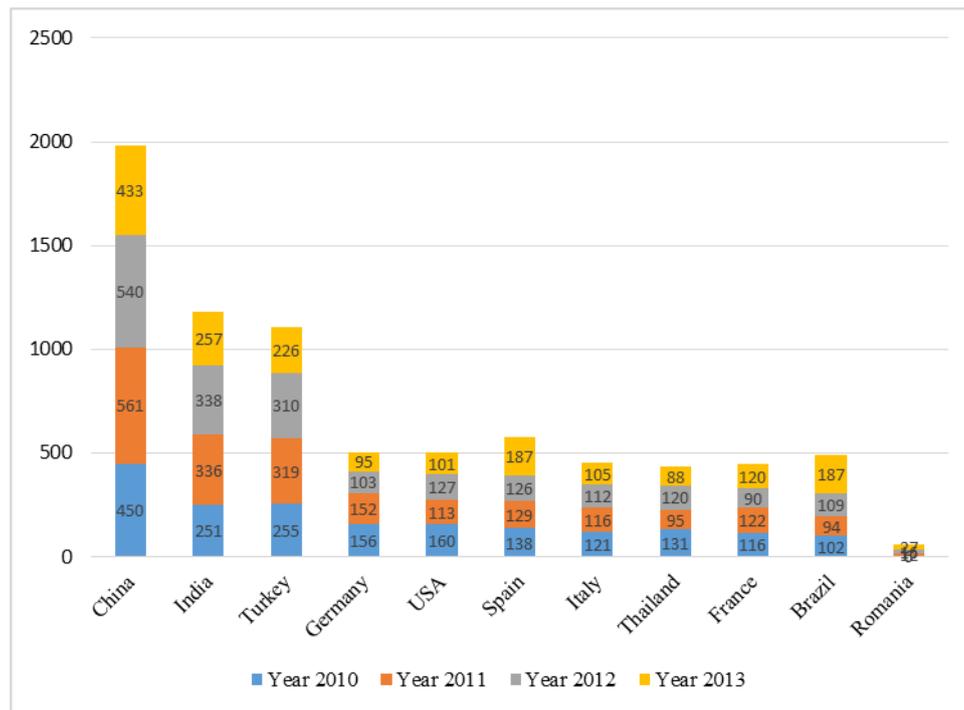


Figure no. 6: Evolution of RASFF notifications by country of origin

Source: European Commission, 2014b

3. The influence of customs on the logistics performance indexes and the ease of doing business- case study Romania

The clearance activity contributes to determining the competitiveness of an economy in terms of logistics and ease of doing business. In the specialised literature, data series are calculated showing a comparative between the importance of the institutional factor on the economic performance. Examples are the periodicals that calculate the logistics performance index (*Connecting to Compete*) and the ease of doing business index (*Doing Business*). Performance is calculated in order to ensure a predictability based on a well-established profile as a model of representation that, from a managerial point of view can have immediate influence, if the measurement system of the expected results is directly related to the performances of the logistics chain.

The economic growth of a company depends on the efficiency of the logistics chain and, in particular, its connection to neighbouring markets. According to the economic doctrine, involving the organisational management by improving the logistics along the supply chain will provide a multidimensional growth by: increasing productivity by reducing logistics

costs, optimising the distribution sector and a better connectivity to the external environment by multiplying the number of business partners.

The logistics performance index covers the entire supply chain, and the evaluation is based on an opinion survey of over 1,000 professionals worldwide in the logistics area (Arvis et al., 2007). Logistics performance is calculated as the weighted average of a country's scores on six key dimensions regarding the logistics activities in that country: the efficiency of the customs control process (duration, predictability of formalities), as it is conducted by the customs inspection agencies, including the customs authority; the infrastructure (ports, railways, information technology); the ease of transport at competitive prices; the quality of logistics services (transport operators, customs brokers); the ability to follow orders; the transport punctuality to be delivered to the destination in time.

From the data released by the World Bank through the four reports on competitiveness in the logistics services, it is shown that our country is on the last positions in infrastructure (the 99th place in 2010, 87th in 2012 and 64th in 2014) and customs activity (85th place in 2010, 61st in 2012 and 59th in 2014). Accordingly, improving the efficiency of customs control and the infrastructure are two major lines of action designed to facilitate Romania's foreign trade. (Table no. 1)

Table no.1: Romania: logistics performance index

| Year | Logistics performance index Rank | Customs activity | Infrastructure | Ease of transport | Quality of logistics services | Ability to follow orders | Transport punctuality |
|------|----------------------------------|------------------|----------------|-------------------|-------------------------------|--------------------------|-----------------------|
| 2014 | 40 | 59 | 64 | 36 | 43 | 34 | 27 |
| 2012 | 54 | 61 | 87 | 53 | 64 | 53 | 29 |
| 2010 | 59 | 85 | 99 | 34 | 66 | 66 | 73 |
| 2007 | 51 | 56 | 50 | 35 | 52 | 56 | 66 |

Source: Arvis et al., 2014

The ease of doing business index is based on quantifying the following indicators: starting a business, obtaining a bank loan, payment of taxes, the ease with which one can register a property, cross-border transactions, resolving insolvency, protection of minority shareholders, access to electricity, obtaining construction approvals, measures to respect the contracts.

In the latest report Doing Business (2015), Romania's position has improved, rising to the 48th place from 189. In the period 2013-2014, there has been significant progress in the chapters: ease with which businesses can pay taxes or perform cross-border transactions.

The goods clearance activity is taken into the calculation of the indicator on the ease of the foreign trade transactions. In this indicator, Romania ranks 65, standing in the rankings after Poland (41st), Bulgaria (57th), Czech Republic (58th), the regional average (Europe and Central Asia) being 105. The indicator regarding the ease of the foreign trade transactions is based on the quantification of the logistics activities, such as the clearance procedure /

customs control, obtaining documents for export / import, transport and handling of goods on the national territory, specific activities in port (table no. 2).

Table no. 2: Activities specific to the export-import operations

| Logistics activities | Export | | Import | |
|-----------------------------------|-------------|-----------|-------------|-----------|
| | Time (days) | Cost (\$) | Time (days) | Cost (\$) |
| Customs procedure/customs control | 1 | 75 | 1 | 75 |
| Preparing documents | 7 | 410 | 8 | 420 |
| Domestic Shipping and handling | 2 | 700 | 2 | 700 |
| Cargo-handling activities in port | 3 | 300 | 2 | 300 |
| Total | 13 | 1485 | 13 | 1495 |

Source: World Bank, 2015

Conclusions

Foreign trade companies should be aware of the changes brought by the gradual implementation of the new legal provisions in the customs area, provisions meant to promote trade with goods. The status of authorised economic operators will become in the next period, a standard for all companies with international trade activities. Partnerships concluded between the EU countries and countries like USA, Japan, Norway were based on the mutual recognition of the programs that targeted the status of authorised economic operators. Such partnerships enable the security of the global value chain, the companies involved in this process having a low risk profile.

In the countries with a low logistics performance index, foreign trade operations take longer and involve higher costs for exporters / importers due to the unpredictable and uncertain supply system. The causes of such a supply system may include excessive controls, lack of confidence in the discretion of inspectors, the absence or lack of quality of the commercial logistics infrastructure.

The implementation of the concept of e-Customs, planned to be operational by the end of 2020 will generate a number of positive changes with a direct impact on businesses. However, the implementation of software programs and the acquisitions of hardware support will require substantial investment and planning on their part, as well as the design of extensive financial and operational plans by 2020.

The present process of the modernisation of the customs procedures in the European Union is in the legislative implementation phase, a series of annexes necessary for the

implementation phase being in the design stage. Implementation involves ensuring the availability of procedures on a large scale across the Member States as well as their effective and uniform application. Given the strict time frames and the substantive changes mentioned above, it is possible that the adaptation process for both the companies and the national bodies will be difficult and lead to exceeding the originally set deadlines.

Another variable to be considered is related to the maintenance of software systems and the management and communication platforms. The information systems need to be flexible and adaptable to include more than the customs authorities.

The uniform application of the new customs procedures in all Member States is essential because only in this way one can ensure uniformity of the internal market, provided that two key issues are met: information and communication; training and guidance.

In conclusion, best practices in customs procedures namely the status of authorised economic operators, the simplified customs procedures, deferring the payment of customs duties, a risk management based on a new philosophy are prerequisites for the development of extra-Community trade, protecting the financial interests of the European Union and strengthening its safety and security.

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