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**IMPROVING THE IMPORTERS' LEVEL OF COMPLIANCE
WITH CUSTOMS LAWS BY MEANS OF STATE REGULATORS**

The ways of improving the level of importers' compliance with Customs laws by means of certain state regulators are considered. The main measures suggested are changing a legislative framework (reviewing Customs laws and developing a provision on the facilitation of trade through risk management); exercising risk-based compliance management that implies enforcement and recognition; compliance assessment that involves assessing the levels of compliance of the members of the business community by means of pre-arrival screening and clearance as well as post clearance audit methods; an appropriate range of client service strategies, including effective consultation arrangements, clear administrative guidelines and public information. In conclusion the author underlines the Ukrainian government's and Customs authorities' responsibility to guarantee importers' compliance in view of Ukraine's movement towards European integration and adoption of international laws.

Key words: importers, compliance with Customs laws, state regulators, legislative framework, facilitation of trade, risk management, client service strategies.

Paying attention to tasks, that are assigned to Customs authorities in a due to conventions of removal international goods flow difficulties and increasing level of non-compliance by subjects of foreign economic activity (FEA) with established legislative regulations, there is a general need for changing approaches in the management of observance customs regulations. Worldwide tendency of making trade's procedures easier needs an effective state regulators on the basis of risk -management and client-oriented approach.

The basis of Customs law compliance and their regulation methods is legislative provisions, because of state's possibility to set a goal and to give the necessary tools for their achievement. This way, methods of regulation and Custom control of law compliance have to build on effective legislative framework, which will show the risk

management strategy based on accurate and timely information in order to stimulate an international trade [4].

It was studied the level of Customs law compliance by FEA subjects, which was used in this process. Ukrainian and foreign scientists studied the questions of Ukrainian state's Customs officers and measures for its introduction in efficient Customs activity, Customs regulation of Foreign Economic Activity, controlling the following Customs laws process based on risk- management, non-compliance penalty. We think that these studies are directed at measuring the level of Customs laws compliance by importers\ exporters in general, but do not study the ways of making it higher.

In consideration of rising state income's need and decreasing the numbers of Customs Violation Laws, we guess that the main purpose of the study is analysis of ways, which are directed at making higher the level of Customs law compliance by FEA subjects with the help of state regulators. Legislative framework is the most important state regulator, which is directed to make the level of Customs law compliance by FEA subjects higher. We need to renew the Legislative framework at the expense of trade facilitation by force of risk management. Such laws have to determine the order for goods registration, document requirements, inspection time and registration of imported goods. In addition to this, it gives an opportunity to provide a flexibility of goods declaration and to give Custom authorities a chance to move from existent control methods of international delivery to such methods, which used in instruments of risk-management. In Senga's opinion, renewed Customs laws provide to Custom authorities an effective mechanism of accounting and help to control the compliance process. It can also promote implementation of effective procedures principles, which based on risks, administrative procedures and interdepartmental agreement [6].

Besides, mentioned legislative provisions should develop in cooperation with all departments and administrations that are directed to questions of import-export activity and in cooperation with business area, which includes the Chamber of Commerce and Industry, Association of Enterprises, Association of Carriers. Summarizing, we can state with assurance that revised laws will help state's purpose, especially provide trade facilitations and make favorable investment climate.

We consider that the next important realization aspect of Customs service accordance is Customs compliance based on risk. Using such Risk Control Methods,

which are on the basis of accordance accurate and timely information, in order not to impede legitimate trade flow [4]. This approach concentrates on such principle: if tourists follow Customs laws totally, Customs control is minimal. Customs authority have to control the FEA subjects activity constantly to estimate the exist risks with the help of checks of documents and cargo searches, comprehensive audits for confirmation of its legislative requirements [3].

Identification and analysis of risks should be continuously processes (pre-arrival, at arrival and post clearance). Measures should be correspond to the risk- level: totally control, which includes complex checks and cargo searches. These measure swill be used in response to identified high-risk level. Using more or less serious sanctions depends on FEA subjects and their motivation. (fig. 1; 2) [2].

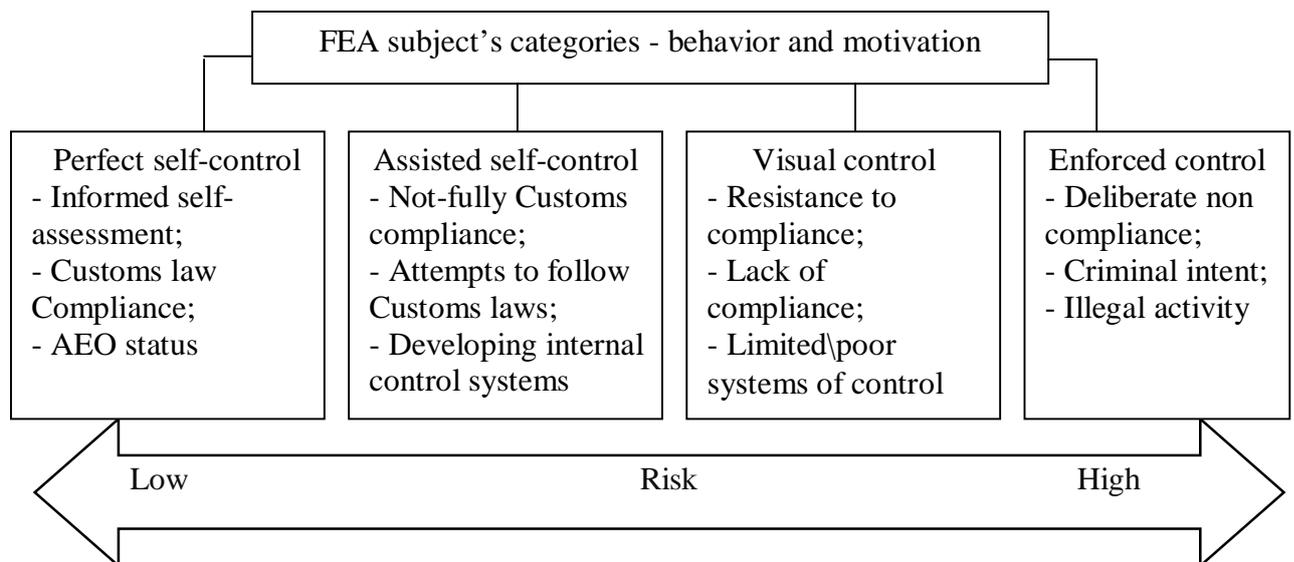


Figure 1. Customs laws compliance control based on risk-management

The next important element of Customs compliance system, which based on effective state-regulator of risk-management, is assessment of following state regulators with the help of chosen methods. The development of strategy for assessment of Customs compliance demands an attention, which based on crucial principle of Kyoto Convention, where indicated that Customs control should be limited to what is necessary to ensure compliance with the Customs law [9]. Guided by this principle, administrative regiments should not be onerous; they should provide demonstrations of Custom law compliance to the trading community by cost-efficient ways. [7].

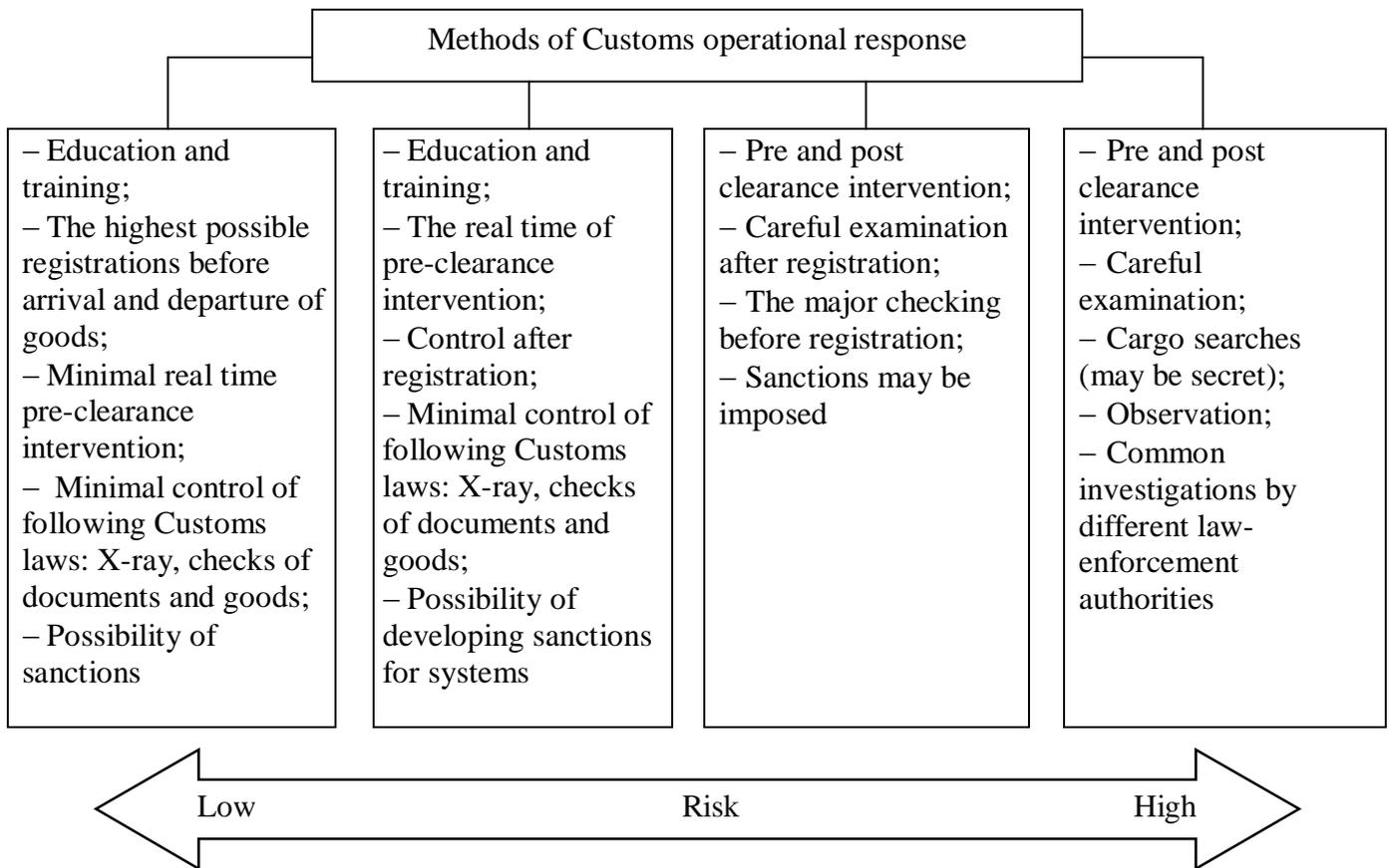


Figure 2. The structure of Customs operational response methods according to the risk level

Selection of appraisalment methods depends on risk level from the direction of FEA subject. In Murray’s opinion if an entity «is judged to represent a relatively low risk, the level of regulatory scrutiny may be reduced, with greater reliance being placed on a company’s self-assessment». Business with the high level of risk can be the subject of strict control and scrutiny.

This way, Ukrainian Customs agency can use combination of such methods for conformance evaluation: documentary checks, audits and investigations, information requirements, terms and methods of accountings, terms and tax collection forms. Mentioned methods should use in this order: 1) documentary check, 2) physical inspections, which based on a senior Customs officer’s suspicion about declaration contradictions [3].

Methods, using by Ukraine Customs Agency, should be different and correspond to the risk level. Previous checks, registrations and methods of post Customs audit should use with main tools of risk-oriented approach, because it provides less obsessive, but

more invigorative approach, in comparison with inspection methods or import-export checks.

Consequently, agreeing with D. Widdowson [8], we will examine the previous check and registration of air and sea goods with the help of automated systems, which are the most effective state regulator for making the level of Customs compliance higher. They include automated documentary assessment, selective examination and using x-ray equipment for detecting the potential risk of non-compliance. Customs Agency should check consolidated manifests with copies of previous air waybills\ bills of lading and invoices before airplane or ship arrival with the help of electronic control mechanisms. This used for detection of potential dangerous goods with the high level of risk. This definition must consider efficient information data, new tendencies and information about Customs compliance by consignors of goods and consignees. Any goods with high risk-level have to be selected for the further examination after arrival and formal registration.

In general, Customs Compliance Management consists of two main aspects enforcement and recognition. Corresponding sanction method, which used by Customs Agency, have to change depending on the risk-level, within the limits of risk- oriented approach. Then, Customs Agency have to detect reasons of Custom infractions exactly: is it in result of ineffective system of company management, equivocation of Customs requisitions or deliberate attempt to break the law. The enforcement methods to these situations should be varied beginning from running awareness seminars to more strict measures [1].

This method was described by Ian Ayres and John Braithwaite in the Regulatory Pyramid [2], at the top are the strictest measures, like license revocation, license suspension, criminal and civil penalty. At the bottom of this pyramid are less strict measures, for example, like warning letters. This way, we consider that using of all mentioned enforcement measures, which depend on the level of Customs non-compliance, is very useful for making the level of Customs compliance higher. Measure of persuasion and warning letters can be used for companies with low risk-level and cause voluntary observance of laws without penalization. In our opinion, it will help unintentional non-compliers correct their irregularities by themselves without applying sanctions, this way relations between Customs Agency and Business area will be supported and in addition to this, make the level of confidence higher on the whole.

More importantly, that different decisions about enforcement punishments must be solved depends on cause of FEA subject. For example, industry familiarization seminars and informative brochures can be consequences of mistakes, which caused by lack of understanding of the relevant regulatory provisions. Nevertheless, if FEA subject commits a tax fraud regularly, customs authorities will be forced to use more strict measures. [5]

Therefore, when enforcement measures are directed to ensuring Custom laws compliance with laws and rules, recognition should be used for comparative reliable employers with low risk-level. This FEA subjects must have good Customs compliance history and collaborate with Customs agency for making the level of Customs compliance better. Under these conditions, Customs agency should develop strategies for awarding individual employers and this way cause the further voluntary Customs compliance. In the view of some scientists, the most effective recognitions include opportunity estimate by yourself duties and laws, less onerous reporting requirements to accounts, periodic payment arrangement and simplified procedures [7].

Generally, in our view, publishing information about recognitions for Customs compliance and sanctions because of non- Compliance will reduce the modern high level of non-conformity and make the number of Custom non- Compliance related to licensing terms, Customs valuation rules, rules of origin, state system of exemption from tax, trade limits and rules of safety, simplification trade's procedures.

The last element of risk-oriented approach to control of Custom compliance process is suitable series of client service strategies, likewise effective consulting mechanism, accurate administrative principles and informational methods for international trade's members about modern Customs laws and other legislative intents, which influence on their effectiveness. It should be noted, that in Kyoto convention all attention was directed to importance of client service strategies, which include the requirement of «The Customs shall institute and maintain formal consultative relationships with the trade to increase co-operation and facilitate participation in establishing the most effective methods of working commensurate with national provisions and international agreements» [9].

Taking into account the modern situation of Customs non- Compliance by FEA subjects on the occasion of Custom valuation procedures, classification process, also

paying attention to assignment to adopt regulations of international conventions and movement towards European integration, the Ukrainian government and Customs authorities must guarantee that all trade's operations are performed by importers due to renew legislative requirements. With the purpose of making Customs compliance's level higher, it is necessary: to revise and to make corresponding changes to Customs legislation, to use risk-oriented management of Custom compliance process, to appraise Custom compliance regularly, to use high-effective methods ,such as previous inspection and registration, post-audit, enforcements and recognitions, and ,eventually, to develop client service strategies.

The future researches in this area can be devoted to development the best approach for supplying for appropriate level of Customs audit, effective measures of getting efficient information, strategies of cargo's selections and checks, methods of improving decision, making processes at a strategic and operational level.

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Submitted to Editorial Board 30.06.16