

Customs and the smuggling of goods in Egypt

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The Egyptian Customs Law (no.66 of 1963 as amended by law no.95 of 2005; 'the Egyptian Customs Law') criminalises the smuggling of goods in and out Egypt and imposes various types of penalties on people and entities proved to be involved in smuggling goods in the country. This article will explain the process of finding and seizing smuggled goods and the procedures and penalties associated with smuggling in Egypt.

Seizing smuggled goods

Current importing regulations in Egypt require that every component of a product be inspected, regardless of the shipment details or its description in cargo manifest.

When any shipment arrives at an Egyptian port, a broad security check is immediately conducted by the Egyptian Customs Authority. The main purpose of this security check is to identify whether the cargo contains any of a wide range of illegal products. The term 'smuggled product' does not only refer to an item on the list of products prohibited under Egyptian law, but also to products which may be wrongly described in a cargo manifest or bill of lading.

Once a prohibited or wrongly-described cargo is identified, the Egyptian Customs Authority notifies the Egyptian Public Funds Investigation Department (PFID), a branch of the Egyptian police department. In such circumstances, the PFID starts its investigation by confiscating and holding the container containing the smuggled or prohibited cargo. At the same time the police will arrest the container importer and will request more information from the shipping line representative about the source of the cargo container. They will also request all documents relating to the cargo containers and its owners.

After reviewing the shipment documents, the Customs Authority agent will either clear the shipments for release to the importer directly, or direct that the consignment be sent to other government entities for testing and inspection, coordinated by the General Organization for Export and Import Controls (GOEIC). In certain cases, the Egyptian military or security services may require additional laboratory tests of commodities beyond any testing previously required or performed in compliance with other laws and regulations. Custom duties are then evaluated and demanded and are paid in Egyptian pounds.

Investigating suspect smuggling

Article 121 of the Egyptian Customs Law covers smuggling as both an export and an import activity. This covers any transit of goods through the Republic of Egypt without the payment of all or part of the custom duties owed for the goods' transit. The ambit of the sanctions applied on those possessing foreign goods for trading purposes is very wide. It includes the possession of goods with knowledge that they are smuggled, and situations such as submitting false and fabricated documents or invoices, placing phony marks, concealing and hiding goods or marks, or the commission of any other act aimed at evading taxes due to the Customs Authority, wholly or partially in violation of the systems in force concerning banned goods.

Article 121 also applies to the freight forwarder when his name is stipulated as consignee in the bill of lading. The Customs Authority in similar scenarios will consider the freight forwarder as the

owner of the smuggled cargo and consequently he shall be subject to the penalty imposed by law.

Customs Authority officials and the assisting officers from other authorities have the right to follow smuggled goods even outside the range of Customs control, and to seize them along with the means of transportation and any persons involved. They may all be handed over to the nearest Customs Authority branch even if the cargo in question was officially released from the Customs Authority because it was wrongfully seized.

In such a case the Judicial Seizure Officers of the Customs Authority must obtain a warrant from the Public Prosecution Office (after the approval of the Finance Minister) before inspecting or seizing goods outside customs zones in ports of entry. Alternatively, permission from the Customs Commissioner must be obtained if officials wish to demand delivery up of documents, indicating the payment of evaluated taxes or duties.

Penalties for smuggling

Article 122 of the Egyptian Customs Law defines the penalties that will be imposed in the case of a party committing the crime of smuggling goods. It provides that whoever commits smuggling shall be liable to a penalty of imprisonment and/or a fine not less than five hundred Egyptian pounds and not exceeding ten thousand Egyptian pounds. If the smuggling of goods is for trade purposes, then the penalty to be imposed shall be an imprisonment term not less than two years and not exceeding five years, and/or a fine not less than one thousand pounds and not exceeding fifty thousand pounds.

In all cases, the court has the power to sentence the perpetrators, their accomplices, and the legal personalities such as companies in whose favour the crime was committed. It may also order the payment of a fine equivalent to the amount of the appropriate custom duties. If the goods which are the subject of the criminal activity are of a prohibited kind, or if their import into Egypt is banned, the fine will be doubled.

There are multiple instances where a vessel's master and/or crew may be found in possession of undeclared items outside the vessel's bonded stores, beyond the legally permissible quantities during their stay in Egyptian ports. This is especially true of alcohol. In this case, a substantial customs fine will be imposed, and the accused may face a criminal prosecution in addition to the confiscation of the undeclared items. In order to avoid such drastic action by customs, it is often advisable that the "fine only" penalty imposed should be promptly settled and on an amicable basis without referring the matter to the relevant court, thereby avoiding any sentence of imprisonment or aggrieved penalties.

A vessel's master can be charged in some instances with smuggling offences when he is paying or is getting payment from his agent exceeding 10,000 USD without the prior approval of the Custom Authorities. In this scenario any amount exceeding the sum of 10,000 USD will be confiscated and a criminal case will be filed against the agent's representative. To avoid this from happening, the agent must declare the money to the Customs Authorities and get their approval prior entering the customs zone.

In conclusion, the Egyptian Customs Authority has far reaching powers to tackle smuggling. If shippers are faced with any investigation of their actions, appropriate legal advice should be sought as soon as possible.