

## Section 5. Economic security

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### RESEARCH OF THE QUALITY AND SAFETY OF GOODS DURING CUSTOMS CLEARANCE

**Abstract.** The article describes the safety of consumer goods transported across the customs border, as well as consumed directly in the domestic market, as an integral element of national security, and in this regard, an analysis of the work carried out by customs authorities in this direction today is presented. At the same time, opinions were expressed on the implementation of the experience of foreign countries in ensuring the quality and safety of goods into the national practice, and proposals were developed for the improvement of activities.

**Keywords:** safety of goods, customs border, national security, high-quality customs control, safety of goods, counterfeit goods, intellectual property, identification of counterfeit goods, customs authorities.

#### I. Introduction

The safety of goods transported across the customs border, as well as directly consumed by citizens, is an integral element of national security.

As a result of the rapid development of the business sector in the Republic of Uzbekistan, large competitive firms and enterprises are being established in the country. However, there is an increasing risk of products of these firms and enterprises coming in at a low price from abroad.

Customs bodies play an important role in ensuring high-quality customs control in the territory of our country, regulating the circulation of goods, developing foreign trade, and at the same time protecting the domestic market from low-quality and counterfeit products.

At present, legal documents do not define the concept of “ensuring the safety of imported goods”. However, ensuring the safety of imported goods can be understood as a set of measures to prevent the entry of goods that are dangerous for public health, the environment, flora and fauna into the domestic market, and to determine their safety.

Today, the number of product safety violations is increasing year by year, despite the fact that many state regulatory bodies are monitoring.

There is no real opportunity to quickly and effectively determine the safety of goods in trade. The situation is aggravated by deficiencies in logistical support and insufficient personnel of border control bodies, which to some extent creates conditions for the introduction of dangerous products into the

customs territory. For this reason, cases of violation of the rights of an intellectual property owner, such as ensuring the safety of goods being transported through the customs border, applying brands directly to other goods by copying them without the permission of the right holder, or production similar to or exactly at a similar level to a well-known brand in order to distract.

Most people understand counterfeit goods as low-quality goods. Usually, counterfeit goods are of lower quality and cheaper than the real ones. But in practice, a counterfeit product can be of good quality. That's why experts consider this term only a concept related to the violation of intellectual property rights.

**Counterfeiting** is the use of the same or similar symbols displayed on other manufacturers' well-known, consumer goods without the consent of the right holder, and in this way, with the purpose of deceiving and misleading the buyer, and seeking profit.

As a result of not giving up the purchase of counterfeit and low-quality, and low-priced goods, goods that do not meet safety requirements can harm the health of consumers, and in some cases cause death. The fight against counterfeit goods should not be done only by one country or one body, but by joint action. It is precisely in the protection of intellectual property objects that the role of customs authorities is significant.

The purpose of activities in this area is to protect the interests of copyright owners, to ensure the income of payments to the state budget, as well as to protect the rights of consumers, to put an end to the circulation of goods that are dangerous for public health.

## II. Literature review

Today, it is possible to see the sale of fake products manufactured under the name of well-known company names and brands occupying the domestic market. When identifying counterfeit products, it is necessary to pay attention to its price. Due to the large number of products in the market area, there is a mix of fake products among the products of different companies. Today, we can see counterfeit goods in the products we eat, the medicines we take, and

the clothes we wear. In the process of production and sale of fake and counterfeit products, it poses a serious threat to the state economy. It also leads to tax payments not coming to the state budget.

The Commonwealth of Independent States (CIS) experts – V. O. Bronnikov ““counterfeit” is a fake under a famous brand or trademark, i.e. use of another trademark without property rights”, and according to the definition of V. S. Mirolyubova and V. Ya. Semen, “a counterfeit product is a violation of intellectual property rights expressed the opinion that it is a circulation of economic relations in relation to any object” [1].

It can be said that the product can be made with low quality even by its real owner. In this case, the term counterfeit or substandard product can be used for such a product.

But in this case, it would be wrong to use the term counterfeit. Because, under the term of counterfeit, first of all, there is a violation of intellectual property rights in the actions related to the production, sale or other way of putting the goods into circulation. That is, who performs these actions is considered as the main factor.

For example, if the mark present in the product is confusingly similar to the protected trademark, such a product is considered to be infringing the right to the object of intellectual property. Such similarity of trademarks is called “look-alike” in international practice. In this case, if the trademark for which this trademark is legally protected is compared with an existing trademark, their manufacturers are different enterprises, and the trademarks may have identical letters and drawings to the extent of confusion.

As mentioned above, the Law of the Republic of Uzbekistan “On trademarks, service marks and place of origin names” it can be seen that Article 27 directly reflects the concept of counterfeit goods. However, the procedural mechanism of their implementation has not been fully resolved in any regulatory legal documents.

It should be said that most of the counterfeit products produced in the world today are products

related to the trademark. At the same time, it remains an almost impossible task to determine how many other types of counterfeit goods, in particular those related to trademarks, enter our country from abroad. The reason is that customs authorities protect intellectual property objects based on the requirements of Chapter 56 of the Customs Code of the Republic of Uzbekistan. According to it, the customs body takes measures to stop the export of goods infringing the right to intellectual property objects within 10 days based on the application of the right holder. The purpose of the customs authorities to take such measures is to give the right holder an opportunity to apply to the court authorities in the case of the situation. If the owner of the right does not apply to the customs authorities, he cannot act. Customs authorities protect intellectual property rights in a “passive way”, that is, the customs authorities do not detect violations on their own initiative, but take actions based on the right holder’s application.

In global practice, customs authorities expose goods infringing intellectual property rights on their own initiative; this action is defined in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and is called “ex officio”.

Article 26 of the Law of the Republic of Uzbekistan “On trademarks, service marks and place of origin names” provides for unauthorized preparation, use, import, offering for sale, sale, and sale of a trademark or goods marked with this symbol. It is established that putting them into civil circulation in such a way, or keeping them for this purpose, or marking goods of the same kind that are exactly similar to them to the extent that they are confused with them, is recognized as a violation of the exclusive right to a trademark [2].

### III. Analysis and results

At the same time, an in-depth analysis of the path of development of our country, today’s world market situation has changed dramatically, and the competition is becoming more and more intense in the conditions of globalization. Requires the development

and implementation of a completely new approach and principles.

It is necessary to further increase the effectiveness of the ongoing reforms, create conditions for comprehensive and rapid development of the state and society, modernize our country and implement priority directions for liberalization of all spheres of life. Today, one of the most important priorities planned for 2022–2023 is the drastic simplification of customs procedures, the radical reform of cargo clearance at customs offices. Also, to establish customs complexes that meet modern requirements and operate on the basis of the “Single Window” principle in all regions of our country, to create favorable conditions for economic entities in the implementation of foreign economic activity, to optimize and simplify the administrative methods of regulating foreign trade, one of the urgent tasks is to implement systematic reforms in the customs sector in order to eliminate bureaucratic obstacles. In fact, together with these, preventing the entry of low-quality goods into the territory of the country is also a direct duty of the customs authorities. Protection of the country’s population from counterfeit, low-quality and dangerous goods is the responsibility of the customs authorities. In this regard, if we look at the following information:

According to the World Health Organization, 600 million people on our planet are poisoned by poor-quality food products every year.

In the production of low-quality goods, fake company names and brands are often widely used. Counterfeit drugs are drug products with illegally copied names and are the most profitable sector of the world trade, and the financial loss caused by them is 217 billion US dollars per year. These types of drugs harm or kill millions of people around the world, and seriously damage the brands and sales of major pharmaceutical manufacturers.

According to the information of “Uzstandart” agency, as a result of state control activities on product quality, in 2021 it was found that 256 types of imported products worth 45 billion sums did not meet

the quality requirements. 87% of it is food products, which are mainly imported from Kazakhstan, Georgia, Pakistan, Turkey and Russia [3].

Also, in 2021, the State customs committee found food products worth 391.2 million sums (candy, tea, chocolate, etc.) worth 391.2 million sums, whose packaging did not have an expiration date, in 22 cases worth 411.3 million sums worth of drugs were prevented from being illegally brought into the territory of our republic.

This information alone shows that protecting our population from low-quality food, substandard drugs and counterfeit goods is an important strategic task.

16465 in 2018, 21671 in 2019, 24121 in 2020, and 31794 in 2021 were conducted by the customs examination departments of the State Customs Committee and regional administrations [4].

From the above information, we can see that the Central customs laboratory of the State Customs Committee is conducting examinations in order to determine the Commodity nomenclature of foreign economic activity (CN FEA) code of the goods. This is definitely having its effect, the circulation of low-quality goods that are dangerous for human life is being stopped at least partially.

Food products imported into the territory of the Republic of Uzbekistan must comply with the requirements of the norms and regulations specified in the Law. Compliance of the quality and safety of any imported food product with the norms and regulations is determined by the special control bodies of the state and together with the customs authorities. For state registration, the supplier of food imported from abroad shall submit the documents of the manufacturer and the body specially represented by the exporting country confirming the safety of this product, and samples of the food product when it is necessary to carry out an appropriate examination. This indicates that imported food products, technologies and equipment must be certified in accordance with the law. From the production and sale of food products that have ex-

pired, are of poor quality, and are deemed unfit for food by the bodies of the state sanitary control and the state veterinary service according to the results of sanitary-hygienic expertise, laboratory tests and veterinary, veterinary-sanitary expertise and certification tests removed and must not be used for its intended purpose, recycled or destroyed [5].

Identification of counterfeit goods is directly related to the protection of intellectual property objects. When foreign experiences are studied in this regard, signs of violation of rights to intellectual property objects in the international practice of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the normative legal documents of the CIS countries, that is, Armenia, Ukraine and Moldova on customs legislation a temporary restriction on existing goods, i.e. it is possible to suspend the exit of goods for a certain period of time.

Based on this, in the customs sector of most countries, including the USA, customs officers identify counterfeit goods and decide the fate of the goods themselves. Identified counterfeit foods and drugs that harm public health will destroy the products themselves. But their goods that can be used in other social life, such as clothes, household appliances, and new appliances, are handed over to orphanages or old people's homes in the country, removing the labels. In European countries, counterfeit or low-quality products are detected by the customs at the border and immediately sent back [6].

Pursuant to Article 4 of the Law of the Republic of Uzbekistan "On protection of consumer rights", consumers:

- getting correct and complete information about the product, as well as about the manufacturer (seller);
- free choice of goods and their quality;
- product safety;
- full compensation of material damage and moral damage caused by the goods with dangerous defects for life, health and property, as well as the illegal action (inaction) of the manufacturer (seller);

– has the right to apply to the court and other competent state bodies for the protection of their violated rights or interests protected by law [7].

Counterfeit imported to our republic illegally medicines pose serious health risks to consumers. Unfortunately, they may contain harmful chemicals. Their presale is also a factor in the production of counterfeit products. It is prohibited to import low-quality, forged, unregistered medicines and medical supplies, as well as illegal copies of medicines registered in the Republic of Uzbekistan.

Identification of counterfeit goods by the customs authorities of foreign countries is carried out through various procedures. In particular, what should be important in stopping counterfeit goods in the US with the help of Customs and Border Protection officers. They focus on destroying goods sold online while protecting branded goods. Many countries have established administrative and criminal liability for trademark violations of counterfeit products. In particular, in the Criminal Codes of the Russian Federation, Belarus, Kazakhstan, Tajikistan and Armenia, the above activity is recognized as a crime. Due to the fact that the system for combating the import of counterfeit products related to the trademark has not been established, it also has a negative effect on the decrease in the revenue of customs fees.

In addition, the lack of a system for combating the import of counterfeit products related to the trademark has a negative impact on the development of investment activity for the Republic of Uzbekistan and the increase of the country's reputation in the international arena.

In the US, trademark protection is maintained by the Customs and Border Protection (CBP) system, a division of the Department of Homeland Security. In the US, all intellectual property owners register their property in the IP system. Any goods and vehicles trying to cross the US border through the CBP system have the opportunity to receive information about the cargo being transported. If they

detect counterfeit goods, they have the authority to seize and confiscate them. When counterfeit goods are detected and confirmed, an intellectual property (IP) owner usually has 2 ways to protect their product: destruction of the goods and legal action against IP infringers [8]. The advantages of these actions are that the entry and sale of counterfeit and low-quality goods that are dangerous to human life are prevented.

By submitting all information to the Intellectual Property Agency to protect legitimate goods, the chances of identifying and contacting those responsible for counterfeit goods can be increased. In the EU, goods suspected of infringing trademark IP are detained at the border and product inquiries are sent to border controls. UK Border Force and Customs work together to tackle counterfeit and substandard goods at the UK border. Intellectual property rights at the Canadian border are administered by the Canada Border Services Agency. The owner of the intellectual property rights of the brand may apply for assistance. Export is permitted after proper registration with the Canadian Intellectual Property Office. This service is provided free of charge.

To cooperate with Chinese customs authorities, brands must provide up-to-date information on IP, including descriptions of products and packaging, photographs and samples. Also, in China, a list of authorized brand representatives in the country has been formed, and citizens are advised to contact the customs authorities in cases of suspected illegal transportation across the borders. As with customs authorities in other countries, China has the authority to destroy counterfeit goods. Interestingly, these items can also be donated or auctioned [9].

The Australian Border Force (ABF) is responsible for preventing the entry of substandard goods and combating counterfeit goods in Australia. Every trademark or copyright owner who wishes to protect the border submits its documents to the Australian Border Force. These documents provide the ABF with the ability to seize any goods suspected of

infringing the IP. At the same time, this document is an agreement confirming that the IP is responsible for the costs of implementation at the border. This means that intellectual property rights holders who want to stop counterfeit goods from entering Australia must pay the costs of transporting, storing and destroying the seized goods [10].

Importing and selling counterfeit goods is a huge problem in Venezuela. In recent years, the state has introduced mechanisms to combat counterfeit goods. However, these efforts are not enough due to the fact that the sale of counterfeit goods is increasing around the world, and new methods of distribution of goods are being devised by manufacturers of fake and low-quality products. In Venezuela, law enforcement agencies use the following laws to combat counterfeiting and piracy against those engaged in the importation and sale of counterfeit goods: Constitution, Paris Convention, Berne Convention, Rome Convention, Agreement on Trade-Related Aspects of Intellectual Property Rights, Customs Laws, Anti-Smuggling Crimes law, Administrative Provisions, Criminal Code, Business Regulations, Industrial Property Law, Copyright Law, Copyright Law and Special Law against Computer Crimes. This Convention and laws provide for the prevention and cessation of import, storage and sale of goods, as well as compensation for damages and fines in case of violation of the rights of property owners [11].

In Venezuela, all individuals are advised to work closely with law enforcement to obtain information on legitimate goods and clear guidance on identifying counterfeit goods. It is recommended to keep a close eye on e-commerce websites. Master classes are regularly organized by bodies that help distinguish counterfeit goods. Also in Venezuela: monitoring online sales; determine the prevalence of a particular brand in a market or on a particular website; the practice of counting the number of low-quality products on the market and more effective prosecution of criminals has been established. Cooperation between the property owner and the customs authori-

ties is very important. Because the removal of fake or counterfeit goods leads to both ensuring the rights of the property owner and stopping the circulation of low-quality and counterfeit goods through the customs border [12].

Today, before investing in a country, companies that produce goods are familiar with whether or not a mechanism for protecting intellectual property has been created in that country. No investor wants to bring his goods from abroad at a low price and sell them in that country. In particular, the fact that the share of the main goods entering the territory of the Republic of Uzbekistan corresponds to the share of the Chinese state makes this situation even more complicated. The basis for this is the fact that the Chinese state today produces more than 74% of counterfeit goods in the world.

It is known that today the Republic of Uzbekistan needs to take its place in the foreign market, to release competitive goods to the foreign market and to cooperate closely with the World Trade Organization in order to further develop international economic cooperation. However, it is no secret that the lack of a system to combat the import of counterfeit goods has a negative impact on it.

The Republic of Uzbekistan is studying the issues of becoming a member of various international organizations, including the World Trade Organization and other prestigious international organizations, in order to bring its products to the world market, increase its export potential, and increase the share of imports of quality products. In this regard, improving the position of the Republic of Uzbekistan in international rankings and indexes, protecting intellectual property rights in ensuring freedom in economic activity, and solving some existing theoretical and practical problems in this direction is one of the urgent tasks.

#### **IV. Conclusion and discussions**

Today, the effectiveness of the measures used by the customs authorities in the fight against counterfeit products shows the need for continuous cooperation with consumers. High-quality material and

technical support of customs authorities gives good results in identifying counterfeit and low-quality goods. The provision of technical means to the employees of the customs authorities performing customs control serves to ensure the quality of the control. Today, huge profits from the production and distribution of counterfeit and low-quality goods lead to an increase in crime, the financial strengthening of criminal groups, and the legalization of illegal income. First of all, this poses a serious threat to the economic security of the countries, the security of the society, the health and life of people.

In conclusion, it can be said that the increase of goods that can be competitive in the world market in Uzbekistan, the state policy of attracting foreign investments in our country, the increase of the prestige of Uzbekistan in the world, and putting an end to the circulation of counterfeit and low-quality goods are a number of tasks that we have to carry out in front of us.

The Customs Code not only creates more favorable conditions for the development of business and entrepreneurship in the field of foreign economic activity, but also plays an important role in ensuring effective customs control in the territory of our country, regulating the circulation of goods, developing foreign trade, and protecting the domestic market from low-quality and counterfeit products. It is necessary to fully and effectively use modern information technologies in customs activities, as in all areas, and to avoid subjective factors in customs clearance, to fully form the legal basis for protecting counterfeit goods that harm public health, damage to trademark owners, and copyright to products. Currently, in the field of consumer protection, it is necessary to carry out comprehensive measures, including in the purchase of goods of acceptable quality that are safe for the life and health of people, as well as in obtaining accurate information about the goods and their manufacturers, and to fight to reduce the volume of illegally circulating, low-quality, counterfeit and counterfeit products. All of us must fight against violations of laws that harm the lives and health of

citizens, lead to unhealthy competition and harm the state budget of the Republic of Uzbekistan.

According to the data of the bulletin of the State Statistics Committee of the Republic of Uzbekistan on the export and import of goods and services prepared at the end of January-September 2022, the total amount of goods was imported to our country equal to 21973 117300 US dollars. Of this amount equal to 4768 152520 US dollars was imported from China. It is clear from this that the acceleration of the import of goods from the state of China to the territory of our country may lead to an increase in the import of counterfeit goods related to the trademark and, as a result, to an increase in the risk of serious damage to the economic security of our country.

Based on this, the following can be included as suggestions:

1. Today, the number of trademarks in the register of intellectual property objects maintained by the customs authorities is not coordinated with the register maintained by the Intellectual Property Agency under the Ministry of Justice. This, in turn, can create a number of problems in practice. Based on this, we believe that it is appropriate to combine the register maintained by the customs authorities and the Intellectual Property Agency under the Ministry of Justice.

2. Based on foreign experience, when customs authorities detect counterfeit goods related to the trademark, it is necessary to create an opportunity to take measures independently without waiting for an application from the real owner of these goods. That is, based on the requirements of the TRIPS agreement, it is necessary to maintain a customs register for the protection of intellectual property objects, in particular, trademarks, and to fight against counterfeiting of trademarks in the register.

The above information shows that violations of Intellectual Property and entry of low-quality goods into domestic markets pose a serious threat not only to the economy, but also to the health of the population. Therefore, one of the urgent tasks is to further improve the current legal framework of the system of protection

of intellectual property objects in Uzbekistan, to ensure the joint activities of state bodies and interested organizations, and most importantly to systematically promote theoretical, legal knowledge about the sphere among various segments of society, especially young people, participants in foreign economic activity.

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