

An Appraisal of Complexities in Customs Duties and Taxes on Imported Goods in Cameroon

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Abstract: In most parts of Africa and the world at large, a greater part of state revenue comes from customs duties and taxes. In Cameroon, these principal sources of state revenue however are characterized by complexities that if resolved, will ease the process and entice economic operators both foreign and local to import more goods into the country. Thus, this study seeks to examine the challenges that characterize the importation of goods with respect to customs duties and taxes on imported goods. The article dwelled on resource material from primary and secondary sources to make its submissions, and the qualitative and quantitative research style approach were helpful in arriving at the findings of the study. The paper argues that to resolve intricacies on customs duties and taxes, it is necessary to facilitate the payment and/or calculation of existing customs duties and taxes on imported goods with an emphasis on the legal and regulatory framework. Findings from the study revealed that there exist numerous duties and taxes, and lengthy payment procedures, resulting in conflicts, the practice of corruption through evasion and fraud, or the abandonment of goods by importers. This causes the government to lose and at the same time discourages importers. This paper therefore submits that such payments should be made in the form of a lump sum amount so as to facilitate its calculation, taxes should be streamlined to the understanding of all actors and seminars should be organized for importers to avoid misunderstanding of the procedure.

Keywords: Customs, Tax, Goods, Revenue, State.

1. INTRODUCTION

Customs duties and taxes are the backbone of any economy from which most of a country's revenue is gotten. This revenue fulfills an irreplaceable role in ensuring the economic development and economic growth of the country.¹ Customs duty considered one of the oldest forms of taxation is a tariff levied on goods when transported across international borders,² with two main purposes; to generate revenue, and to protect each country's local industries, residents, jobs, and environment.³ It does so by controlling the flow of goods, especially restrictive and prohibited goods, into and out of the country. Customs duties are imposed based on a Customs territory which is a geographical area with uniform Customs regulations. This could be in the case of a sovereign state, a trade bloc that has a customs union, an autonomous or dependent territory to whom is granted by the sovereign government some degree of independence in foreign trade and customs policy. On the other hand, a tax is a fee charged by a government on a product, income or activity⁴. In accordance with the trusteeship agreement between France and the United Nations, all nations had equal tariff treatment. Many types of goods essential for economic, social, and educational development are exempted from duty and export duties were moderate.⁵ Despite this situation, the direction of Cameroon's trade was to the franc currency zone. Importers were required to secure import licenses for non-franc zone products.

¹Vladimír Mokry, "Taxes, Taxation and the Tax System" in *National Economy* BIATEC, Vol. XIV, 12/2006.

University of Economics in Bratislava, online: https://www.nbs.sk/img/documents/biatec/bia12_06/17_21.pdf

²World Customs Organization. December 2018. "Glossary of International Customs Terms. Brussels, www.wcoomd.org. https://www.juseda.org/uganda/files/uganda_customs.pdf

³<https://ntrc.gov.ph/images/Publications/guide-to-philippine-taxes-2016/tariff-and-customs-duties.pdf>

⁴<https://ntrc.gov.ph/images/Publications/guide-to-philippine-taxes-2016/tariff-and-customs-duties.pdf>

⁵ Act 2/92-UDEAC-556-CD-SE1 of 30th April 1992, revising act No.13/65-UDEAC-35 fixing conditions of application of article 241 of the CEMAC Customs code. This act was modified by act No.28/94-UDEAC-CD-56

In 1994, Cameroon's new Regional Reform Program reduced taxes on imports from over 7% to 4% and reduced the overall rate from a maximum of 100% to a maximum of 70% on luxury goods, and a minimum of 5% on necessities. Today, however, Cameroon employs the common external tariff using four categories: necessities, 5%; raw materials and equipment, 10%; semi-finished goods, 20%; and finished products, 30%. There is also an excise tax, an indirect tax on consumer goods, of 25%, and a value-added tax that is generally 19.25% and zero percent for exportation.⁶The problem here is that the CEMAC common external tariff classifies goods into different categories and their bases of calculation vary from 5% to 30%. How the customs duties and taxes are derived/calculated from these bases remains a mystery to the user. The complexity in the calculation brings about a misunderstanding between the importer and the customs broker and a misconception about the customs administration. Most importers abandon their goods at the ports not because of high taxes but because of the complexity of the calculation, valuation, methods, and procedures of payment. In order to deconstruct this complexity, this research thus focuses on how customs duties and taxes are calculated, some of the difficulties faced in the calculation and payment of customs duties and taxes and the method to be used in order to facilitate the calculation and payment of existing customs duties and taxes applicable on imported goods in Cameroon. This will enable an understanding on whether the legal and regulatory frameworks for the imposition of Customs duties and taxes on imported goods can entice economic operators, both foreign and local to import goods into Cameroon.

2. THEORETICAL NEXUS

Several theories of taxation exist in public economics. Governments at all levels (national, regional and local) need to raise revenue from a variety of sources to finance public-sector expenditures. Ibn Khaldun's theory of taxation has been considered one of his most important contributions to economic thought. In the *Muqaddimah*, he relates the theory of taxation with the government expenditure and argued for low tax rate so that incentive to work is not killed and taxes are paid happily. According to him, at the beginning of a dynasty, taxation yields large revenue from small assessment, but at the end of a dynasty, taxation yields small revenue from large assessment. The effect of taxation on incentives and productivity is so clearly visualized by Ibn Khaldun that he seems to have grasped the concept of optimum taxation. He also analyzed the effect of government expenditure on the economy. He advocates a policy of wise and productive public expenditure. By these economic insights, Ibn Khaldun has been considered as the forerunner of modern recommendations that high tax rates shrink the tax base because they reduce the economic activity.

On his part, Adam Smith in *The Wealth of Nations* (1776) wrote:

"Such things as defending the country and maintaining the institutions of good government are of general benefit to the public. Thus, it is reasonable that the population as a whole should contribute to the tax costs. It is also reasonable to demand certain other things of a tax system – for example, that the amounts of tax individuals pay should bear some relationship to their abilities to pay... Good taxes meet four major criteria. They are (1) proportionate to incomes or abilities to pay (2) certain rather than arbitrary (3) payable at times and in ways convenient to the taxpayers and (4) cheap to administer and collect."

In modern public-finance literature, there have been two main issues: who can pay and who can benefit (Benefit principle). Influential theories have been the ability theory presented by Arthur Cecil Pigou and the benefit theory developed by Erik Lindahl. There is a later version of the benefit theory known as the "voluntary exchange" theory. Under the benefit theory, tax levels are automatically determined, because taxpayers pay proportionately for the government benefits they receive. In other words, the individuals who benefit the most from public services pay the most taxes.

From another perspective, before J. Viner developed the theory of customs union, there was a general belief that customs union raises the level of welfare as customs union is a movement towards freer trade at least within a specific area. Viner pointed out that the conclusion concerning increase in welfare due to customs union is not necessarily true. He analysed the production effects of customs union through the concepts of trade creation and trade diversion. The works of the writers like Meade,

of 18th December 1994. It puts the VI title of act No.2/92 in profit of importation of educative, scientific and cultural characteristics.

⁶ Article 142 (1a) General Tax Code

Lipsey, Lancaster and many others analysed the consumption effects. H.G. Johnson followed a partial equilibrium approach to investigate fully the effects of a customs union by incorporating both the production and consumption effects. The present paper based on these theories to analyse the complexities in customs duties and taxes on imported goods in Cameroon by presenting empirical evidence that may support and strengthen the customs and taxation system practicality today.

3. BASIS FOR INCREASED CUSTOMS DUTIES IN CAMEROON

Taxation law is autonomous and statutory, hence every sovereign state has its own tax law which is aimed at realizing its socio-economic and development needs. As a result of this, the tax laws in Cameroon have been inspired by principles of ordinary law. The economy of Cameroon experienced a sustained growth rate of 7.5 % from 1980-1986. This was associated essentially with the boom in the oil sector. Increased economic resources generated from the oil sector raised the investment rate in the economy and maintained a reasonable level of external indebtedness. After this period, the Cameroonian economy experienced negative growth caused by a successive decline in the terms of trade; economic growth plummeted by about 65% from 1986 -1988⁷ leading to profound imbalances, notably in public finance and the external account⁸. This constituted a basis for the economic crisis that ravaged Cameroon in the eighties. Faced with the economic and financial crisis that ensued, the government initiated a series of reforms in the form of structural adjustment programmes (SAPs) supported by the International Monetary Fund (IMF) and the World Bank.

A major component of these programmes was a budgetary adjustment. One of the recommended conditions for achieving rapid, equitable and sustainable economic growth in Cameroon was the need for the establishment of a healthy public finance system. Customs duties and taxes were one of the means for a healthy financial system. From this perspective, revenue from Customs duties and taxes must be adequate to avoid public finance imbalances and trigger deficit-free. In addition, tax levies must be designed to encourage local and foreign investment and minimize unfavourable distortions to economic growth.⁹ In the last one to two decades, Cameroon has witnessed fluctuating levels of taxation due to many difficult economic circumstances, the implementation of inappropriate fiscal policies, weaknesses of the tax administrative capability, heavy taxation burden, and inconsistency, lack of appropriate incentive and increased fraud.¹⁰

In line with the structural adjustment process and the Reform Programme of Customs by the Union of Central African States (UCAS), now CEMAC, Cameroon from the year 1990, has undertaken a series of revisions of its tax system to adapt it to national economic realities. Efficient and equitable taxation encourages production. The accumulation of national wealth stimulates investments and hence job creation. Therefore, an efficient and equitable tax system can go a long way to ensure sustainable growth in Cameroon.¹¹ Taxes have been the blood of good governance. Contemporary ambitious developmental schemes for all-round progress of society rests on the revenue, generated through taxation. The power to levy taxes is vested with the sovereign. Tax proceeds go to the general revenues of the state, while the taxpayer benefits from common or public resources such as roads, electricity, and schools, put in place by the state using these revenues. However, the citizens of a democratic state have the advantage of being taxed only with the consent of their elected representatives.

To facilitate the collection of taxes, countries around the world have put the responsibility of collecting taxes associated with imported goods on the Customs department. The implementation of these taxes depends on customs regulations of each country; those of the CEMAC¹² sub region are given special treatment. In Cameroon,¹³ taxes imposed on imported goods vary in relation to the

⁸Samuel Fambon, "Taxation in Developing Countries Case Study of Cameroon", Research Paper No. 2006/02, United Nations University, UNU-WIDER January 2006, p.1

⁹Samuel Fambon, "Taxation in Developing Countries Case Study of Cameroon", p.1

¹⁰ ibid

¹¹ ibid

¹²The treaty instituting the Economic and Monetary Community of Central Africa (CEMAC) was signed at the Summit of Ndjamena on the 16th March 1994 composed of; Cameroon, Central Africa Republic, Chad, Equatorial Guinea, Gabon and Congo

¹³ Generally, Cameroon tax policy operates concordantly with the commercial policy. The country's tax system is categorized into direct and indirect taxes

origin of the goods (national or international) and whether the transaction involves an importation or exportation. Attempts to form regional unions to meet modern challenges have been fashionable. Africa of course has not been an exception. However, these efforts have met numerous obstacles. Regional market/integration will suppress various forms of discrimination between national economies. In this regard, the objective of member states is to merge their separate markets into one larger market. This integration process is progressive and involves complete economic and political integration by creating a free zone, Customs union, common market, and economic union, CEMAC is a supra-national organisation put in place to oversee the complete unification of fiscal, monetary, and investment policies. Within the CEMAC zone, important transitional projects including taxation and customs reforms have been proposed.

Customs duties are tolls payable on imported or exported merchandise. Thus, Customs duties constitute a form of tax. Customs duties vary from state to state depending on the financial, economic, political, legislative, and military needs of each country. This explains why the Organization for the Harmonization of Business Law (OHADA) could not pass legislation on them although reference is at times made to it. This highlights why it was important for the CEMAC member States to march towards regional unity vis-a-vis the application of unique policies and the creation of a common market involving fiscal and customs reforms. The legal integration of the Sub-region is expected to create a conducive environment for the concrete harmonization of fiscal and customs activities. Differences in national legislation have been a great obstacle to unification. Even if not explicitly stated in the texts, relationships between the community and national legal orders is founded on two fundamental principles; The integration of the community into national law and the primacy of the community on the national law. This calls for the immediate application of community laws from the date of publication without the need for any procedure of transposition or reception, and that national jurisdictions are expected to respect and apply such laws. Legal integration was expected to serve as a catalyst for the harmonization of economic and financial, budgetary, sectoral, and monetary policies in general, and fiscal and customs reforms. To achieve this, the member states are subject to a number of obligations: Member states must avoid activities that hinder the realization of the economic policies (taxation and customs) of the union, and Member states must defend the union productions against policies of competition of third states.

CEMAC has a fundamental objective, the creation of a common market whose functioning involves the citizens of the community directly. Its treaty, therefore, constitutes an agreement to create mutual obligations to the contracting members. The community is supposed to be a new legal entity whose members are not only the countries but also citizens of the countries. This ultimate objective will be achieved when four types of fundamental free movements have been realized. To achieve this goal, some actions and reforms have been adopted. For example, the national administration has been forbidden from instituting any new customs duties or from increasing existing taxes in commercial activities with member states. Taxation rules therefore must be adapted to correspond to the community obligations which are incompatible with the common market direct aid accorded by means of state resources under any form which hinder competition in favour of certain enterprises or productions. This is enforced by the regional council on competition and states are called upon to submit their enterprises to the rule of competition. Thus, all forms of discrimination that might serve as obstacles to the free competition must be eliminated in the relations between the member states of the community.

During the third summit of the CEMAC heads of state at Yaoundé, which had an impressive attendance, some resolutions were taken to put more fuel to the flames of the integration process. One of the key resolutions was the unification of the community tax on importation and companies. See, for example, the CEMAC Fiscal and Customs conventions.¹⁴ Taxes applicable on imported goods are deductions to be made immediately by customs on goods crossing a customs territory either upon importation¹⁵ or exportation,¹⁶ depending on the type of taxation and the conditions provided by the law. International trade was founded on a notion known as “trade by barter”.¹⁷ Overtime this practice was abolished with the emergence of more positive trade systems based on real international

¹⁴ CEMAC Customs code August 2003 edition

¹⁵ Entry duties

¹⁶ Exit duties

¹⁷ Exchange of goods for goods

exchange. This led to the creation of today's main exchange instrument Money. These taxes are calculated based on the imposable value (one of the fundamental elements of taxation). In accordance with articles 2 and 3 of the Customs Code,¹⁸ priority involving partial or full exemptions from taxes in the conditions provided for by Customs Regulations in force is conferred to certain goods across customs territories. This is in order to avoid penalizing the economy for certain transactions whose social and economic utility will be established that will be economically beneficial to countries.

4. COMPLEXITIES OF CUSTOMS DUTIES AND TAXES ON IMPORTED GOODS IN CAMEROON

Imported goods into a customs territory must be forwarded for declaration, verification, and taxed if necessary¹⁹ Before putting these goods for home consumption, they are levied customs duties and other taxes applicable. These duties and taxes during importation are said to be fixed but in practice, they are calculated from the Customs value of a given good. The customs value here consists of the Cost, Insurance, and freight (C.I.F) of a particular good. Apart from goods in transit,²⁰ Customs duties and taxes are applicable on goods from the date of their registration or the validation of their declaration. The various customs duties and taxes applicable on imported goods in Cameroon differ or vary depending on its region of origin. Goods from the CEMAC sub region and those out of the CEMAC sub region do not pay the same duties and taxes. The duties and taxes could be: Determined using an ad valorem rate. Under this system, the customs value is multiplied by an ad valorem rate of duty, or the duty is gotten based on a certain percentage of the customs value e.g., 30% of the customs value to arrive at the amount of duty payable on an imported item, it can also be determined using the Mercurial value. In customs, the mercurial value is the minimum cost of duties and taxes to be paid on particular goods, it is also determined through the specific method of valuation. Here the customs duties are not obtained through the customs value, but in consideration of other elements such as weight, surface, the number of pieces, and measurement. For example, a carpet with a surface area of 5m² (HS: 57.01.10.00.000)²¹ and an invoice value of 5,000 FCFA/m² will pay a customs duty of 5,000x5=25,000 FCFA. Customs duty is a tax on commodities entering Cameroon. Customs duties are sometimes called an "external excise tax" on imported goods. The origin of Customs duties and taxes dates back to the "customary levies" of ancient times. This whole process in practice makes it complex for economic operators on imported goods, from in and out of the CEMAC sub region.

5. IMPOSITION OF DUTIES ON GOODS IMPORTED OUT OF THE CEMAC ZONE

There is an imposition of duties on goods imported out of the CEMAC zone, these consist of goods that are not of CEMAC origin. They come from other countries on planet Earth without distinction. These goods are those that have not benefited from any transformation or production from the CEMAC sub region. One of the Duties applied to these goods is the Common External Tax (CET), also known as the entry tax.²² It consists of four rate categories with the bases of calculation being the imposable value of the goods.²³ An imposable Value here consists of the Cost, Insurance, and Freight of the goods in question, with the various customs duty rates being: of 5%, 10%, 20%, and 30%. The first category is the rate of 5%. It deals with goods of primary necessity, which are goods exonerated from the Value Added Tax (VAT). The second category, the 10% rate, consists of equipment goods, and primary materials. The third category which is the 20% rate concerns intermediate and diverse goods, generally not considered either as primary material or finished goods. And 30% rate which is the fourth category, concerns goods of direct consumption. From the various customs duty rates, the actual customs duties of the goods can be obtained by multiplying the Imposable value by the different rates depending on the particular good. This can be calculated as such: $CET = Imposable\ Value \times rates\%$. These different rates of the Common External Tax applied to different categories of goods greatly help in the protection of the national economy. Despite the rates above, the partnership

¹⁸ CEMAC Customs code August 2003 edition

¹⁹ Article 110-112 of the CEMAC Customs Code. August 2003 edition.

²⁰ Article 18 of the CEMAC Customs Code. August 2003 edition

²¹ Harmonized System Code. 2012 edition page 232.

²² LAW N°2015/019 Of 21 December 2015. Finance Law of the Republic of Cameroon for the 2016 Financial Year

²³ Article 5 of act N0.5/94-UDEAC-556-CD of 19/12/94 which modifies article 5 and 6 of act 7/93-UDEAC-556-CD-SE stating the revision of the common external tax.

agreement between Cameroon and the European Union brings in another approach to the calculation of Customs Duties and Taxes applicable to imported goods.

6. THE COMPLEXITY FROM THE ECONOMIC PARTNERSHIP ACCORD (EPA) WITH THE EUROPEAN UNION

The complexity here lies in the fact that the CET goes alongside other duties and taxes applied to an individual member state of the CEMAC sub region. Here it becomes much more difficult for users to determine the exact cost of duties and taxes to be paid for goods moving from one place to another. There are however some effects of the economic partnership accord between countries of the European Union and Cameroon. In Central Africa, Cameroon is the main economic partner with the European Union and represents 25% global volume of exchange between the European Union and the CEMAC sub region.²⁴ As a result of this, Cameroon is seen as a strategic commercial partnership with the European Union. The Economic Partnership Accord (EPA) signed on the 15th of January 2009 and rectified by Cameroon and the European Union on the 22nd of July 2014, went operational on the 5th of August 2016.²⁵ The putting in place of this accord implies that each party respects the engagements put in place. Here, countries of the European Union undertake to allow the free entry of goods into their territory without payment of customs duties, while on the other hand, Cameroon promises the progressive opening of its market to goods from the European Union during the previewed transactional period until 2029. The putting in place of this accord in phases makes it much more complicated for the users to understand the whole process of determining the duties to be paid on particular goods. Users at one point pay more than expected. This gives a misconception about the Customs administration. Such complexities can be seen in the analysis that follows:

Group 1 consists of goods that benefit from a 25% reduction in Customs duties during importation.

This consists basically of goods that are envisaged to combat poverty and ameliorate the wellbeing of the Cameroonian population.

Date of start of the dismantling of the Customs duties; 04/08/2016

Evolution of the dismantling;

04/08/2016 – 03/08/2017 = 25% reduction

04/08/2017 – 03/08/2018 = 15% reduction

04/08/2018- 03/08/2019 = 50 reduction

04/08/2019: 100% reduction (complete annulation of customs duties on these categories of goods).

Then group 2 consists of goods that benefit from a 15% reduction on Customs duties during importation.

Here, it involves goods aimed at installing local production units like equipment and others.

Date of start of the dismantling of the Customs duties; 04/08/2017

Evolution of the dismantling;

04/08/2017 – 03/08/2018 = 15% reduction

04/08/2018 – 03/08/2019 = 30% reduction

04/08/2019- 03/08/2020 = 45% reduction

05/08/2020- 03/08/2021 = 60% reduction

04/08/2021 – 03/08/2022 = 75% reduction

04/08/2022 – 03/08/2023 = 90% reduction

04/08/2023: 100% reduction (complete annulation of customs duties on these category of goods)

²⁴ J.L BOYO, Pratique de Douane et du transit. Edition special 2017

²⁵ Decree no. 2016/367 of August 3rd 2016 fixing the rules of origin and methods of administrative cooperation applicable on goods of the European Union subjected to the Economic Partnership Accord.

Group 3 refers to goods that benefit from a 10% reduction on Customs duties during importation.

This consists of basic economic and national goods, which comprise the essential goods in the country's fiscal income.

Date of start of the dismantling of the Customs duties; 04/08/2020

Evolution of the dismantling;

04/08/2020– 03/08/2021 = 10% reduction

04/08/2021 – 03/08/2022 = 20% reduction

04/08/2022- 03/08/2023 = 30% reduction

04/08/2024- 03/08/2025 = 50% reduction

04/08/2025 – 04/08/2026 = 60% reduction

04/08/2026 – 05/08/2027 = 70% reduction

04/08/2027 – 03/08/2028 = 80% reduction

04/08/2028 – 03/08/2029 = 90% reduction

04/08/2029: 100% reduction (complete annulation of customs duties on these category of goods)

From the above periodic percentage reduction on imported goods from the European Union into Cameroon, economic operators are not adequately informed on when a particular reduction is adopted. This results in misconception and conflict and malpractices between the economic operator and the Customs administration.

7. TAXES ON GOODS IMPORTED OUT OF THE CEMAC ZONE

Customs taxes are the different taxes levied on the consuming country hence they are applicable to the importation of goods out of the CEMAC sub region. These taxes vary in relation to the nature of the goods. These taxes are distinguished as seen below, the most prominent being the Value Added Tax (VAT). The Value Added Tax (VAT) was instituted in Cameroon by law No. 98/009 of 1st July 1998 which carried the financial law of 1998/1999 in its 8th article.²⁶ Apart from being a type of turnover tax, it is also an indirect tax levied on the increased value of commodities at every economic stage of circulation. All enterprises and individuals engaged in the importation of goods have to pay the VAT,²⁷ which is ultimately borne by the final consumer. Unlike the taxation department, the Customs administration collects the VAT only at the various entry points into the national Customs territory. The rates vary between 15 and 18% in the CEMAC member countries. In Cameroon it is 19.25% consisting of two rates of impositions; the general rate of 17.5% on which 1.75% is the additional municipal tax.

There is also the VAT specific rate of 0%.

The VAT is applied on the imposable value of the Common External Tax.

$VAT = \text{Imposable Value} + CET \times \text{rate } \%$

Cameroon's current VAT was introduced in the 1998-1999 Finance Law at the same time as the relevant Community provisions aimed at harmonizing the tax base and the rates among CEMAC member States. The general VAT rate has been 17.5% since 2005, supplemented by an additional communal tax (centime additionnel) amounting to 10% of the VAT, bringing the total VAT rate together with the municipal tax up to 19.25%, above the range envisaged by CEMAC (15 to 19%). In 2012, the State's total revenue earned from VAT accounted for 38% of its fiscal income, i.e., no notable change since 2006 (37.4%). The share of domestic VAT, on the other hand, fell from 23% to 20% of total fiscal income, whereas that of VAT paid on imports in 2006 rose from nearly 14.5% to 18% of the State's total fiscal income. The ratio of total VAT on imports to the value of imports is

²⁶ Directive No.1/99/CEMAC-028-CM-03 of 17th December 1999 voted by the CEMAC council of ministers.

²⁷ General Tax code – 2016 edition page 51

only around 8.7%. This could be in part the result of the numerous exemptions, and the related cases of fraud.²⁸

Prior to the 2011 Finance Law, goods and services purchased by companies approved under the free points regime were taxed at zero rates. A number of companies sought approval under this regime before disappearing after having made large purchases of goods and services at a zero VAT rate. Since the 2011 Finance Law, goods and services purchased by such companies are subject to VAT at 19.25% but may receive a refund. The new nVAT exemptions allowed under the 2012 Finance Law include inputs and equipment for the pharmaceutical industry; leasing transactions undertaken with a view to buying agricultural, livestock breeding, or fisheries equipment; and materials and equipment for utilizing solar or wind power. These provisions appear to be inconsistent with the CEMAC Directive, which not only fails to make provision for such products but explicitly prohibits VAT exemptions or waivers as part of measures to encourage enterprise creation and investment. In order to remedy the chronic problem of refund of VAT in practice, one new feature in the 2012 Finance Law is that VAT credit can now be used to pay VAT, excise duty, and customs duty.

All these make the whole system difficult for the users to understand. This leads to some duties and taxes being evaded. In other cases, the customs broker who works as an intermediary between the importer and the Customs administration dubiously distorts large sums of money from the importer. This leaves the importer with the impression that Customs duties and taxes are very high. There is also the additional municipal tax. The Additional Municipal Tax is added to all goods liable to the Value Added Tax, excluding export operations. Apart from those exempted from the VAT, every importer is obliged to pay the VAT at the rate of 19.25% on the declaration of goods imported for home consumption.²⁹ The additional municipal tax of 1.7% added to the VAT is distributed as follows: 10% for Customs and 90% for the special council support fund for mutual assistance (SCSFMA).³⁰ The legislation on the rates has greatly evolved. Before the institution of the VAT, a UDEAC act relative to the tax on business figures previewed diverse rates organized as follows: A reduced rate of 3 to 6% applicable to certain goods of the 1st category which the list was limited and a rate of 7 to 18% is applicable on services and on other goods. Another tax is the community integration tax (CIT). The CIT is a tax by the Customs for the community. This tax has no influence on the global liquidation of duties and taxes. However, it is not applicable to goods that are exonerated from Customs duties and taxes. It is applicable to the importation of goods not from the CEMAC sub region at the rate of 1%.

$$CIT = Imposable\ Value \times Rate \%$$

We also have the withholding tax/advance tax. This is an advanced tax made by enterprises or by users during the introduction of goods in a Customs territory. All importers are expected to have a "taxpayer card." A taxpayer's card is an identifying element for all persons physical or corporate of the Cameroon law, embodies of taxes or potentially embodies with tax payment, and better permits to perceive the fiscal tissue or lineage. The IMF strongly recommends the use of withholding taxes as a way to improve the administration of the tax systems of developing countries.³¹ The idea is that the tax is withheld by the payer and turned over to the government directly before it reaches the taxpayer.³² This method is effective when taxing wages, but it requires that taxpayers be easily identifiable. However, in developing countries in which a majority of the population operates in the informal sector, a withholding system would not reach them.

The base of calculating the withholding tax is the imposable value of the good.

$$Withholding\ tax/advance\ tax = Imposable\ Value \times Rate \%$$

Two rates are distinguished here. There is a rate of 1%. They are applied to operations carried out by importers liable to the common law regime. This rate can be moved up to 10% when the importer does not hold taxpayer cards. The other rate is 0%. They are applied to the importation of goods by industries for the need of their exploitations and also by enterprises accepted in the free industrial

²⁸ WT/TPR/S/285 • CAMEROON - 83

²⁹ Tarif National Des Douanes Du Cameroun (Impôt) Edition 2013 page 3

³⁰ Law No 74/23 of 5th December 1974.

³¹ IMF 1988

³² Ibid

zones and those on the convention of the establishment. Goods put up for consumption in Cameroon are subject to two additional levies at source in the form of "advance payment" and "prepayment", whose rates were raised as of 1st January 2012 pursuant to the 2012 Finance Law. The rates for these taxes differ for importers and non-importers, raising questions about the principle of national treatment for products. In the case of advance payment, Cameroonian companies have to pay monthly advances on company tax during the tax year. Payment of this advance is not linked to the import process, but for the person subject to the streamlined tax regime, the amount of the advance now varies according to whether the taxpayer is a "non-importer" or an "importer": For trading companies that are not importers, the rate is 3.3%, (including the additional communal tax (centimes additionnels)) of each month's turnover.

For importers (including those from CEMAC) and for producers and service suppliers, it is now 5.5% of turnover. According to the authorities, this difference in rates can be explained by the estimated amount of the margins and profits of importing trading companies. For Prepayment, goods put up for consumption in Cameroon are subject to tax at source in the form of "prepayment" of the IS definitively due. For persons subject to the real regime, the rate of 1% remains in force. For taxpayers under the streamlined regime, the rates of prepayment have been raised as follows: From 1% to 5% of the C.I.F. value of imports, plus duties and taxes (including VAT); but from 1% to 3% for local purchases by trading companies from industries, farmers, importers, wholesalers, semi-wholesalers, and forestry operators. The increase in the prepayment rate, however, does not apply to service station operators and exporters of commodities, which are still subject to the specific 0.5% rate. On the other hand, the prepayment rate for operations with companies not in possession of a taxpayer's card has risen from 5% to 10% and now includes taxpayers subject to the withholding tax when they engage in import transactions. Sums paid in excess are deducted from future advance payments. If the company ceases activities, they are in principle refunded.

Another tax is the computer tax. This is a tax incurred by users derived from all declarations treated by the computer system of the Customs administration. In the past, we could count just a few offices that had a computer system. Today most declarations are treated by using the computer³³ system of the Customs administration which is now greatly available. The normal rate of 0.45% of the imposable value is applied on importations liable to the common law regime. Half of this goes to the development of the customs computer system and the other half equally goes into the state budget.

Computer tax = Imposable Value x Rate %

Computer technology can be used to perform rapidly such routine tasks as processing forms, compiling statistics, and using available data to forecast tax revenues.³⁴ Computerization of the tax collection process enables easy detection of defaulters and also helps to reduce corruption by reducing personal interaction between tax officials and taxpayers, which is necessitated by inefficient manual systems.³⁵ However, the use of technology does not necessarily increase revenue collection. Computer technology must be combined with political will and effective organization if it is to yield its potential for greater revenue. There is also the Excise duty. This was introduced at the end of the 2007 finance law. Before then, every imported good paid a fixed rate of 58%. Two rates exist in the domain of excise duties: A general rate of 25% applicable on goods that appear on the general tax code other than tourism vehicles with a cylinder capacity greater or equal to 2,000cm³; a reduced rate of 12.5% applicable on tourism vehicles with a cylinder less than 2,000 cm³ and for gaze drinks. However, the 1998 finance law instituted a minimum percentage of excise duties on tobacco which amount is fixed at 3,500FCFA per 1,000 batons of cigarette.

Unlike the VAT, the excise duty is not deductible, but like the VAT it is a tax on consumption. The applicable rate is freely fixed by each member state between 0 and 100%. Excise duties are applied on luxurious goods (jewelry, cigarettes, precious materials, etc.) In Cameroon, the general rate of excise duty is fixed at 25% applicable on the imposable value of the good.

Excise duty = Imposable Value x Rate %

³³Service Note No. 079/MINFI/DGD of 22 April 2009.

³⁴IMF 1988

³⁵Kangave at 145-176.

In 2011, excise duty was mostly imposed on domestic sales (CFAF 77 billion.). Excise duty on imports was much less (CFAF 15 billion (€23 million or 0.2% of the value of imports). In Cameroon, excise duty usually applies at the maximum rate provided in the Community provisions, namely 25%. A reduced rate of 12.5% was introduced in 2006 for private vehicles with a cylinder capacity of 2,000 cc or more and, more recently, an exemption for aerated waters provided that they are produced locally. In most other cases, excise duty seems to be applied at the same rate on imported and local products. The phytosanitary tax is also another tax on importation in Cameroon. The phytosanitary tax is fixed at 50FCFA per ton of imported relevant goods. Phytosanitary is to protect human life or health within the territory of the member from risks arising from the diseases carried by animals, plants, or products thereof, or from the entry, establishment, or spread of pests. At the national level, sanitary and phytosanitary legislation has not changed since 2006. According to an analysis published by the FAO in 2011, updating the relevant texts and bringing them into line with Codex Alimentarius standards should be a priority. Likewise, the texts on import and export procedures should be reviewed to bring them into line with WTO provisions.

The import of plants, plant products, soil, or culture media requires a phytosanitary certificate issued by the Ministry of Agriculture and Rural Development (MINADER) for each shipment. Each year the latter draws up a list of regulated harmful organisms whose production, import, and export are subject to phytosanitary inspection by MINADER officials at the port of Douala. It did not prove possible to obtain this list or to find out where it could be consulted. The phytosanitary tax is CFAF 50/ton, with a maximum of CFAF 15,000. A phytosanitary certificate is paid for by the applicant and is issued by the Ministries responsible for agriculture or health. Verification of phytosanitary conformity is the responsibility of the national laboratory for phytosanitary analysis or any other MINADER-approved laboratory. Phytosanitary products must also be approved and their importers must have prior authorization. The authorities have indicated that there is no national legal provision concerning Genetically Modified Organisms (GMOs). We also have the veterinary sanitary inspection tax. Its rate is 2% of the imposable value and shall in principle be incurred during the importation of certain animal products.

This inspection is aimed at insuring the protection of the consumer and public health, and concerns mostly live animals and their preparation. Live animals must be accompanied by an international or national vaccination card. Prior to release for consumption, products of animal origin must undergo veterinary or sanitary inspection. A sanitary and veterinary inspection certificate is issued by MINEPIA following the inspection. The veterinary and sanitary inspection tax (ISV) is 3% (for fish, shellfish, leather, and untanned hides and skins) or 2% (for tanned hides and skins and other products), or a specific rate per head. For imports, this ranges from CFAF 4 per head (for one-day-old chicks), CFAF 5 for eggs, CFAF 2,000 per head for cattle, and CFAF 6,000 per head for wild animals. The tax is lower for local trade and ranges from CFAF 0.5 for eggs, CFAF 1 per head for chicks, to CFAF 200 for cattle.

The OHADA TAX is also one of the taxes applicable to the importation of goods into Cameroon. This is applicable to all importation of goods outside the CEMACzone. It has a rate of 0.05%. They however have some exoneration.

Its base of calculation is the customs value.

$$\text{OHADA tax} = \text{Customs value} \times \text{Rate} \%$$

A fee known as the SGS royalty fee is paid to the SGS during importation. This fee is paid to the SGS on the importation of goods that are subjected to pre-shipment inspection. Its base of calculation is the Free on Board (FOB) value of the goods in question. A rate of 0.95% is applied to the FOB value and a minimum of 110,000FCFA is charged on imported goods.

$$\text{SGS Royalty fee} = \text{FOB Value} \times \text{Rate} \%$$

The Single Window for External Trade also requires a fee. This fee is paid to the single window for external trade for operations on importation by users. It has a flat rate of 12,500FCFA. The Single Window for Foreign Trade Transactions (GUCE) is an Economy Interest Grouping created in 1999. It is a Public Private Partnership (PPP) initiative that sprang from dialogue between operators in the

private sector and Cameroonian Authorities.³⁶The single window for External Trade was created to bring all stakeholders of international trade operating at the port together. This was in a bid to facilitate the clearing of goods at the ports given that before the coming of the Single Window, the clearing of goods at the port could take about 21 days to clear a single consignment, the stakeholders were scattered all over the place. The Single Window however brought down the duration of clearing goods to about 11 days to clear a consignment, most of the stakeholders came under one roof.

The Single Window for External trade however did not quite meet up with the purpose for which it was intended. Most of the stakeholders are not still represented at the one-stopshop; the shipping lines are not represented, all the Customs services are not represented, and the SGS is only partially represented. For more efficiency, all the international trade stakeholders operating at the port should be organized in the Single Window for external trade transactions. There are also overtime dues paid to the Customs known as a commission on extralegal work. This is a flat rate of 10,000 FCFA paid to the customs administration on every import operation.³⁷ The said rate is paid considering the fact that customs activities mostly go beyond working hours. Although it was intended for work that goes beyond working hours, it has gradually been adopted as a tax to be paid on imported goods without due consideration on when the operation takes place. For a better understanding, the commission on extra-legal work should be paid only on transactions that will be carried out above working hours.

From the above Customs duties and taxes, it would be realized that they are numerous which makes it difficult for the common user to understand. It would be opined that the number of taxes should be reduced to a minimum. This is because, with the many taxes and difficulties in understanding, most users tend to invade the customs taxes; hence low state revenue. Few taxes put in place will encourage importation, and facilitate its collection, thereby increasing the amount of state revenue collected. Having examined the various Customs duties and taxes applicable on imported goods in Cameroon, not from the CEMAC zone, we shall now look at the case of those imported goods into Cameroon which originates from the CEMAC sub region.

8. DUTIES AND TAXES ON GOODS IMPORTED WITHIN THE CEMAC ZONE

Here, it consists of the international commercialization of goods originating from the CEMAC sub region. This operation can be effected within member states or better still member states and the rest of the world. Concerning these goods are those obtained entirely from a state of the sub region and those that are adequately transformed within the CEMAC sub region. They are however liable to different taxes levied by the consuming country. In the exclusion of the common external tax and the community integration tax, the taxation of goods that originates from the CEMAC sub region respect the same norms and conditions of liquidation of duties and taxes as those mentioned in the case of goods that do not originate from the CEMAC sub region. The different taxes applicable in the exchange of goods within the CEMAC sub region are distinguished in the budgetary account and the non-budgetary account. The budgetary account is the amount obtained from goods that come from outside put into the public treasury and included in the state budget. This consists entirely of the Value Added Tax at the rate of 19.25% of the imposable tax. The non-budgetary account tax is the amount obtained by customs from goods for other administrative use. Part of the non-budgetary account tax is put into the treasurer to ameliorate state coffers or to compensate for the services offered by the customs administration.

The non-budgetary account taxes consist of; withholding tax/advance tax, excise duty, computer tax, phytosanitary tax, and the veterinary inspection tax. The rate of withholding tax is at the rate of 1% of the customs value (imposable value) and it is applied on goods liable to the common law region. Excise duty is applicable on luxurious goods such as jewelry, cigarettes, precious materials, etc. Its various rates are applied to the customs value of the good. In the case of computer tax, the rate of 1% is applied to the importation destined for the case of the Chad-Cameroon project. The rate of 0.45% of the imposable value is applied to the importation liable on the common law regime. A maximum of 15,000 FCFA per declaration is applied on personal transit to neighboring countries and re-exportation from transit. Then phytosanitary taxes incurred by vegetable products and its rate of

³⁶ www.guichetunique.cm

³⁷ Arrête no 316/MINFI du 04 Juillet 1994 réglementant le Travail Extra Légal de l'Administration des Douanes.

perception is 50FCFA per ton of imported goods. The veterinary inspection tax is applied to animal products, life animals and their preparations. It is perceived at 2% of the Customs value of the good.

9. CUSTOMS DUTIES AND TAXES BASED ON SPECIAL REGIMES

A customs regime can be defined as the elements that confer (gives) to imported or exported goods their legal status. It is equally precise the destination goods are to take as well as the legislative and regulatory measures applicable. Thus, the different customs regimes will determine, if the customs duties are paid instantly, will be paid later, or not be payable at all. This, therefore, implies that Customs duties and taxes are paid on goods depending on the Customs regime chosen during importation. Users of different Customs regimes are therefore compelled to certain obligations in order to benefit from a particular customs regime. These regimes are ordinary, suspensive, storage, transit, and temporal admission regimes. The ordinary regime refers to goods imported under the common law regime and are goods imported for home consumption and can be used anywhere within the national territory. As regards the cost of Customs duties and taxes to be paid on such goods, the categories of the goods on the importation, which are four in number are used. The different categories which are; goods of necessities pay 5% of the Customs Value as Customs duties, equipment goods pay 10%; intermediary goods 20%, and consumer goods 30% of the Customs Value as Customs duties.

A suspensive regime involves the circulation, transformation, or storage of foreign goods in a given customs territory in the suspension of Customs duties and taxes and other measures and prohibitions (temporal admission, transit, bonded warehouses).³⁸ These goods are not nationalized goods because the customs duties and taxes have not been paid for them and they remain perfectly under customs control and supervision. The destination of such goods cannot be determined. For any user to import goods on a suspensive regime, he/she must have authorization for such an operation and such authorization should specify or determine the period (time-lapse) after which if the goods are not declared, a period of 3 months can be added and this cannot extend to a year. Goods on this regime must have a guarantee for the customs duties and taxes which are in abeyance. There are however penalties for the defaulters of the undertakings to be respected under this regime. The classification of this regime seems to be very complex due to the overlapping situation offered to users. Some critics distinguish suspensive regimes that are commercial inclined and economic declined.

The storage regime (bonded warehousing) provides facilities for placing goods in bonded warehouses for a given duration and under customs control.³⁹ Through judicial fiction, goods that are placed under this regime are considered goods that are still out of the territory, whereas they are effectively in the customs territory. The function of a bonded warehouse is that of storage, and manipulations authorized by the customs services. These manipulations are limited to those that do not change the nature of the goods. No transformation is possible under this regime and also there are types of manipulations authorized in the bonded warehouse.⁴⁰ This storage regime is advantageous to the users since it puts goods that entail tax-free transactions at their disposal, it provides advantages of all nature to companies linked with daily life activities in the bonded warehouse; it provides a supply of spare parts and raw materials to industries at every moment, for the fact that duties, taxes and other measures are in abeyance; it is a treasury advantage, for exportations; the bonded warehouse regime favors the commercialization of locally produced goods destined for export and free from all fiscal pressure.

There however are some basic principles or rules and regulations under which the storage (bonded warehouse) regime operates.⁴¹ These are:

- The principle of a detailed declaration of the regime, which requires the user to comply with legal dispositions for goods under bonded warehouse regime to be displaced.

³⁸ Article 149 to 154 of the CEMAC Customs Code pages 134 and 135.

³⁹ Article 176 to 179 of the CEMAC Customs code. August 2004 edition pp65 and 66

⁴⁰ The UDEAC act n° 15/70-CD-811 of 27th June 1970 (page 231)

⁴¹ The bonded warehouse is governed by article 176 – 200 of the CEMAC customs code. It is however noticed after a series of controls that there have been many cases of Non respect of engagement. As such, these have led to a series of modifications at the national level.

Modification of 1992, modification of 1997

- The recording of goods in the bonded warehouse regime is done by the customs service in charge, in an account. The customs, the depositor, each and every one of them must keep a good record of account, in a register in which must appear the movement of goods in and out of the bonded warehouse. This accounting is seen as the object of verification that should be realized by the customs.
- The duration of goods in the bonded warehouse regime is two years by regulation and six months for food with the possibility of extension.⁴²
- Goods in the bonded warehouse must be packed in such a way as to ease censoring (counting), Controls, and Manipulations. It should be noted that manipulation in this case is that which is authorized in the bonded warehouse which are those destined to ensure their conservation or to ameliorate their presentation during sales.⁴³
- The change of ownership of goods in the bonded warehouse regime is possible on condition that a bond warrant is produced bearing the names and addresses of the new depositor taking engagement that he will respect the engagements taken by the former.
- During the stay of goods in the bonded warehouse, the depositor must present this bond warrant declaration at all requests of customs services. The censor operation to tally the packages or parcels, as well as verification of content, is meant for comparing the accounting record. The census must be done in the presence of the depositor and if deficits are noticed, they are liable to payment of duties and taxes and eventually penalties.

Anything that has a start definitely has an end. The reconciliation of this regime (putting an end) is done by assigning another customs regime to these goods like they were coming from direct importation. These regimes could be; home consumption, simple exportation of locally manufactured products for good, transit, and temporal admission.

As regards the transit regime, it is a customs regime that permits, under certain guarantees, the transportation of goods from one point to another, from one territory to another with all duties, taxes, and other fiscal and economic, and customs measures in abeyance (suspended).⁴⁴ We distinguish; the national customs regime which refers to the movement of goods within the same country or same zone, and the international customs regime which talks about the movement of goods from one Customs territory to another. The necessity of this regime to both the users and the administration lies in the fact that; as regards the users the necessity resides in the fact that formalities of customs clearance take place outside the place of unloading making them gain in time and the procedure is simplified, and the transporter gets an increase in turnover and professionalization of the sector. The administrator on their part will have a better knowledge about flux statistics or economic operators of this sector of activity and can also benefit from this regime, an area of studying concerning risk factors when it comes to the effective forwarding of goods towards the hinterland.

Another risk factor concerning the transit regime is the aspect of non-payment and recovery of duties and taxes. Here the administration tries to cover the situation by putting in place a certain number of guarantees. Three guarantees exist; physical, documentary, and financial guarantees. The physical guarantee, which is the most prominent, concerns measures put in place to identify the goods. In terms of transit, there is the rule or principle of placing a seal on the means of transport. This consists of placing the seal with the aim of avoiding or forbidding any sort of opening of the means of transport, subtraction, or substitution of goods before they get to their destination. However, in the case of loose goods, it is worth ensuring the number, nature, and mark of the packages at the destination or checkpoints would ensure conformity. The documentary guarantee on its part involves; an entry permit and engagement of the principal party which are all documents to be presented. Finally, the financial guarantee is materialized by placing a bank caution. The customs code provides three (03) major types of transit.⁴⁵

⁴² Circular n° 023/MINFI/DD of 4th July 1991

⁴³ Article n° 15/70 – CD/811 of 27th June 1970) (page 231)

⁴⁴ Articles 156 to 161 of the CEMAC Customs code, 2003 edition pages 60 and 61

⁴⁵ Article 156, 162, 164 and 165 of the CEMAC customs code. 2003 Edition

- There is Ordinary transit with particularity here that the regime can be used by any operator. Also, goods put under this regime are entailed to a detailed declaration and they are verified and controlled under the same conditions as that of IM4 regime.⁴⁶The departure office can take any measure to ensure the goods are presented on arrival.

- Then the Simplified transit regime wherein, the local chief of customs house can admit at the departure office, summary declarations backed by a bond warrant with the following elements: the number, specie as well as the mark and product number, the gross weight, designation of goods as well as the price that figures in the commercial invoice, an identification of means of transport used and the itinerary and destination customs office.

- There is also international transit which concerns goods that pass through two or more national borders. It is reserved for privileged economic operators. In Cameroon, what is practiced is basically route and railway transit.

The transit regime has undergone a series of evolution in terms of legislation. This is due to certain attitudes by unscrupulous users who exploit the facilities given for an interest different from the description. As such, a series of regulatory texts⁴⁷ are put in place précising new modalities as a concern: taking records, follow up and discharge. The temporal admission regime is a regime that, under certain conditions, permits the introduction of goods destined to be re-exported within a given deadline or within a time-lapse, or after having been used under certain conditions with a total or partial suspension of duties and taxes.⁴⁸ Every person declaring goods under this regime must take a bond engagement or else penalties will be levied against him/her, comply with laws and regulations governing the regime and particular conditions to which the operations are subservient (based upon). This engagement constitutes the following obligations: transport the goods to the vicinity or designated place as per the customs entry permit (declaration), the goods must be presented in the state, in due course of transformation, utilization, or transformed at every instance to the request of customs service, utilization or putting into use goods for a single operation or for authorized transformation and re-exportation or placing into customs warehouse within a given lapse of time, imported goods or products emanated from their transformation.

Two categories of temporary admission regimes exist; the normal temporary admission which entails suspension of duties and taxes, on one hand, products destined for the fabrication or complete production on the customs territory. On the other hand, you have objects, materials, or products listed in the second paragraph of article 172 of the CEMAC customs code. The special temporary admission entails the partial suspension of duties and taxes on imported heavy materials for a short period of time by public works enterprise to be used on construction sites. It must serve the purpose. The Beneficiary of the temporary admission regime is supposed to obtain the necessary authorization pertaining to a particular operation. The request for temporary admission is deposited at the office of the chief of the customs house who is in charge of the operation and who is in charge of transmitting the request to the customs headquarters. In practice, delegations are usually given by customs headquarters for certain operations carried out by the most important customs houses.

Goods on temporary admission are most times being manipulated without authorization. Also, goods imported on temporary admission end up being nationalized without proper calculations of the required duties to have been paid on the said goods. Because of the “bottleneck” administration put in place for admitting goods on temporary admission, most users tend to smuggle in goods into Cameroon without following the proper procedure, and even those goods properly imported under this

⁴⁶ Article 162 & 163 of ECCAS customs code. 2003 Edition

⁴⁷ Provisions of the ECCAS customs code and customs regulations

- Ministerial order n° 03/031/ CF /MINFI/DD of 2nd January 2003
- The protocol accord between the customs administration and the banking profession
- Service note n° 00169/MINFI/DD₁/CST of 24th November 2000
- Service note n° 0018/MINFI/DD₂/SDDS of 20th January 2003
- Ministerial order n° 170/MINFI/DD/SDDS of June 2009
- Service note n° 113/MINFI/DD/SDDS of June 2009

⁴⁸ Article 166 – 171 of the CEMAC customs code. 2003 Edition

regime end up not properly evaluated after their stay. This brings about a fall in the state revenue and a distortion in statistics. Every good that is destined to be placed under the temporary admission regime, must be declared with a detailed declaration or entry permit. This entry permit is established in three (03) copies following the rules of a detailed declaration. Besides the major items found on the form, the following must be indicated on this entry permit: the nature of the envisaged operations, the address of the place or the venue where the imported goods are to be used, undergo works as well as indications as per the text or authorization of this regime, the temporal admission entry permit is a customs bond warrant. Besides the classic element figuring on the entry permit, there is equally the engagement of the importer who is taking pains of penalty to comply with the laws and regulations on the temporary admission; the engagement is cautioned, in principle, the guarantee of the caution must cover not only the duties and taxes but must still the pecuniary penalties eventually applicable in case of an infringement (offense). In actual fact, the guarantee required must be evaluated proportionally to the real risk covered.

When it concerns nonprohibited goods, the guarantee of the caution can be replaced by consigning the amount of duties and taxes required, with this amount being reimbursed when the goods are re-exported. When the goods are to be re-exported in the state, any further identification can be assured by means of a seal, marks, and the number of cargos they were carrying at the time of importation. When the imported goods must undergo a transformation, particular modalities of controls are fixed by the decision according to benefit of this temporary admission regime. Registering the entry permit or declaration for temporary admission is done in the same condition as the normal regime and has the same effect. It is at the date of registration that the length of stay is counted. It is equally this date that determines the amount of duties and taxes eventually levied on them. Verifications here are partially oriented towards the control of quantity to be taken into account and the search for a means of identification in order to recognize the goods at the exit. The choice of means is incumbent on the customs house. When goods are to be re-exported in the state, their identification at the end of the stay can be ensured by a seal, indelible print mark. Marks, numbers that they were carrying at the time of entry. If the goods are to be transported, particular modalities of control are fixed by the decision according to the benefit of the temporary admission regime. After verification and under reserved of the result of this verification or checking, the bond release is granted to the importer. These results are stated on the first two copies of the entry permit. The amount of duties and taxes applicable must be stated on the entry permit for cases of future regularization by payment of duties and taxes. The original entry permit destined to receive computing is given to the subscriber of the regime and will return to the departure office for auditing. The third copy is destined for statistics.

Goods declared for temporary admission can only receive the utilization or works provided by the text or the authorization according to the benefit of this regime. The length of stay of goods in temporary admission is in principle one year. This deadline runs from the day of registration of per customs bond to the due date. Prolongation of this deadline can be issued when unforeseen circumstances do not permit the subscriber to meet the engagement within a time-lapse. To this effect, the subscriber must present a request or demand to the administration, duly motivated for instance, by providing useful justifications. The demand must be addressed before the expiring day of the title to the chief of the customs house in charge and it must precise the length of the additional stays.⁴⁹ The extensions are issued by the chief of customs house in charge when it concerns the first extension and usually for a duration equal to that of the initial duration accorded, the national director to whom the chief customs house must transmit the request with their opinion in the order cases. The issuing of this extension may be subjected to all measures of control deemed necessary by the customs service (control of account and numbering of the quantity of the goods quantity). All extensions of duration are accompanied by a renewal of engagement by the subscriber. His caution (surety) during the creation extended the bond. The handing over of goods by transfer of ownership, goods under temporary admission is in principle forbidden.

From the procedures regarding the imposition of duties on goods imported in and out of the CEMAC Zone, including the Economic Partnership Accord with the European Union as well as the consideration of special regimes, it is obvious that Customs duties and taxes are applied in conformity

⁴⁹ Article 165 to 170 of the CEMAC Customs code August 2003 edition pp 62 and 63.

with the regulations in force and in integrity with the product which are not of the CEMAC subregion. Goods that originate from the CEMAC sub region benefit the exemption of Customs duties but are liable to relevant taxes of the fiscal interior with the exception of the Community Integration Tax (C.I.T). The primordial elements of customs duties and taxes paid in Customs: are the budgetary account taxes and the non-budgetary account taxes. Moreover, the variations in the Customs duties and taxes on imported goods in Cameroon both within and outside of the CEMAC sub region, brings about lots of difficulties in its calculation. This brings about misunderstandings between the Customs broker/ users and the Customs administration. If these customs duties and taxes were to be reduced and a simplified method of calculating was put in place, then it will not only help users to master the various duties and taxes applicable but will also reduce the rate of corruption within the Customs sector. The complexity of more apparent with the procedures and methods involving the payment of customs duties and taxes.

10. PROCEDURE AND METHOD OF PAYMENT OF CUSTOMS DUTIES AND TAXES

Article 7 of the General Agreement of Tariff and Trade (GATT) stipulates that the value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like (similar) merchandise and should not be based on the value of merchandise of national origin or arbitrary, fictitious values. Although article 7 also contains the definition of actual value. It still permits the use of widely deferring methods of valuing goods. Starting in the 1950s, customs duty was assessed by many countries according to the Brussels definition of value (BDV). Under this method, the normal market price defined as “the price that a good will fetch in an open market between a buyer and a seller independent of each other,” was determined for each product, according to which the duty was assessed. Factual deviations from this price were only fully taken into account where the declared values were higher than the listed value. Downward variations were only taken into account for up to 10%. This method caused widespread dissatisfaction amongst traders as price changes and competitive advantages of firms were not reflected until the national price was adjusted by the customs office after a certain period of time. New and rare products were often not captured in the list, which made the determination of the normal price to be difficult. It was clear therefore that a more flexible and uniform valuation method was needed which will harmonize the system of all countries. The Tokyo round valuation code or agreement of implementing article 7 of GATT concluded in 1979 and established an apposite system of customs valuation based on the price actually paid or payable for the imported goods. Based on the “transactional value”, it was intended to prove a fair, uniform, and neutral system for the valuation of goods for customs purposes, conforming to commercial realities. These differ from the “national value” used in the BDV. As a standalone agreement, the Tokyo round valuation code was signed by more than 40 countries. This will be analyzed further through the procedures used for specific duties and the methods of payment involved.

11. PROCEDURE FOR SPECIFIC DUTIES

Customs duties can be designated in either specific or ad valorem terms, or a mix of the two. In the case of a specific duty, a sum is charged for a quantitative description of the goods, for example, 7 million FCFA for every 20 feet container. The customs value of the goods does not need to be determined, as the duty is not based on the value of the goods but on other criteria. These procedures vary from ad valorem duties, transactional methods, tourist vehicles, used vehicles, buses and trucks, agricultural tractors, motorcycles, and transport engines. As concerns ad valorem duties, the procedures, in contrast to specific duties, depends on the value of the goods. Under this system, the customs valuation is multiplied by an ad valorem rate of duty, or the duty is gotten based on a certain percentage of the customs value, for example, 30% of the customs value to arrive at the amount of duty payable on an imported item. It should be noted that the Tokyo round code was replaced by the world trade organization agreement of implementation of article 7 of GATT in 1994 following the conclusions of the Uruguay round. These rounds only apply to the valuation of imported goods. It does not contain obligations concerning valuation for the purposes of determining export duties nor does it lay down conditions for the valuation of goods for internal taxation or foreign exchange.

For the transactional method, the procedure considers certain general conditions. These conditions imply that goods must be present, and in the marketing process. There also must be an exporting and an importing country. Also, particular conditions like: there should be no restriction on the use of the good by the buyer except the restriction imposed by the CEMAC authority. The restriction can only be

limited to a geographical zone. It should be assumed that no part of the profit should come back to the seller. The buyer and seller are not related. National conditions such as; every enterprise acting as an importer or exporter must keep a regular accounting system in conformity with the accounting principles of OHADA, and every importing firm must furnish the customs administration with every necessary information on their localization and legal system. Any change of localization should be notified within fifteen (15) days, the company must keep chronological, uninterrupted, and clean records without cancellation and excess printings of registered declarations precisising the types of goods, the tariff position, the value, the weight, the quantity, the cautioning bank or domiciliation bank and number. This report must be certified by a competent court. Failure to respect these national conditions is classified as “fausse déclaration de destinataire reel.”

When it comes to a used vehicle, that is, a vehicle which has been duly matriculated and has been in circulation for at least 6 months with evidence to the kilometers used, the procedure considers the serial number (chassis n°), the type, cylinder capacity, model and possibly the year of first use. It is based on the Union Douanière Economique d’Afrique Centrale (UDEAC) article n° 3/87-CD-1323 of July 1987 modifying article n° 20/UDEAC-86-1323 of 15 December 1986 on the valuation of automobiles destined for consumption in the customs territory. These articles take into consideration ARGUS and BLUE BOOK values.⁵⁰ CIVIO = control d’identification des véhicules importation d’occasion. In the valuation of used vehicles, 3 types of vehicles can be distinguished: vehicles for tourism, trucks, and tractors (minibuses included), and motorcycles. The valuation of used vehicles depends on whether the vehicle is coming in as a result of change of residence or as a result of single entry.

The procedure for tourist vehicles (vehicles of less than 3 years) as a result of a change of residence has been quoted or cited in ARGUS and imported due to change of residence, the value is 60% of the ARGUS + transport cost in the customs territory). Customs value = 60% of ARGUS price + transport. With vehicles above 3 years, the value is 60% of ARGUS price + 50% transport. Concerning vehicles that are not quoted in the ARGUS due to their non-commercialization in France, usually, the value of such vehicles is the catalog price of a new vehicle on the price sold to individuals with discounts to take consideration of its depreciation. A discount rate of 2% per month is taken into account for the first year of circulation and 1% per month from the 13th month; with a cumulative maximum discount of 80% on the price of a new vehicle. Precaution has to be taken not to have a value inferior to an identical or similar vehicle quoted in the ARGUS and precautions should equally be taken when adding the transport cost to the port of importation. For vehicles not quoted because of age or because they are too old, the value to be considered is the value of the last ARGUS price with a discount of 10% per year with a maximum cumulative discount of 50% + 50% of transport cost. It should be noted that pickups and Dynas are not treated or mentioned in the UDEAC act.

The procedure for used vehicles imported on simple entry begins with the valuation which depends on whether the said vehicle has been quoted in the ARGUS or not. If the vehicle has been cited in the ARGUS, its value would be the ARGUS price + transport (cv = ARGUS price + transport). When the vehicle is not cited in the ARGUS, the value would be the price of the used vehicle in the country of origin + transport. Country of origin here must be distinguished between countries of the last shipment (pays de provenance). For vehicles not cited in the ARGUS, because they are too old, the value is the price of the last citation in the ARGUS + transport. With procedures for buses and trucks; for those cited in the ARGUS, the value is cited as price + transport (other costs related to transport inclusive). When the truck is not cited as a result of age, the value is its catalog price + transport (other cost related inclusive). This is done without any discount. As for trucks that come into the customs zone on suspensive regimes, especially temporal admission, the value to be used at the end of the regime is as follows:

Table. *Discounts on buses and trucks imported on suspensive regime at the end of stay*

Duration in CEMAC sub region	1 year	2 years	3 years	4 years	5 years	6 years	7 years
Discount	20%	30%	40%	50%	60%	70%	80%

When an agricultural tractor is cited, its procedure considers its value to be half the price + transport and related cost. When not cited, the value is the catalogue price of an identical new tractor with a

⁵⁰ Instruction ministérielle no. 003/008/CF/MINFI/DD du 06 Janvier 2003 portant mise en place d’une procédure d’identification et d’évaluation des véhicules usages importés.

depreciation rate of 10% a year, and with a cumulative discount of 50% + transport. The procedure for motorcycles cited in the ARGUS, and imported as a result of a change of residence, see its value to be 60% of the price + transport. For those not cited, the value is the catalogue price of a new one sold to individuals with a discount of 2% per month for the first year and 1% from the 13th month with a cumulative discount rate of 80%. When it is less than 3 years, the entire transport cost is included. Older than 3 years only 50% of the transport is included. In the case of a simple importation, the value is the ARGUS price + transport cost. If not cited in the Argus, the value is considered to be the catalogue price sold to individuals + transport. The above-cited UDEAC act does not give precisions as to whether discounts are to be made or not. Lastly, transport engines which are transported by the same means, and this is the case with ships, trucks, and planes. With the procedure concerning ships and planes, the value is the transaction price, provision for the crew; including their wages, return transport fare, and fuel price.

For tourist vehicles on normal temporal admission, the discount is as follows:

Table 2. *Discounts on tourist vehicles imported on suspensive regime*

Duration	1 year	2 years	3 years	4 years	5 years	6 years
Discount	30%	40%	50%	60%	70%	80%

The procedure for calculation of the amount is one thing, and the methods of payment are another. Concerning the methods of payment of customs duties and taxes; two distinguished methods are used; the direct payment method and an electronic payment procedure. When it comes to the direct payment method, the Customs duties and taxes payment procedure can be done directly into the treasury account. This could be in the form of a bank transfer from the payer's account at a bank or post office via money transfer. It can also be a direct cash payment at the bank into the treasury account. This payment method requires that the user meets the frontline customs inspectors for detailed verification and liquidation of the amount to be paid before the user can then transfer the money or take the money due to the bank for payment. This method requires that the user concludes a payment in advance. Its advantages are that; payment of taxes is completed automatically, removing the need to go through the payment procedure for each separate customs declaration, and speeding up freight collection, the method of payment can be chosen at import declaration, even when arrangements have been made to pay through the direct method with the conclusion of a contract. For this reason, the most convenient payment method can be chosen at each declaration. There is greater safety and convenience, with cash no longer necessary, because an ordinary bank or postal savings account is used to pay taxes, quick payment is possible simply by depositing money into the account, even if the account does not have adequate funds.

There are however some points to note. These include the fact that the direct method cannot be used when deferring payment. The Customs Code allows the simplification of formalities in customs procedures. The simplifications mean special benefits for traders or holders of authorizations for simplified procedures respectively. They enable faster implementation of customs procedures and faster receiving of goods by traders.⁵¹ The competent authorities may: allow the use of incomplete customs declarations, grant the authorization for the use of simplified procedure on import and export, grant the authorization for local clearance on import and export, grant the authorization for the authorized consignee status, grant the authorization for the authorized consignor status. There is also a procedure for incomplete declaration. Here the procedure allows the presentation of goods to the customs authorities on the basis of an electronic customs declaration that does not contain all the particulars required, or which is not accompanied by all documents necessary for the customs procedure in question. The simplified declaration procedure enables goods to be entered for the customs procedure on presentation of a simplified declaration with subsequent presentation of a supplementary declaration which may be of a general, periodic, or recapitulative nature. The customs authority shall accept such incomplete declaration upon request of the broker. The Conditions for approving an incomplete declaration state that; Where a declaration does not contain all the particulars, it shall contain at least the particulars for an incomplete declaration⁵² and also, where a declaration is not accompanied by all the documents, it shall be accompanied at least by those

⁵¹ Article 140, 141, 142, 143, 144 and 148 of the CEMAC Customs code August 2003 edition.

⁵² Instruction ministérielle no. 060/CF/MINEF/DD du 01/11/1999 portant la mise sure pieds d'un couloir de dédouanement rapide de marchandises (Chanal Vert) expédiées dans les conteneurs FCL (Full Container Load).

documents which must be produced before the declared goods can be released for free circulation or placed under the selected customs procedure.

When it comes to the electronic payment method, it means electronic duty and tax payment through the use of e-payment methods such as credit and debit cards, electronic funds transfer, or online payments for the settlement of duties and taxes associated with the clearance formalities of goods declared for import or export. The electronic funds transfer is an important method for quick and efficient payment. Automated systems are configured in such a way as to minimize opportunities for the inappropriate exercise of official discretion, face-to-face contact between Customs personnel and clients, and the physical handling and transfer of funds. With the emergence of the e-GUCE program, all relevant administrative services (Stakeholders involve in foreign trade operations) are available over the internet; online payment methods can be easily used. The e-GUCE aims at simplifying and facilitating foreign trade procedures, and reducing costs and delays by grouping physically and/or virtually all stakeholders involved in foreign trade operation.⁵³ This e-GUCE facility will become a cornerstone at the Single Window for Foreign Trade Transactions-Economy as they provide a tremendous trade facilitation measure to offer the payment of all duties and taxes associated with a given import, or export transaction in a single payment across all border agencies, thus accelerating the release process. Without a choice of methods of making payment for duties and taxes with the import, of goods across international borders by electronic means, the majority of payments would still be made in cash. Depending on the value of the goods and the duty rate, the amount of duties and taxes to be paid can be substantial. This poses a heavy logistic burden on the trader in terms of making the cash available and ensuring the secure transport of the cash. Most importantly, however, cash payments provide an enabling environment for corruption, as they require a face-to-face encounter between the trader/broker and Customs for handing over the cash, making it difficult to differentiate between cash payments for duty collection or cash payments for "facilitation fees". Customs administrations should seek to cooperate with commercial banks to facilitate existing or develop tailored credit and debit card solutions for duty and tax payment purposes. The amounts to be paid can be substantial (depending on the value of the goods and the duty and tax rates), so it is essential that the payment charges are reasonable and do not present an unnecessary burden.

12. CONCLUSION AND RECOMMENDATIONS

The above analysis brings out the different customs duties and taxes to be paid in the importation of goods in Cameroon as well as the customs exemptions. From our studies, we have realized that contrary to the developed countries, the developing countries that do not have sufficient internal revenue are obliged to receive a greater part of their customs budget, not only to maximize the state budget but also as an indispensable means of development. This strategy adopted by these states can be a hindrance to development as most economic operators will be discouraged in international trade practices on goods that are highly taxed. If goods are levied high duties and taxes, there is a likelihood of customs fraud and malpractices. The main problem arising from customs duties and taxes on imported goods is the availability of different legal sources in the determination of Customs Duties and taxes on importation. Here there is the National Customs Tariff, the SGS, and service notes, and a combination of these sources brings in much complexity in the determination of Customs duties and taxes on imported goods.

It will be good for the Ministry of trade to reorganize the customs sector by agglomerating the various methods of evaluation for a better understanding of how Customs duties and taxes on importation can be calculated. This will narrow down the rate of Customs fraud. Again, it is noticed that there are numerous taxes imposed on imported goods. Instead of imposing such numerous taxes, it would be preferable that such taxes be made in the form of a lump sum so as to facilitate its calculation. Such numerous taxes give leeway for corruption. For the need for good governance, such numerous taxes should be streamlined to the understanding of all users. Also, the bringing together of all the stakeholders operating in international trade at the Single Window for External trade will greatly facilitate the clearing procedure thereby encouraging many people to import to Cameroon. Hence Customs revenue will increase. Again, the Special Program for imports of fast-moving consumer goods such as petroleum products or palm oil, sugar, biscuits, beverages, or confectionery, allows MINCOMMERCE to authorize the industries concerned to import goods at a lower CET (0.5, or

⁵³ www.guichetunique.cm

10%) instead of 30%, if it determines that there is a "shortage". Tariff "reductions" are sometimes available under framework agreements. The 2007 Finance Law sets a rate of 5% for imports of capital goods for investment purposes instead of the CET. If such measures had been taken at a Community level, they would have enabled CEMAC's trade policy to remain harmonized, especially the CET, which is currently applied in several different ways by member states.

Although Cameroon belongs to a customs union, it continues to levy domestic taxes on imports, which may therefore result in differences among the import regimes of the union's member States. For example, since 1991, a computer fee has been charged only for declarations processed electronically, which is hardly likely to speed up the dematerialization of customs procedures. Since the 2004 Finance Law, this fee has been 0.45% of the F.O.B. value. If these domestic taxes could be taken off from the customs duties during importation, it will greatly improve the customs valuation thereby encouraging much importation. Hence high customs revenue. With such numerous taxes, most importers turn to evading and fraud taxes. Instead of achieving the goal linked with the imposition of taxes, evasion and fraud make it in a way that the government loses much. The government should see how some of these taxes can be reduced to make importers be more confident in paying taxes.

One American President - J. F Kennedy once said "ask not what your country has done for you but what you have done for your country". It is in this light we wish to call on users to assist the state in the realization of its objectives by paying their customs duties and taxes regularly. If we do this, we will indirectly be participating in the development of our country. In a nutshell, we wish to advise users to contact or consult an expert (trained customs broker) for enquiries on the direct customs duty and taxes to be incurred on goods desired to import. Also, it can be concluded that Cameroon is already engaged in the dismantling of trade barriers on certain goods from the European Union. It is therefore pertinent for Cameroon to put in place the measures to enable her to meet up with the exigencies of the EPA, so as to benefit from it.

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