

STANDARDIZATION OF COMPETENCIES AND QUALIFICATIONS OF CUSTOMS REPRESENTATIVES OF THE EU MEMBER STATES

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Abstract

The object of the analysis being made in the scientific paper was the process of customs representatives' professional standards creation within the EU Member States in connection with the entry into force of the package of the EU Customs Code on May 1, 2016. Developed by the International Federation of Customs Brokers and Customs Representatives (further – CONFIAD), in order to unify the standards of services provided by customs brokers, the European Customs Brokers Code of Conduct and the Charter of Quality were not included in the package of the EU Customs Code. Therefore the author discusses whether the mentioned documents will harmonize the customs standards within the EU, because they do not replace the codes of professional conduct existing in the individual countries, or codes of ethics having been adapted by national Customs authorities, associations or organizations of customs brokers.

When analyzing the quality standards contained in the Charter of Quality, these standards turn out to be an exact copy of the European Customs Brokers Code of Conduct. Thus the author asks a question why the Charter of Quality has been created if it does not bring anything new and does not establish any standards for determining or improving the quality of customs services. The question whether the standards contained in the European Customs Code ensure a high level of professional competencies of customs representatives remains open. The author argues that the quality of customs services can not be determined by implementing the standards of the Code of Conduct as well as the Charter of Quality in the executive rules, since it is not justified both from the point of view of determining the quality of those services and from the point of view of customs rules.

The author concludes that the EU has a clear and unambiguous policy with regard to customs representatives.

Keywords: the European Customs Brokers Code of Conduct, the Charter of Quality, tax representative, standards of professional competencies, professional ethics.

Introduction

Standardization of the competencies and qualification of customs representatives in the EU is still being widely discussed in the EU customs environment. Despite the entry into force the package of the EU Customs Code on May 1, 2016, this question has no clear legislative regulation. In spite of the fact that the CONFIAD¹ supported the adoption of the European Customs Brokers Code of *Conduct* and the Charter of Quality, these documents were not included in the package of the EU Customs Code.

¹ International Federation of Customs Brokers and Customs Representatives (Confédération des Agents en Douane), <http://www.confriad.org/>

1. The European Customs Brokers Code of Conduct

Designed in 2012 and completed in 2015 by the CONFIAD, the European Customs Brokers Code of Conduct (Article 9 “Representation” was added)² as envisioned by the authors, described the principles, values and rules of conduct to encourage customs brokers to achieve high standards of professional ethics and proper performance of their duties, while at the same time protecting the rights of not only customers but also their income and financial interests of countries and not only of the CONFIAD Member States, but the entire European Union. The project has been promoted by the CONFIAD for many years with the aim of its inclusion in the EU customs legislation for the unification of customs brokers’ service standards. Will the Code really harmonize customs standards within the EU? Before answering this question unambiguously, we consider the provisions in the fourteen articles, which cover:

- The scope of application of the Code of Conduct (Article 1) – this applies to all customs brokers, affiliated by CONFIAD or concerns all those who voluntarily accept the Code and it does not replace the codes of professional conduct existing in individual countries, or codes of ethics, having been adapted by the national Customs authorities, associations or organizations of customs brokers.

- General principles and basic competencies of customs brokers (Article 2) – customs brokers can help exporters fulfill all formalities required by Customs, fiscal, sanitary, phytosanitary, veterinary authorities, as well as the formalities related to international trade, in order to avoid unnecessary errors and delays in the submission of customs declarations and protect clients from inaccurate, incorrect and improper execution of customs formalities at the same time simplifying the clearance of goods by accelerating brokers’ activity.

- Main requirements for customs brokers’ activity (Article 3) – requirements for customs brokers’ activity are regulated at the national level in accordance with the laws and regulations concerning, in particular, the procedures related to accreditation, registration and licensing.

- Ethical principles as the object of attention of customs brokers (Article 4) – customs brokers representing the interests of their clients should cooperate with Customs authorities in order to prevent fraud, corruption and other illegal acts as well as violations of customs and tax legislation in international trade. They should not incite or encourage importers to commit fraud or obtain an undue advantage using the trust of customers and make a profit from the use of their goodwill. They must not also participate along with customers in concealment of facts and information affecting the decision for the proper collection of customs duties and other charges relating to imports and exports.

- Standards of professional conduct (Article 5) – customs brokers carry out their duties to satisfy both clients and Customs administrations; hence they should observe justice and be guided by a sense of duty not to harm customers. In particular, they should not perform actions without having sufficient qualifications and competencies, and if there is any doubt, they should ask for advice and necessary assistance from the competent authorities as well as supervise and monitor the customs operations and / or transport documents and adhere to the appropriate management systems to have their activities monitored by Customs authorities.

- Confidentiality of information (Article 6) – customs brokers must ensure the confidentiality of information as a condition for the fulfillment of their tasks and share the information received, only in case of the client's consent or at the request of the relevant authorities.

- Free and fair competition (Article 7) – a competition between customs agents, both at the national and international level, should be based on free and fair competition. Every action and practice should be based on the quality criteria, not only on the price criteria.

² European Customs Brokers Code of Conduct, Confiad Paneuropean Network, October 6, 2015

• Clause of trust (Article 8) – customs brokers should offer a clause of trust in writing to their customers, in which in clear and accurate manner all the items necessary for identification of the client must be indicated, as well as all the documents necessary for the proper execution of the order, indicating the type of activity of a customs broker and, if necessary, for limiting his tasks.

• Representation (Article 9). – representation of interests of clients by customs brokers should be established in a writing form and may apply to one or more customs operations as well as should also indicate clearly and precisely all the elements necessary to identify a customer and all documents necessary for the proper fulfillment of a customs broker's tasks as well as determine the type of representation (direct / indirect)

• Payments and monetary management entrusted by clients (Article 10) – in respect of each service provided by customs brokers, they have the right to negotiate with a client about the appropriate payment in accordance with the national legislation and the legislation of the European community; brokers must also take care of the proper use of the money entrusted to them.

• National control of the Code (Article 11) – the association or organization that represent the interests of customs brokers at the national level should be responsible for their members' compliance with professional standards to meet the level of competencies and the other conditions set out in the Code. They must also carry out constant monitoring of their members compliance with ethics and professional requirements necessary for the proper business making.

• Non-compliance (Article 12) – in case of any non-compliance with the Code of Conduct requirements the national associations of customs brokers should immediately inform the CONFIAD.

• Advertising (Article 13) – Customs brokers can freely share information as well as inform the public about its activities and services, if the information is accurate, not misleading and the principle of anonymity and other basic professional values are observed.

• The right to use the CONFIAD logo and trademark (Article 14) – customs brokers, who voluntarily accept the Code of Conduct, making a correspondence, have the right to use the logo and trademark of the European CONFIAD network provided that the national associations of brokers accept the agreement and notify the CONFIAD.

The abovementioned rules, governing the activities of customs brokers and enshrined in the European Customs Brokers Code of Conduct, allow making a clear conclusion that the Code cannot be a means of customs standards unification within the EU, because still the access to the profession of customs broker in each Member State is a subject to the national jurisdiction, with its requirements for candidates to the level of their skills and knowledge. Thus, we are dealing with different conditions of access to the profession of customs broker and the different levels of skills and accreditation. This Code basically confirms the normative nature of the services provided by customs brokers, which means that they must act within the law, as otherwise they will be responsible for illegal activities, but the Code is silent about the scope of responsibility. Added Article 9 with respect to representation does not cover anything new, as the form of customs representation being carried out by customs brokers has always been recorded in writing.

It should be emphasized once again that, in accordance with customs regulations, each organization may appoint a customs broker (but not necessarily), who can be its direct or indirect representative to deal with Customs authorities in relation to customs procedures in accordance with the customs legislation. This optionality in combination with the adoption of an elective European Customs Brokers Code of Conduct as well as the regulatory nature of customs services, which follows directly from the customs legislation, shows that neither the Code nor the Charter of Quality introduces anything new concerning the quality of services provided by customs brokers.

2. The Charter of Quality

The Charter of Quality proposed by the CONFIAD sets out a range of standards aimed at providing basic guidelines for service providers, values and rules of conduct for the proper operations making, while protecting the public interest and the rights of customers. It consists of five articles, including:

- The scope of application of the Charter of Quality (Article 1) – the rules apply to all customs representatives registered in the EU, but not replace the code of ethics and ethical standards already adopted at the national level by professional organizations regulating the activity of customs representatives in each Member State.

- Requirements to the activities of customs representative (Article 2) – a customs broker's activity is regulated at the national level in accordance with the laws and administrative provisions concerning, in particular, the procedures related to accreditation, registration and licensing.

- Ethical principles as the subject of attention of customs representatives (Article 3) – customs brokers, who represent the interests of their clients, should cooperate with customs authorities in order to prevent fraud, corruption and other illegal acts and violations of customs and tax legislation in the field of international trade. They should not incite or encourage importers to commit fraud or obtain an undue advantage, making use of customers' trust as well as getting a profit from the use of their goodwill. They must not also participate along with customers in concealment of facts and information that affect the collection of the relevant customs duties and other charges relating to imports and exports.

- Standards of professional ethics (Article 4) – customs brokers must meet the high standards of professional ethics and competencies, always acting lawfully, fairly, be an integral part of Customs authorities and support the interests of their clients. They should maintain a high level of integrity, impartiality and professionalism, providing a high level of competence, striving to improve the sense of responsibility and professional status as well as constantly improving the quality of service.

- Performance of duties and integrity (Article 5) – customs brokers carrying out their duties in relation to clients and Customs authorities should be incumbent and diligent and seek to prevent any damage to customers.

When analyzing the quality standards contained in the Charter of Quality, we should emphasize that the CONFIAD, which represents the interests of customs brokers and customs representatives of 20,000 mostly small and medium-sized companies, employing about 250 thousand workers, had no intention of creating standards for the quality of services provided by the customs representatives. In general, these standards are an exact copy of the European Customs Brokers Code of Conduct. Thus the author asks a question why the Charter of Quality has been created if it does not bring anything new. And most importantly, it does not create any standards for determining or improving the quality of customs services. The answer to this question is beyond any rational and logical explanation.

3. The rules of the European Committee for Standardization regarding customs training programs in the EU

According to the original idea the provisions of the European Committee for Standardization³ should become an alternative to the uniform standards of competencies for the provision of customs services to the entities, which are not the authorized economic operators (AEO),⁴ but the broad analysis of the customs representatives environment showed

³ The European Committee for Standardization (French Comité Européen de Normalisation, CEN.) – an international non-profit organization whose primary purpose is to promote trade in goods and services through the development of European standards (Euronorm, EN)

⁴ Request to launch a CEN (European Committee of Standardization) procedure with the purpose of adopting a CEN standard on competency for customs representatives

that these standards can be applied only to the representatives within the system of AEO.

A preliminary statement on the promotion of the European Customs Code standards was signed by the European Association for forwarding, transport, logistics and customs services (CLECAT) and the International Federation of Customs Brokers and Customs Representatives (CONFIAD) in September 2010. Initially, the willingness to participate in the project was expressed only by four national agencies of standards out of 31 agencies, i.e. AFNOR (France), IPQ (Portugal), BSI (UK) and NBN (Belgium). Ultimately, only 8 of the 28 Member States have joined the project, namely France, United Kingdom, Cyprus, Denmark, Greece, Belgium, Finland and Sweden. Other countries have not shown interest in the application of standards of the European Committee for Standardization to customs representatives. The Austrian Chamber of Commerce even expressed an open opposition, arguing that it sees no point in creating such standards, which do not provide additional useful benefits, but on the contrary represent a danger, duplicating the bureaucratic barriers and, of course, create an additional burden for customs representatives that will bring the opposite to the intended effect associated with the introduction of a better regulation.⁵

The final contract for the development of legal provisions was signed between the European Committee for Standardization and AFNOR Company on June 5, 2013 for a period of three years, and the entire project was estimated in the amount of 51,000.00 euros. The draft European Customs Code was ready on November 20, 2014 and its main focus is made on the requirements to AEOs, but the final draft standards sent for formal vote were to be presented in March 2016, but in the end, this date was changed to the autumn of 2016. The near future will show whether the standards created by the European Committee for Standardization in 2016 will establish the high level of professional competencies for customs representatives.

At the initial stage of the design of the European standards of competencies for customs brokers they should have been included in the curriculum, but it soon became clear that two possible ways at this stage should be divided to achieve the goals of the common European system of competencies for customs representatives, which purposes are:

- to improve the quality of customs services for trade development in the EU;
- to support facilitation of international trade operations by creating uniform customs services;
- to create the conditions for building the single market of the EU customs representatives;
- to support the integration of the EU market of customs services by increasing its efficiency and improving its transparency;
- to unify the level of training required in the various Member States by increasing the compatibility of competencies and training models;
- to help improve compliance with customs laws and rules concerning VAT and excise duties as well as ensure a more efficient use of customs mechanisms;
- to affirm the evaluation standards specified in the AEO certificate to those customs representatives, who have a certificate and those who do not have it, but meet the criteria for the certificate.

Requirements to the level of knowledge of customs representatives should include the following: rules for the operation of Customs authorities (their structure and organization and their role in international trade), customs representation (direct and indirect), specialized agencies (access criteria, suspension, revocation and benefits), principles of functioning of customs tariffs and tariff nomenclature (including the related information about tariffs), proof of origin of goods (preferential and non-preferential, the proof of origin of goods and administrative methods of cooperation and principles related to the information about the

⁵ Résultats de vote sur les décisions CEN/BT par correspondance (BTC 097/2013) - Création d'un nouveau comité de projet sur les compétences douanières- Décision approuvée, 7 novembre 2013

origin), conditions of delivery of goods described in terms of logistics, such as INCOTERMS, Combiterms etc., customs duty and customs guarantees (creation and repayment of customs debts, recovery and liquidation, payment, types of customs guarantees), customs declaration (simplified standard entry in the register), customs procedures (authorization to sell, export and other special procedures), customs control and the obligations and rights of persons involved in international trade, customs formalities for imported goods (brief declaration, presentation of goods, formalities concerning the presentation, trade rules (rationing, prohibitions and restrictions, returns and benefits, anti-dumping duties, tariff quotas), export customs formalities (reduced declaration, notification of re-export, embargo on exports, export license, export simplification), principles of transit procedure functioning (internal transit, external transit, transit simplification, TIR, ATA), goods storage procedures (customs warehousing, temporary storage procedure), processing (passive improvement / active improvement procedure), free zones, zones of special purpose (temporary admission, end-use), VAT (tax payers, taxable transactions, calculation of VAT imposed on import and export, VAT on the movement of goods between Member States and VAT on services), excise duty (calculation of excise duty, excise duty management and control), provisions relating to the common agricultural policy.

The European Commission together with two European universities – in the Netherlands (Rotterdam School of Management) and in Germany (Münster University) is creating customs training facilities. Taxation and Customs Union Directorate General (DG TAXUD)⁶ using the Dublin Strategy prepared an educational program to train the private sector for customs procedures in the EU on the basis of four levels of knowledge – “conscious” (the first level), “educated” (the second level), “experienced” (the third level), “expert” (the fourth level) in the framework of a professional, operative and managerial competencies.⁷

The training program within the framework of professional competencies covers twenty-four positions, which mainly deal with core competencies in all areas of business and include:⁸ identification and management of operational risks in the context of customs operations, including the basic concept of risk management (risk identification, risk assessment, evaluation of risk management priority), focus on the knowledge of core concepts directing to results (organization, “Getting Things Done”⁹ etc.) and smart goals¹⁰ (specific, measurable, attainable, time-bound) or focusing on performance; concepts and theories related to teamwork based on five elements: education, adjustment, standardization, implementation, delay¹¹ and a variety of tools and ways of working together as a team (e.g. allocation of responsibilities, precise description of tasks, need for clear team vision, tools supporting collaboration etc.) and methods of decision-making in teams as well as their advantages and disadvantages (e.g. by a majority vote, on the basis of consensus etc.),

⁶ Directorate-General for Taxation and Customs Union, http://ec.europa.eu/taxation_customs/index_en.htm, EU Customs Training Curriculum for the Private Sector, Overview (June 2014), и Performance Development Framework Vision for the Customs and Taxation Profession (2016-2020), Extract of Non-Paper for discussion with TSG Members, European Commission, Taxation and Customs Union, March 30, 2015

⁷ EU Customs Training Curriculum for the Private Sector Overview, European Commission, Taxation and Customs Union, June 2014, pp. 1-6

⁸ EU Customs Training Curriculum for the Private Sector Professional Competencies, European Commission, Taxation and Customs Union, June 2014, pp. 1-37

⁹ Allen D. 2013, *Getting Things Done or the art of stress-free efficiency* (translation of M. Kapela), Onepress 2013

¹⁰ SMART – acronym for English words: Specific, Measurable, Achievable, Realistic, Time-bound. Lawlor K. Blaine & Hornyak Martin J. 2012, *Smart goals: how the application of smart goals can contribute to achievement of student learning outcome*, Developments in Business Simulation and Experiential Learning, volume 39, 2012, pp. 259-267

¹¹ This is one of the most famous theories of group development, which became the basis for many ideas appeared later. The model was developed by Bruce Tuckman in 1965

professional establishment of business contacts covering concepts, tools and processes of professional networks functioning, coaching / mentoring in customs activity, tools to be used in the context of knowledge and experience exchange (for example, support of internal organization experiences exchange with the use of technology platforms, i.e. PICS (Platform for Internet Content Selection), blogs, forums etc.), including their effect on knowledge and experience exchange within an organization, creating a broader picture of knowledge economy, ability to cope with stress and stressful situations, including stress reduction and development of an action plan to manage stress, knowledge of basic concepts and theories related to conflict management and resolution of conflicts and their possible impact on an individual and an organization, adaptability to change, including optimizing changes, continuous improvement (e.g. Kaizen, opinions, efficiency and effectiveness), basic concepts, theories and models for decision-making (e.g. cost-benefit analysis, comparative analysis, Pareto analysis, etc.), including the decision-making models (e.g. Vroom-Yetton-Iago Model, Kepner -Tregoe Matrix, OODA loop (OODA – Observe-Orient-Decide-Act) and choice between various options and their analysis and knowledge of the various methods to compare options (Pareto analysis or tree decisions, etc.); the most common tools and techniques used for the analysis of analytical thinking (e.g. SWOT-analysis, Fishbone diagram, root cause analysis), basic knowledge of human relationships (such as soft skills and emotional intelligence) and various styles of communication and social relations (for example, assertive, aggressive, passive-aggressive, submissive, manipulation) including business rules and business ethics (e.g. corresponding to the level of relations, respect, courtesy, etc.), problem-solving process including basic theories and concepts related to the solution of problems and their phases (definition of the problem, for example, Fishbone diagram, root cause analysis, etc., generating solutions, such as brainstorming, selecting the best solutions, applications and solutions (by implementation of a specific action plan), knowledge of the basic concepts related to time management and responsibilities (e.g. identification of priorities, order of tasks fulfillment, etc.) and strategies for time management (e.g. ABC analysis (ABC classification), Eisenhower method, POSEC method etc.), the process of determining priorities, including the concepts, methods and tools, data processing, including the theory (e.g. working memory theory, cognitive development theory) and types of data processing (e.g. simultaneously, gradually etc.), basic concepts of written communication (e.g. the structure of the target group message etc.) and models (e.g. AIDA model) and concepts connected with oral communication, including the main aspects for achieving effective oral communication (e.g. active listening, providing information to the public, clear speech), possibility of feedback and knowledge of accounting concepts (for example, for the collection and consolidation of information) and data management (e.g. data architecture, database management, data security etc.) and concepts and development trends in the field of information technology, including technical problems and system failures, tools available to support and facilitate virtual teamwork and methods used to overcome practical problems (e.g. conferencing, virtual meetings, web conferences etc.), concepts and theories of research (e.g. quantitative, qualitative, comparative researches), various stages of research (e.g. identification of the problem, information gathering, data analysis etc.), rules of action in accordance with a company's laws.

The training program to study operational competencies includes twenty-one competencies, in particular: the principles of business etiquette in a commercial environment and the role of government agencies (Customs) and private (e.g. business, customs brokers); knowledge of the terminology used in tariff and product classification nomenclature (Harmonized System of Goods Description and Coding, integrated nomenclature, general principles of interpretation and Binding Tariff Information (BTI); the provisions concerning the customs value of goods and methods of determining and calculating it, origin of goods and the rules that determine their origin (preferential and non-preferential), documents

related to origin and Binding Origin Information (BOI); knowledge of international, EU and national rules concerning prohibitions and restrictions on trade in goods (for example, embargoes, quotas, ceilings), including identification of counterfeit and pirated goods, precursors of narcotics, cultural property, endangered species of plants and animals (e.g. the CITES Convention); risk analysis and customs risk management, including in the national customs system; customs operations carried out at various stages of the supply chain and partners involved in the supply chain, including the security of the entire chain; knowledge of the customs legislation of the EU and the relevant rules; national authorization regulation and regulations governing international trade in goods; rules of entities' authorization, including enterprises of authorized economic operators (and monitoring the process issuing customs certificates and licenses in order to comply with the customs legislation in the field of customs clearance by monitoring and customs control for the proper organization of trade and the use of this customs system; knowledge of functioning of e-customs within customs systems and IT applications, information; knowledge of the procedures associated with the introduction of goods into the customs territory of the EU or the removal of goods from the customs territory and the related rights and obligations of the parties involved in the trade (for example, brief declaration, customs declaration), the AES system (Automated Export System), which replaced the ECS system (Export Control System) and AIS (Automated Import System), which replaced the ICS (import Control System); knowledge of export and import rules relating to excise goods, including the procedure for suspension of excise duty and applicable customs system (Excise Movement and Control System); the rules of procedure of customs duties payment (customs debt), including customs guarantee in customs procedures and deferment of payment of customs duties and rules of collection of VAT (Value-Added Tax), excise duties and other services and operations related to customs activities; knowledge of new trends, directions and simplification in international trade at the EU level and national procedures and rules for the release of goods for free circulation, including information customs systems used for this purpose; the order of the standard customs declaration, simplified, supplementing and incomplete declaration, entry in the accounting records of a declarant (also in the situation with or without customs declaration) as well as self-evaluation procedures and centralized customs clearance, customs formalities relating to the functioning of the special procedures, customs warehousing of goods, goods transit procedure as well as the principle of levying VAT in import and export procedures.

The training program within the framework of administrative competencies is designed for six levels and includes: knowledge of business, including the entrepreneur characteristics and principles of entrepreneurial activity construction; the key skills of a good negotiator (e.g. skills of hardness and softness, BATNA – Best Alternative to Negotiated Agreement), different styles of negotiation; various aspects of human resource management and key skills creating the most productive teams (e.g. team diversity, load sharing, cooperation mechanisms etc.); effective ways to communicate in a team; conflict management skills, including different styles; the basic concepts of communication management, depending on the type of stakeholder, communication channels, process and time etc. as well as key elements of the communication management process (e.g. communication strategy, developing a plan of communication, etc.) and customs processes management, their creation and interaction.

The abovementioned comprehensive program of customs competencies presented from the point of view of three segments (professional, operational and management competencies) is generally not new. The concept is based on well-known and currently used provisions concerning business management, including customs business and the constituent elements of the customs control of technological processes, human resources, partnerships with customers and customs authorities and risks, all of which contribute to the achievement

of business success as part of doing business in the digital environment, where the most important and certainly the most difficult, because it is still unpredictable, is the knowledge of the rules, policies, procedures and customs formalities which will gradually come into force till 2021.

4. Practical standards of competencies or professional qualifications

As reflected in Article 27, the provisions of the EU Customs Code in respect of practical standards of competencies or professional qualifications concern the harmonization of standards in the field of customs services provided by an Authorized Economic Operator (AEO) within the EU market and appear to be a step forward in regulation processes, as the EU Customs Code allows dealing with the issue of diversity of skills and qualifications gained at the national level. The first criterion of quality standards in the field of Customs, a proven practical experience of at least three years of working in the field of Customs, has been repeatedly criticized. It is necessary to find an explanation to what will be taken into account when assessing this criterion. It should be assumed that this applies to the settlement of all customs formalities, in accordance with Article 5, Paragraph 8 of the EU Customs Code, but it should be included in the sample, at least in an exemplary open directory.

The second criterion of quality standards in the field of Customs, adopted by the European Committee for Standardization, is largely a prospective provision, but these standards have been defined in the criteria for getting certification of AEO and because of the intangible and regulatory nature of customs services, they may be tested only by means of these standards. We can not apply the quality standards, applicable to goods, to customs services. Nor can we determine the quality of customs services through the introduction of standards of the Code of Ethics as well as the Charter of Quality in the executive rules, because it is not justified both from the standpoint of determining the quality of those services and from the point of view of customs rules, since in accordance with the provisions of the customs legislation a customs representative is assigned from the Customs authority to perform the activities and formalities required under the customs legislation (Article 5, Paragraph 6 in conjunction with Paragraph 8). The principles and ethical standards set out in the European Customs Brokers Code of Conduct, which are comments to customs regulations, suggest a normative character of customs representatives. Then the question arises concerning the aim of repeated adjustments. Ethical standards are a natural consequence of the activities of customs representative, if they comply with the customs legislation provisions. Thus, customs representatives should follow them in their activities. It is difficult to explain the purpose of their introduction into the executive rules.

The third criterion is somewhat new and, of course, is a priority for customs representatives – authorized economic operators, which is aimed at standardizing their level of education. The contents of Article 27 b clearly states that the person responsible for customs matters should get knowledge in the framework of his education provided by the customs authorities of the Member States or educational institutions recognized as those providing such a qualification or by the customs authorities or Member States agencies responsible for training or through a professional association, which is recognized by the customs authorities of the Member States or accredited by the European Union to provide this qualification. Was it the first step to the creation of the European Academy of Customs? It seems that way.

But we should look at the other side of the coin – customs representation in every subject of the Member States is under the national jurisdiction of each Member State. Qualifications and access to the profession of customs representative (customs broker) are not regulated in the same way in all Member States. There are also not any mandatory rules concerning recourse to customs representatives. Thus, in the proposed regulation two systems of customs representatives training are clearly distinguished: national, which

involves the training of customs specialists only within a national market, and European, which deals with the customs system representatives (AEO), who having EU standards of education can provide customs services in other Member States in accordance with the agreed rules. However, the fundamental question arises whether this adjustment is a natural elimination of the first model of Customs administration in the EU market and thus introduces common standards. It is difficult to clearly answer this question at this stage, but let's look at the other side of the coin – possibly the EU's legislation is aimed at creating barriers to the provision of customs representatives' services outside his own Customs administration, which is inferred by Article 18 Section 3 of the EU Customs Code. Thus, the legislation states that the customs representative who meets the criteria set out in Article 39 point a) has a right to provide customs services in another Member State than the one, which Customs administration hired him and the Member States themselves determine the conditions under which a customs representative may provide services in the Member State he was hired.

Another question, still not resolved, is the procedure of checking the level of knowledge of legal entities who are customs representatives, in other words, on what terms will these happen? Will this be a group score or an individual score? Because when it comes to natural persons who are representatives of Customs authorities, such assessment seems clear.

A very interesting question being discussed within the CONFIAD¹² was a Swedish commentary on modular training system for customs representatives¹³ as well as similar British comment¹⁴ that seems absurd in the regulatory environment of customs law, which, on the one hand, aspire to a high level education of customs representatives (except Poland), who should have the knowledge of the global customs legislation in order to be both an adviser and a representative of Customs administrations in dealing with entrepreneurs. On the other hand, the modular training system will make customs representatives be limited specialists, so that he will be able, for example, to make the commodity classification and will not be able to make a customs declaration for the specific customs procedure. Is it a relief for entrepreneurs who use customs brokers' services? The author thinks that it is not, as an entrepreneur will be forced in this case to use the services of a number of customs representatives, which significantly increases the time of customs clearance. And what will be the responsibility of customs brokers, combined by the chain of customs formalities carried out by them? Will the responsibility for all violations made intentionally or unintentionally by customs representatives be put on entrepreneurs, indemnifying customs brokers? Or will the entrepreneur himself search for the causes of the violation and subsequent refund? It seems almost unreal, because an entrepreneur choosing a customs representative relies on his expertise and doesn't need to know the current rules governing the process of customs clearance of goods, because customs brokers involved are to solve these tasks.

Summary and concluding remarks

When analyzing the proposals concerning the legal framework governing the activities of customs representatives within the EU market, we immediately find ourselves involved in a web of contradictions. Firstly, the whole world is seeking to increase the level of monitoring the access to the profession of customs brokers to ensure the safety of international trade. The European Union for the sake of the international operations security is liberalizing an access to the customs broker profession.

¹² Minutes of Confiad Paneuropean Network Board of Directors meeting Limassol, 12th June 2015

¹³ Treated comments on the 4th draft during CEN/PC 432 's 4th meeting In Paris "Competency for Customs Representatives", 30 June 2015

¹⁴ Herrero Ignacio, CEEN Meeting Paris, 30 June 2015

Secondly, the rules concerning customs representation in the EU countries remain under the national jurisdiction of each Member State, which is in compliance with the EU legislation, but on the other hand, the EU seeks to unify the standards of qualification and professional standards for customs representatives, who wish to provide services in other Member States, as well as the possibilities of obtaining these services by AEOs.

Thirdly, on the one hand, the EU allows for a variety of education systems and competencies in different Member States. On the other hand, it has delegated responsibility for the level of education to Customs authorities or agencies accredited by them for training and vocational training.

Fourth, there is no obligation to use the services of customs representatives, but the standards of the European Customs Brokers Code of Conduct are due to be integrated into the regulations of the Customs Code. Fifth, and perhaps most important, the EU doesn't have any clear and unambiguous policy with regard to customs representatives.

Endnotes

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