

Cargo Customs Law in the UAE

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The UAE is a federacy of seven states. Each state has its own ruler and the rulers together form the supreme counsel governing body of the UAE, with the ruler of Abu Dhabi as the president of the country and supreme commander of the army. Each Emirate is subject to its own local laws and regulations governing internal affairs. Matters related to the UAE as a whole legal body, would require a federal law or decree approved by the president of the UAE.

The UAE applies the “Common Customs Law of the GCC States” which is applicable in all GCC states, in which any commodities crossing the customs line, at importation or exportation, are subject to the provisions of this law. This law is approved by federal decree No. 85 for the year 2007. The commodities imported into the country are subject to the custom dues specified in the Customs Tariff issued pursuant to the Common Customs Law. There is no local UAE law regarding customs. Any laws or regulations issued in the UAE regarding customs are all subject to the Common Customs Law.

According to the Law no. 13 for the year 2007 of the import and export control, a committee named the “national committee of commoditisers that are subject to control of import, export and re-export” should be established under presidency of the representative of the ministry of economy. This committee should control the rules that regulate the affairs of import and export as well as provide the required technical consultation concerning the non-violation of the states interest or the international conventions to which the state joined or approved.

Generally, most of the imported commodities are subject to 5 % customs duty. Products such as tobacco and manufactures tobacco substitute’s are subject to 100% customs duty or on the minimum collectable rates basis, whichever is higher, as outlined in a specific table. Alcohol is subject to 50% duty of product value. There are 734 items exempt from the customs duty under the customs tariff, for example, certain animals, vegetables, plants, chemicals, and medicines, certain diamonds, silver, and gold, as well as carriages and accessories for those who are disabled. Helicopters, cruise ships and excursion boats are also exempt.

As long as there is an agent registered in the specified register maintained for this purpose by the UAE Ministry of Economy and Commerce, parallel importing is prohibited in the UAE. The Customs Departments, at the registered agent’s request, detain any products imported by any other person and deposit them in the port warehouses until the dispute is determined. This is of course a headache for inexperienced traders, agents and forwarders who allow cargo to be imported without first checking if the cargo has an agent registered in the UAE. A high proportion of cargo imported into the UAE perishes while waiting for disputes to be resolved concerning whether or not the cargo can be imported without the prior approval of the registered commercial agent.

According to Law No. 13, it is illegal to import any strategic commodity that forms danger against public safety, public health, environment, natural resources, and national security or for reasons related to the UAE foreign policy, taking into account any restrictions which may currently be imposed on those commodities according to the applicable legislations in the state. The UAE authorities are extremely strict and intolerant when it comes to cargo they believe jeopardizes or threatens national security. The mere discovery of an unannounced handgun with the master or crew member will lead to vessel detention, imprisonment of the master and a criminal action against the vessel and its owners. Finding smuggled and prohibited cargo on board a vessel will most probably lead to the vessel being confiscated.

Meanwhile, there is a list of prohibited products of which the import and export of is prohibited. In addition

to drugs and radiation polluted substances, this list includes printed matters, paintings and drawings which contradict with Islamic teachings or decencies, used and inlaid tyres, children's toys in the form of a dinosaur and goods which consist of led.

One of the prohibited products mentioned in the list concerns those which are imported or exported to or from Israel. According to the federal law no. 15 for the year 1972 of the "Israel Boycott", the Israeli products shall not be imported or exported from or to Israel. The decision by the Israel Boycott office prohibits goods from Israel, bearing Israel marks or logos. However, some goods imported from different countries and which have some small undetected Israeli made components would not cause problems with customs.

If a cargo was shipped from a Malaysian port to Israel in transit through the UAE, the UAE authorities will not permit the shipment to continue its course to Israel. However, cargoes indirectly destined to Israel going through other ports should not be considered against the law.

The UAE applies the UN Security Council Resolution 1929 which relates to various issues and sanctions over Iran. In particular, the resolution requires implementation by the member States for certain financial directives which include primarily exercising vigilance over transactions involving Iranian banks in order to prevent such transactions contributing to the proliferation of sensitive nuclear activities or the development of nuclear weapons.

The resolution further calls upon member states to implement measures which prevent the provision for any financial services (such as insurance; re-insurance; the transfer to or from such States' territory; or to or by nationals or entities organised under such State laws; or financial institutions, other assets or resources) if such services, assets or resources could potentially contribute to the sensitive nature of Iran's nuclear activities or the development of nuclear weapons. The below prohibitions set out by the UN Security Council restrict the flow of importing and exporting commodities to and from Iran:

- Prevention of the supply or sale of vessels directly or indirectly, that may be used for the benefit of Iran, as well as any additional items contributing to enrichment-related, reprocessing or heavy water-related activities which may develop nuclear weapon delivery systems;
- Prohibit procurement from Iran, or using their flag vessels, whether or not originating in the territory of Iran any of the items mentioned in a specific list (with particular regard to Industrial Equipment, Test and Production Equipment, Equipment, Assemblies and Components (where applicable), Heavy Water Production Plant Related Equipment, and other "Trigger List" activities).

The UAE has undertaken several steps to implement the UN Sanctions against Iran. The main step being the issuance of a circular by the UAE Central Bank pertaining to Anti Money Laundering and the Combat of Terrorist financing. The circular outlines the requirements of the UN Security Council Resolutions including the freezing of suspicious accounts and recommending banks to conduct the necessary due diligence in relation to their correspondent banks in Iran.. The UAE Central bank has informed all financial institutions in the country, including banks, to freeze all accounts and stop bank transactions as per the instructions of the UN Security Council based on its Resolution 1929 on Iran connection. Furthermore, the Central Bank has issued a circular listing Iranian entities with which UAE banks are not allowed to deal with under any circumstance. The circular states: "If you (banks) receive funds from a natural/judicial persons mentioned in the enclosures or in their favour, you are to freeze such funds 'immediately'" Currently there is no list issued by the UAE authorities detailing the banned items however; the banned items are similar to the circulars and directive issued by the UN in this regard. It should be noted that on 20th June 2010, the Dubai Financial Services Authority warned companies based in the free zones to conduct risk assessments when dealing with banks and other clients domiciled in Iran. The Dubai Financial Services Authority said that companies should "ensure that the due diligence processes for each correspondent bank domiciled in Iran has been completed, consistent with the enhanced due diligence procedures". It is however, no secret that the UAE, with its free trade and open market policy is a destination to Iranian traders and cargos.

Accordingly, any goods not included within the UN sanctions will find its way through the UAE ports