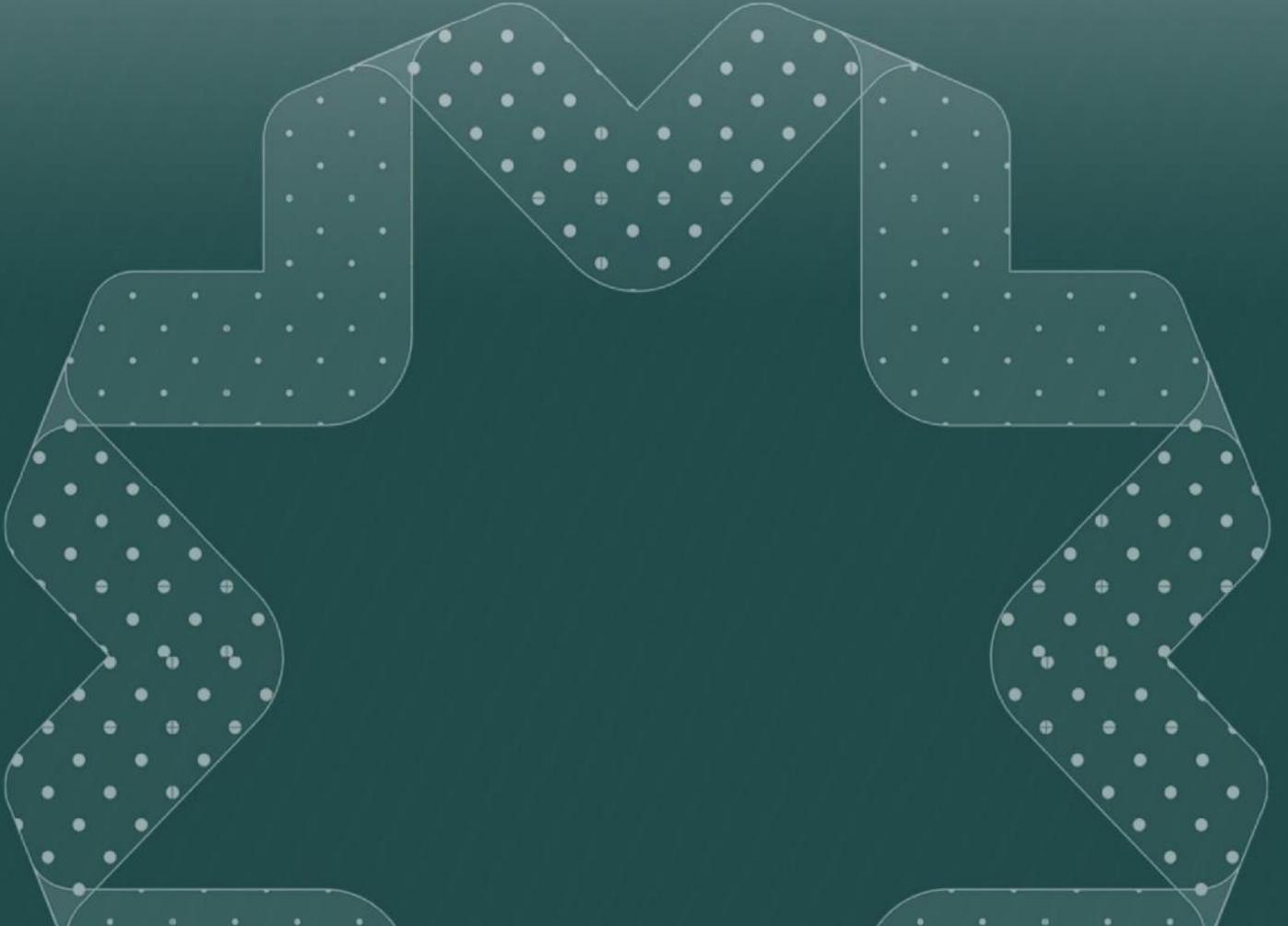




الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

**The Principles Derived from the Decisions
of the Customs Appeal Committees for
2024 AD.**





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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



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Introduction

Praise be to Allah, the Lord of the Worlds, and prayers and peace be upon the most honorable messengers and the Last Prophet, our Prophet Muhammad, and upon his family, companions and followers.

It is needless to say that the efforts made by the courts and judicial committees in various parts of the Kingdom of Saudi Arabia, and the rulings and decisions issued by them, constitute a priceless jurisprudential and judicial wealth, and a result that should be given attention and care. In light of the commercial and industrial revolution that the Kingdom of Saudi Arabia is experiencing under Vision 2030, many people are facing numerous challenges in customs cases. From the perspective of social responsibility that the General Secretariat of the Zakat, Tax, and Customs Committees adopts, it has sought to establish a solid foundation and reference for committee members, appointees, and interested parties. This includes the publication of the "Principles Derived from the Decisions of the Customs Appeal Committees for 2024 AD," which effectively contributes to addressing customs disputes, thereby reducing the prolongation of litigation; as these documents clarify what the appeal committees have settled on in their decisions. This will reflect on shortening the duration of litigation for concerned parties, easing the burden on the judge, and achieving the principle of transparency that the General Secretariat pursues, in addition to providing practical aspects for the relevant authorities in legal and regulatory research, especially academic and training institutions, among others.

The Secretariat was keen to identify the principles settled in the Customs Appeals Committees in order to achieve the Secretariat's goals of reducing efforts and knowing the judicial precedents of the Appeals Committee, which will reduce the number of cases filed before it, if the parties to the case have previously informed the head of the Committee about the subject matter of the case they intend to file.

We ask Allah, the Almighty, to make our work purely for Him, and to support our efforts and endeavors for what is good, as He is indeed a gracious benefactor.



The Message of his Excellency the Secretary General of the Zakat, Tax and Customs Committees

Praise be to Allah alone;

In light of the vision and values of the General Secretariat of Zakat, Tax and Customs Committees, which undertook to excel in the ability to resolve zakat, tax and customs disputes, adopt innovative and effective methods, promote transparency and neutrality, develop cooperation between the parties to the zakat, tax and customs system, and play an effective role in raising the efficiency of legal consideration. This aims to enable the zakat, tax and customs committees to adjudicate disputes before them, and to provide support and assistance to the committees at all stages by conducting studies and research. It also serves taxpayers by clarifying regulations, decisions and judicial precedents, and updating them periodically. Among these is the project (Principles Derived from the Decisions of the Customs Appeals Committees for 2024 AD).

The General Secretariat also placed special emphasis on the decisions issued by the Appeals Committees, as they represent a summary of the established jurisprudence and are characterized by their constant possibility of development and change according to the developments in the real world, because their decisions are aimed at resolving disputes before the judicial committees. Knowing them also limits disputes and conflicts, which is a prior prevention and protection of the positions of the concerned parties, and helps them in their positions before the committees.

This prestigious status of the principles of the Zakat, Tax, and Customs Committees calls for working to extract and disseminate them to the Public; in order to achieve the principle of transparency, highlight the ongoing efforts, and enrich the scientific arena; to make it a fertile ground for scholars, specialists, and research centers.

What the Secretariat is doing - in accordance with its role by disseminating these principles - is an affirmation of its relentless endeavor to achieve all that would raise the level of justice as befits it, thanks to the support and guidance of the blessed leadership, which spares no effort in its generous support for the legislative and regulatory framework.

In conclusion, I would like to thank the Custodian of the Two Holy Mosques King Salman bin Abdulaziz and His Royal Highness Crown Prince Mohammed bin Salman bin Abdulaziz, Prime Minister, for their unlimited care and support for judicial activities in various fields. I would also like to thank the staff of the General Secretariat for their outstanding efforts in issuing this publication, which I hope will achieve its objectives and be a qualitative addition in the legal and accounting field.

Secretary-General

Abdullah bin Abdulrahman al-Suhaybani



Methodology

The Secretariat was keen to select the established principles among the committees, which have a general character that applies to many issues and not just opinions related to a specific case, and it was not a legislative text. Given the various facts and circumstances of customs claims, they have been organized and classified by topics.

The project entailed a careful plan and methodology to bring it out in an easy and approachable manner. It has been divided into several stages as follows:

- A thorough inventory of the final decisions of the Appellate Committee.
- Distinguishing what is stated in the mentioned principles as a narrative from the parties to the lawsuit, and the principles that express the committee's opinion.
- Identifying the opinions of the committee often found in the reasons for the decision, which have a general nature, and express a rule that applies to similar cases.
- Registering the decision number of the appeal in which the principle was mentioned, even if it is repeated in multiple decisions.
- Merging the identical principles in their wording into one principle while mentioning the decisions that were included in them.
- Merging the principles that are identical in meaning and similar in formulation into one principle, while choosing the best, clearest, and broadest formulations, and merging the formulations in occasional instances.
- Tabulating principles by topics.
- Numbering the principles sequentially.
- Not to publish any principle that has currently been established in the applicable systems and any new circulars, unless there is a benefit in mentioning it.
- Facilitating understanding of the appellate decision, the decision of the Appeals Committee from which the principle was derived has been provided, by placing the appellate committee's decision on the analytical template, which highlighted the document of the decision, the facts, the reasons, and the text of the decision.
- If there is more than one decision through which the principle was derived, it is sufficient to include one decision, indicating the number and details of similar decisions if they exist.
- Ensuring the deletion of all data indicating the parties to the lawsuit or other parties without affecting the decision.



Procedural Principles



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-231728
Case No. PC-2024-231728

Principle No. 1

- The claim that the record of the incident was prepared before the issuance of the Royal Decree stating that "the penalties prescribed in the unified customs law related to drug and alcohol smuggling cases shall be applied by the criminal court" is not valid, as long as the decree pertains to the procedure for accepting the lawsuit.

Facts

This is to consider the appeal against the initial Decision number (CTR-2024-225530) issued by the Third First Instance Customs Committee in Riyadh. The facts of this case are summarized in that the Zakat, Tax and Customs Authority filed its lawsuit against the defendant/ ... , ... Nationality, holds passport number (...), under the seizure report number (...). On the date 01/01/1434 AH, the First Instance Committee issued its Decision of lack of jurisdiction to consider the case, based on the fact that the subject of the case relates to the smuggling of (Captagon pills), which are prohibited substances and narcotic effects according to the report of the Center for Poison Control and Medical and Legal Chemistry No. (52/45/226) dated 05/02/1437 AH, and based on the Royal Decree applying the penalties stipulated in the unified customs law related to drug and intoxicant smuggling cases No. (M/14) dated 06/04/1434 AH based on the Cabinet Decision No. (94) Dated 01/04/1434 AH which stated: "The application of the penalties stipulated in the unified customs law related to drug and intoxicant smuggling cases shall be by the criminal court."

Upon reviewing the appeal list submitted by the authority, the appellate customs committee found that it includes a summary stating that the committee is competent to consider the case in its customs aspect, in accordance with paragraph (2) of Article (3) of the rules of operation of customs Committees, which stipulates that: "The divisions of the customs dispute resolution committee are responsible for applying the provisions of the unified customs law and its executive regulations, as follows:" A- Considering all smuggling crimes and what is deemed equivalent. B- Considering all crimes

The violations committed against the provisions of the law and its executive regulations. The Royal Decree referred to in the reasoning of the First Instance Committee was issued on 06/04/1434 AH and did not



stipulate the retroactive effect of the Decision or organize previous cases to the Decision. Since the record of the seizure was drawn up on 01/01/1434 AH - which is a date prior to the decree - the jurisdiction is established for the committee. The regulation added that the defendant's attempt to introduce prohibited materials (Captagon pills) numbering (200,000) pills constitutes an attempt at customs smuggling according to the text of Article (142) of the Unified Customs law. The regulation also included other substantive defenses and concluded with a request to overturn the initial Decision and return the case to the First Instance Committee for consideration of its merits.

And I request the response from the appellant against him on 12/02/2024, and enabling him to exercise his right to respond for a period of (45) days. He did not submit the required answer, and based on paragraph (1) of Article (35) of the rules of operation of the Zakat, tax, and customs Committees, the committee decided to rule on the case in light of the documents available thereto.

After reviewing the case file and the appeal submitted by the authority, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.

Grounds



After reviewing the unified customs law of the Gulf Cooperation Council countries approved by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the relevant regulations and laws.

Since the appellant was notified of the initial Decision on 28/01/2024, and submitted the appeal on 12/02/2024, this entails the acceptance of the appeal procedurally as it was submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law. Since there is no reproach against the reviewing authority for taking the reasons of the decision subject to the appeal without adding anything whenever it sees in these reasons what suffices to omit any new submissions, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. This is not affected by what the authority mentioned in its memorandum regarding the preparation of the record of the seizure before the issuance of the aforementioned Royal Decree, considering that this decree relates to the procedure for accepting the lawsuit, and it is established according to the electronic file records of the lawsuit that it was recorded on a date subsequent to the Royal Decree, which makes the decree governing regarding jurisdiction without regard to the date of the seizure. Since the reasons for the decision are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes



the appeal without a supporting basis, necessitating its rejection. Accordingly, the committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant / the Zakat, Tax and Customs Authority, against the First Instance Decision No. (CTR-2024-225530) issued by the Third First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on the merits, and the initial decision is upheld in all that it ruled, for the reasons and grounds stated in this decision.

Similar Decisions:

- Decision of the Appeals Committee in Riyadh No. (CF-2023-225009) dated 22/04/2024 AD.
- The Decision of the Appeals Committee in Riyadh No. (CR-2024-225670) dated 27/05/2024 AD.



The Customs Appeals Committee in Riyadh

Decision No. PC-2024-167772
Case No. PC-2022-121841

Principle No. 2

- It is not permissible to reconsider a case that has already been adjudicated and whose judgment has become final, so the case cannot be heard again..

Facts

This is to consider the appeal submitted by/ ..., national ID number (...). As an agent for/ ..., national ID number (...) As the Chairman of the Board of Directors at the company ..., against the First Instance Decision No. (CTR-2022-1222), issued by the Third First Instance Customs Committee in Riyadh, which ruled as follows:

- 1-Condemnation/ ... , Commercial Registration No. (...) In person with customs smuggling.
- 2-Obligating it to pay a customs fine equivalent to the value of the violating item in accordance with Article (145/4) of the Unified Customs law.
- 3-Confiscation of the shipment subject to the violation or obligating it to its value in case it is not seized as a substitute for confiscation according to Article (145/5) of the same law.

Since the appellant was notified of the Decision subject to the appeal on 26/12/2022, and submitted the appeal on 04/01/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

As for the facts of the case, it is that while passing the shipment with bill number (...) With a weight of (250) kilograms and heading to Cairo, the shipment was suspected at the X-ray screening device in the export area. Upon inspection, (27) medical devices bearing the Ministry of Health logo were found, and the shipment has been detained by customs under receipt number (...) and the date 19/10/1438 AH, until the case is concluded, and it was found that there is a special re-export statement for the shipment with number (...). On the date of 15/10/1438 AH, it was declared that these were personal belongings. The First Instance Committee issued its Decision as stated in its ruling, based on the fact that the importer's attempt to export goods that are prohibited from being exported and to declare them as personal belongings constitutes customs smuggling according to Article (142) of the Unified Customs law. Furthermore, the company's



representative did not attend to respond to the lawsuit filed against it, despite being notified, thus missing the opportunity to defend itself against the allegations made against it. The committee arranged to apply its penalties as stated in its Decision.

Upon reviewing the objection list submitted by the agent of the importing company, the appellate customs committee found that its summary mentioned that the defendant is merely an authorized shipping agent and is not the owner of the shipment in question, as the shipment belongs to the person named/..., who wishes to export it to the Arab Republic of Egypt through the company ... Declared as (personal belongings), and accordingly, the company issued the export shipping policy. Therefore, the company is not directly related to the shipment and has no interest or benefit from its export. The shipment in question consists of (27 medical devices), and this description is not subject to export restrictions or prohibitions. According to Article (142) of the Unified Customs law, the criminal aspect from a legal standpoint is the violation of prohibitions or restrictions or the failure to pay customs duties, and all these descriptions are absent in this case. Additionally, the owner of the shipment has proven to customs its source and how he obtained it, and the case file includes the statements of the director of the institution ... who submitted an official letter stating that the devices were purchased by them from the Ministry of Health at a public auction and provided the invoices, receipt, and minutes of the public auction sale. The customs authority has contacted the Ministry of Health in the Makkah region more than three times to verify the authenticity of the invoices and the auction sale, but they did not receive a response. Therefore, responsibility cannot be placed on the owner of the shipment or the shipping company for goods that the law allowed to be exported without prohibition or restriction. Additionally, the error in describing the goods as personal belongings rather than medical devices is merely a procedural error that does not constitute any crime or accusation of customs smuggling; rather, the penalty would be considered a procedural violation according to the provisions of the executive regulations. Furthermore, paragraph (3) of the initial Decision indicated that the Decision did not address the incident with full knowledge and insight, as it could not determine the fate of the goods in case they were seized or released. The regulation concluded with a request to accept the appeal and overturn the initial ruling in all its provisions.

A response memo from the authority was received via the Automated System of the Secretariat dated 20/02/2023, which summarized that the company is responsible before customs regarding the shipment. As a company specialized in transporting shipments, it was obligated to verify the shipment before shipping it and to declare it before customs based on Article (154) of the Unified Customs law. Additionally, failing to declare the contents of the shipment and providing other misleading data is nothing but an attempt at smuggling and evading taxes, and a violation of the prohibitions and restrictions according to Articles (142) and (11/143) of the same law. Especially since the presence of the Ministry of Health logos on the shipment is a strong indication of smuggling, as the sender did not prove legitimate means of obtaining them. Furthermore, the documents submitted and the certificate (...) The only documents attached were those



proving the purchase of medical devices from the Ministry of Health auctions from other individuals, and it was not proven that this shipment consists of the devices purchased at the auctions. It is customary for government entities to remove their logos from their properties before selling them at auctions. Therefore, the reliance of the company's agent on these statements and documents is nothing but a weak argument and evidence. Additionally, the violation of the shipment in question is not merely procedural but involves the crime of customs smuggling as stipulated in articles (142-143-154) of the unified customs law. Moreover, customs smuggling crimes are intentional crimes that require both the material and moral elements to be present, which are present in the case at hand. The memorandum concluded with a request to reject the appeal submitted by the company ... and to uphold the initial Decision in all its provisions. On Monday, April 29, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against Decision No. (CTR-2022-1222), issued by the Third First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority.

Grounds



Whereas, upon reviewing the appellate committee of the case file and its attachments, it has become clear to this committee that the First Instance Committee issued its First Instance Decision in Case No. (PC-2022-121844) under policy number (.../...), which was related to the same shipment concerning the facts of the case for which the Decision subject to appeal was issued. Since the examination of the jurisdiction to consider the case is a preliminary matter that must be resolved before delving into the procedure of the case or considering its merits, once it is established that it is outside its jurisdiction, it must rule on its own accord that it is not permissible to consider it in accordance with Article (76) of the Procedural Law, which states: "The plea of lack of jurisdiction of the court due to the absence of its jurisdiction or because of the type of case or its value, or the plea of inadmissibility of the case due to lack of capacity or eligibility or interest or for any other reason, as well as the plea of non-permissibility of considering the case due to prior adjudication; may be raised at any stage of the case and the court shall rule on it of its own accord...." Therefore, it has been established based on the above that it is not permissible to consider a case that has been previously adjudicated, which was the case for the case for which the appealed Decision was issued. Accordingly, the appellate committee concluded to report the following:

Decision



Acceptance of the appeal procedurally from the applicant/ ..., commercial registration number (...), against the initial Decision number (CTR-2022-1222), issued by the third First Instance Customs Committee in Riyadh.

2- And regarding the acceptance of the subject, and the cancellation of the initial Decision for having previously ruled on the case related to it, for the Grounds and grounds stated in this Decision.

Similar Decisions:

- The Decision of the Appeals Committee in Riyadh No. (PC - 2023-227970) dated 12/09/2024 AD.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-202259
Case No. PC-2023-126900

Principle No. 3

- The unified customs law requires a written letter from the (General Manager) to initiate the customs case.

Facts

This is to consider the appeal submitted by/..., national ID number (...). As an agent for/..., national ID number (...), as the owner of the institution ..., commercial registration number (...), based on the agency number (...). On 11/11/1444 AH, against the initial Decision number

(CSR-2022-2700) issued by the 2nd First Instance Customs Committee in Riyadh, ruling as follows:

- 1- Conviction of the defendant/ Institution ..., Commercial Registration No. (...) In person with customs smuggling.
- 2-Obligating it to pay a customs fine equivalent to the value of the violating item (shampoo, softening preparations, soap) in the amount of (94,001) ninety-four thousand and one riyals.
- 3- Obliging it to pay an amount equivalent to the value of the violating item (shampoo, softening preparations, soap) as a confiscation fee amounting to (94,001) ninety-four thousand and one riyals.

Since the appellant was notified of the Decision subject to the appeal on 21/05/2023, and submitted the appeal on 21/06/2023, this entails the acceptance of the appeal procedurally as it was submitted by a person with standing within the prescribed period for its submission as stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment (shampoo - softening agents - soap) through the customs of Jeddah Islamic Port according to import declaration number (...). Date



22/10/1438 AH, it was granted under a commitment not to act until the result of the competent authority appears, and upon presenting the sample to the Food and Drug Authority, the response was received in report number (...). The date 06/01/1439 AH includes the inability to approve the clearance of cosmetics due to non-compliance with the conditions and requirements for the clearance of cosmetics issued by the General Authority for Food and Drug. The importer was informed of the result, but he did not respond. The first instance committee issued its Decision as stated in its ruling based on the fact that the importer did not review the customs to return the shipment after the report from the competent authority showed that the sample did not comply. Consequently, the importer was found guilty of customs smuggling for his actions regarding the shipment contrary to the commitment taken from him based on what was stated in Article (142) of the Unified Customs law, and penalties were imposed on the importer as stated in the ruling of the Decision subject to appeal. Upon reviewing the objection list submitted by the appellant, the customs appellate committee found that its summary mentioned that the case lacks a letter from the esteemed Governor of the General Authority for Customs to initiate the lawsuit "the lawsuit release list". Additionally, the case documents lack the final detailed result of the analysis, as it only referred to the report number without having an original in the documents. Furthermore, the case documents lack a record of the incident in violation of Article (129) of the Unified Customs law, and the importer was not notified by customs to return the shipment to the customs area. The incident represents a procedural violation rather than a technical one, as the documents did not show any risks related to consumer safety and health, and there is no suspicion of commercial fraud against the consumer. The Decision was issued in absentia, which led to a violation of the right to defense, in addition to the expiration of the lawsuit due to amnesty under Royal Order No. (61877) dated 27/10/1442 AH. The list concluded with a request to accept the appeal procedurally and on its merits and to annul the initial Decision.

A response memorandum from the authority was received through the Automated System of the Secretariat dated 06/09/2023, which summarized that the requests were included in the minutes of the hearing approved during the litigation, in accordance with Article (66) of the Law of Judicial Procedures. The indictment also indicated that the institution violated Article (142) of the Unified Customs Law. Based on what was stated in the statement from the competent authority – the Food and Drug Authority – it is not permissible to import goods into the Kingdom of Saudi Arabia, and the act committed by the importer is considered an attempt to commit a customs smuggling crime. The customs authority notified the institution to return the shipment through several notifications, the last of which was in the year 1436 AH, attached to the case file, but it did not respond, which implies its actions and breach of the signed Bond Commitment.



The memorandum added that the violation mentioned in the laboratory report is a technical violation that causes negative effects on consumers and affects their financial resources. The institution was also legally notified by the Secretariat, and a representative of the institution attended the hearing held on 25/12/2012, but he did not attend again, waiving his right to present his defenses. Regarding the royal pardon, the application of the provisions of the pardon is the responsibility of the regions' emirates and judicial authorities. The memorandum concluded with a request to reject the appeal submitted and uphold the initial Decision in all its provisions.

On Tuesday, July 16, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against the First Instance Decision No. (CSR-2022-2700) issued by the 2nd First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority thereto.

Grounds



It has been established from the case documents that there is no record of the initiation of the customs case against the importer regarding the facts attributed to him. The First Instance Decision stated that the committee would decide on the case based on the documents available in its file, after a request was made to the representative of the plaintiff to provide the committee with a letter initiating the case against the importer, as recorded in the hearing report dated Thursday, 10/11/2022. The appellate committee addressed the case as stated in the Decision. Upon reviewing the case file, the appellate committee found no evidence related to the existence of the customs case filed by the authority as required by the regulations, particularly concerning the shipment related to the import declaration associated with the case facts. The authority's response to the appellant regarding the absence of the customs case initiation letter merely stated, "The requests were included in the hearing report approved during the pleading before the committee, in accordance with Article (66) of the Procedural Law," which pertains to the provisions for initiating a case. The customs regulations stipulate that a letter initiating the case must be issued upon a written request from the (Director General), as stated in Article 150 of the Unified Customs Law, which results in the invalidation of the proceedings due to non-compliance with the requirements set by the regulations as a fundamental condition for the validity of the dispute. The authority's response regarding



the absence of the customs case initiation letter did not address the inquiry, as it merely reiterated what was stated in the Procedural Law regarding the initiation of the case and what should be asked of those reviewing the case to investigate its initiation. The inquiry was specifically about the existence of the written letter required by the regulations as a fundamental prerequisite for initiating the customs case before considering the subject of correcting its initiation. Since the case file and the authority's response lacked the submission of that written letter to initiate the customs case, the appellate committee concluded that the dispute had not been established at all regarding the shipment related to the case facts. The authority is responsible for pursuing the initiation of the case against the importer and filing the case against him after taking the necessary legal procedures and conditions required by the regulations for the validity of initiating the case and its subsequent consideration by the customs Committees. Therefore, the customs appellate committee concluded with the following report:

Decision

- 1- Acceptance of the appeal procedurally, submitted by/ Institution ..., commercial registration number (...), owned by/ ..., national ID number (...), against the initial Decision number (CSR-2022-2700) issued by the 2nd First Instance Customs Committee in Riyadh.
- 2- The Appeal was accepted on its merits, and the annulment of the initial Decision in all that it ruled, for the Grounds and considerations stated in this Decision.



Prohibitions



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-230792

Case No. PC-2024-230792

Principle No. 4

- The determination of the amount of customs fines for smuggling prohibited materials is governed by Ministerial Decision No. (2597) dated 24/07/1439 AH.

Facts

This is to consider the appeal against the initial Decision number (CFR-2024-201246) issued by the 1st First Instance Customs Committee in Riyadh, submitted by/ ..., ID number (...). On his own behalf. The facts of this case are summarized in that while the customs inspector was conducting a group (...) For quick transport by inspecting the consolidated packages that are declared as goods worth less than (1000) riyals, the package bearing the shipping bill number (...) was suspected. He is returning to the appellant/... identity number (...), and upon opening the package, (17) sexual stimulants were found inside that were not declared, and they are materials contrary to public morals and prohibited from importation. When the case was presented to the First Instance Committee, it issued its Decision to convict the importer of customs smuggling and to impose a customs fine of (17,000) seventeen thousand riyals, as stated in the text and Grounds of the initial Decision subject to appeal, which is referred to in order to avoid repetition.

Upon reviewing the appeal list, the appellate customs committee found that it includes a summary stating that the estimated value of the disputed goods is (17,000) riyals, which greatly exceeds its actual value, as its value is only (521) Saudi riyals.

And I request the response from the appellant against her on 21/01/2024 and enabling her to exercise her right to respond for a period of (45) days without submitting the required answer, and based on paragraph (1) of Article (35) of the rules of operation of the Zakat, Tax, and Customs Committees, the committee decided to rule on the case in light of the documents available thereto.

After reviewing the case file and the submitted appeal, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.



Grounds



After reviewing the unified customs law of the Gulf Cooperation Council countries approved by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the relevant regulations and laws.

Since the appellant was notified of the initial decision on 16/01/2024, and submitted the appeal on 19/01/2024, this entails the acceptance of the appeal procedurally as it was submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

Since there is no reproach against the reviewing Committee for taking the Grounds of the decision subject to the appeal without addition whenever it sees in these reasons what suffices to omit any new submissions, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained, and this is not affected by what the appellant argued regarding the valuation of the goods exceeding their actual value, considering that the determination of the amount of customs fines for smuggling prohibited materials is governed by Ministerial Decision No. (2597) dated 24/07/1439 AH, which stipulated imposing a customs fine of (1000) one thousand riyals for each piece, which necessitates stating that the defenses presented do not affect the outcome of the decision, making the appeal unsupported and thus must be rejected. Accordingly, the appellate committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant ... , identity number (...), against the initial Decision number (CFR-2024-201246) issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on the merits, and the initial decision is upheld in all that it ruled, for the reasons and grounds stated in this decision.

This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.

Similar Decisions:

- The Decision of the Appeals Committee in Riyadh No. (PC-2023-202650) dated 16/04/2024.



Constraints



Principle No. 5

- The customs procedure related to the completion of the entry of the shipment into the country requires the importer to take into account the general duty imposed by the customs law on the importer when dealing with the incoming shipment, which is embodied in compliance with all that the customs law and other related regulations required for the clearance of the shipment, necessitating that there is no action be taken regarding it in any form until it is approved and permission is granted to act upon it.

Facts

This is to consider the appeal submitted by/ ..., national ID number (...), in his capacity as an agent for the ... institution, commercial registration number (...), under the agency number (...). issued on 29/11/1444 AH, and the law license number (.../..), against the initial Decision number (CSR-2023-383), issued by the 2nd First Instance Customs Committee in Riyadh, ruling as follows:

- 1-Conviction of the defendant/ Institution ..., Commercial Registration No. (/...), present for customs smuggling.
- 2-Obligating it to pay a customs fine equivalent to the value of the violating item, an amount of (144,640) one hundred and forty-four thousand six hundred and forty riyals.
- 3- Obliging it to pay an amount equivalent to the value of the violating item as a confiscation fee of (144,640) one hundred and forty-four thousand six hundred and forty riyals.

Since the appellant was notified of the Decision subject to the appeal on 23/05/2023, and submitted the appeal on 04/06/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment (hair cream) belonging to the defendant through the customs of Jeddah Islamic Port under import declaration number (...). On 06/10/1436 AH, its total value amounted to (60,267) sixty thousand two hundred and sixty-seven riyals,



and its quantity was (1220) units, which were allowed under a commitment not to dispose of them until they are approved by the competent authority, and a sample of it was presented to the laboratory, and the response was received in report number (.../...) On the date of 17/10/1436 AH, it was noted that it did not meet the specifications in terms of the pH level not matching the permissible limit, which is from 5 to 7. The importer was notified of the result through several letters, but he did not respond. The first instance committee issued its Decision as previously mentioned, condemning the importer for customs smuggling and obliging him to the associated penalties, based on the fact that the importer attempted to introduce restricted goods without the approval of the relevant authorities, which constitutes customs smuggling according to Article (142) of the Unified Customs law, and arranged for the application of penalties against the importer as stated in the text of its Decision.

Upon reviewing the objection list submitted by the representative of the appealing institution, the customs appellate committee found that its summary mentioned that the First Instance Committee asserted in the Grounds for its Decision that the sample did not comply in terms of pH level, which is a technical violation that does not affect the quality and safety of the product, and did not refer to the scientific reference to assert this. The institution was verbally informed by the same laboratory that the mechanism for testing samples that year - the year of the shipment inspection - was done using litmus paper, which cannot accurately determine the pH value. The appellant obtained a recent test report for another sample of the same product and the same quantity from the same laboratory, which showed a result that did not match that shipment, indicating a pH result of (4.45), knowing that the permissible limit ranges between 4 to 8 according to their report. The Decision of the committee under appeal referred in its Grounds to what was stated: "And where Article (145/4) of the Customs law states that if the smuggled goods are among the prohibited goods, the penalty shall be a fine not less than the value of the goods and not exceeding three times its value, and imprisonment for a period not less than six months and not exceeding three years or one of these two penalties." The committee described in its Decision the incoming goods as prohibited from entering the Kingdom, which is incorrect as they are among the goods allowed to enter and are subject to approval from the laboratory. If they were prohibited, they would not have been allowed entry under an import declaration and would have been subjected to the normal procedures for regular shipments. The moral element for committing the crime of customs smuggling is absent, and what is attributed to the appellant is merely due to the lack of review by a government entity and does not rise to the level of the crime of customs smuggling, which is based on certainty. The list concluded with a request to accept the appeal and annul the committee's Decision and declare the institution not guilty of committing the customs smuggling crime attributed thereto.

The Automated System of the Secretariat received a response from the Zakat, Tax and Customs Authority regarding the appeal list dated 29/08/2023, summarizing that the institution was notified by several letters from customs at the addresses registered with the authority, indicating that the shipment did not comply



and that it must return the shipment according to the commitment signed by it. However, it did not respond despite granting the first instance committee a grace period to return the shipment. Additionally, the shipment was from the year 1436 AH, and during this long period, the institution did not adhere to the commitment made and did not respond to the customs letters. It would have been more appropriate for the institution to communicate with customs and respond instead of acting on the shipment. The violation mentioned in the laboratory result is considered a technical violation that directly affects the health and safety of consumers and impacts their financial resources. The elements of the crime of customs smuggling are present due to the institution's action regarding the shipment and the breach of the commitment made, as well as the introduction of goods whose entry into the country is restricted. The response memorandum concluded with a request to reject the submitted appeal and uphold the Decision subject to the appeal in all its provisions.

On Wednesday, February 21, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted against the First Instance Decision No. (CSR-2023-383) issued by the 2nd First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the Appeals Committee decided that the documents presented and the contents of the case file were sufficient to form its conviction and to rule on the matter in light of the Grounds on which the appeal was based.

Grounds



Whereas there is no reproach against the appellate authority for taking the reasons of the decision subject to the appeal without addition whenever it sees that these reasons suffice to avoid the need to present anything new, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. This is not affected by what the appellant argued to justify the importer's violation of the commitment to handle the shipment, which is loaded with the violation reported by the laboratory, as the importer is not authorized to determine the extent of the shipment's connection to a procedural or technical violation, and it is his duty to follow up on the matter of its approval without considering himself a judge by deciding to handle it without regard to its approval or disapproval. His failure to fulfill this duty results in him bearing his responsibility and its consequences, especially since it is known to the importing trader by necessity that the customs procedure related to completing the entry procedures for the shipment into the country requires the importer to observe the general duty required by the customs law regarding the importer when dealing with the incoming shipment, which is embodied in complying with everything required by the customs law and other related regulations regarding the clearance of the shipment, which necessitates not handling it in any way until it is approved and permission is granted to handle it, which was not the case with the



importer's handling of the shipment in question, which is subject to the provisions of prohibition or restriction. Thus, the act of handling it is deemed customs smuggling under the provisions of Article (142) of the Unified Customs law. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, making the appeal unsupported and necessitating its rejection regarding the conviction of customs smuggling and the penalty of the confiscation substitute imposed. However, the appellate committee noted that the committee issuing the decision calculated the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs law, which applies to prohibited goods. Since the incoming goods are not prohibited in their type and nature, but their entry was prohibited due to non-compliance with some required specifications, which is confirmed by the request from the importer to bring the shipment to the customs area for re-export, it is determined by this committee to apply paragraph (2) of Article (145) of the Unified Customs law contrary to what was decided in the initial ruling. Thus, this committee concludes to calculate the amount of the customs fine at twice the customs duties as will be stated in the ruling. Therefore, the customs appellate committee concluded to report the following:

Decision

Acceptance of the appeal procedurally from the applicant / institution ..., commercial registration number (...), against the initial Decision number (CSR-2023-383) issued by the 2nd First Instance Customs Committee in Riyadh.

2- on its merits, its dismissal, and the affirmation of the initial Decision regarding the conviction for customs smuggling and the penalty of confiscation compensation, with the amendment of the imposed customs fine to be double the customs fees, making the total amount claimed by the importer an amount of (159,104) one hundred fifty-nine thousand one hundred and four riyals, and this is for the Grounds and considerations stated in this Decision.

Similar Decisions:

- The Decision of the Appeals Committee in Riyadh No. (PC-2023-202097) dated 08/01/2024 AD.
- Decision of the Appeals Committee in Riyadh No. (PC-2023-201224) dated 23/04/2024 AD



The Customs Appeals Committee in Riyadh

Decision No. CR-171225-2024
Case No. PC-2022-125197

Principle No. 6

- The death of camels in the presence of a commitment to return them results in the impossibility of the importer returning the camels, which undermines the apparent indication of the document submitted to prove their death.

Facts

This is to consider the appeal submitted by (...), national ID number (...), in his capacity as an agent for (...), Kuwaiti ID number (...), issued by the external agency in the State of Kuwait, certified by the Ministry of Justice in the Riyadh region under number (...) and the date .../.../... against the initial decision No. (415) for the year 1441 AH, issued by the First Instance Customs Committee in Al-Ruqai, ruling as follows:

- 1- Condemnation (...) Under passport number (...) In person with customs smuggling.
- 2- To be under obligation to pay a customs fine of (20,000) twenty thousand riyals, equivalent to the value of the camels.
- 3- To be under obligation to pay a customs fine amounting to (20,000) twenty thousand riyals as a confiscation fee, bringing the total fine to (40,000) forty thousand riyals.
- 4- Not imprisonment.

Since the appellant was notified of the Decision subject to the appeal on .../.../... and submitted the appeal against the Decision on .../....., this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its conduct as stipulated in Article (163) of the Unified Customs law. As for the facts of the case, they can be summarized as follows: when a number (4) of camels covered by the customs declaration issued under number (...) exited. And the date .../.../... for participating in the cultural heritage event held in the country (...), however, it has not been proven that the camels were returned to the Kingdom, which contradicts the entry and exit instructions that must be observed and adhered to. The First Instance Committee issued its Decision as stated in its ruling based on



the fact that the invitee (...) did not comply with returning the camels immediately after participating in the cultural heritage event within the granted timeframe, which constitutes customs smuggling according to Article (142) of the Unified Customs law. Upon reviewing the objection list submitted by the appellant's agent, the appellate customs committee found that its summary mentioned that the appellant stated in his previous testimony that the non-return of the camels was due to their death, as evidenced by the report issued by the Animal Health Department of the Public Authority for Agriculture and Fish Resources dated .../.../... which was attached to the case file, proving that the camels were not brought to the Kingdom. The appellant also pledged to provide evidence of the camels' death; however, the total ban prevented him from entering the Kingdom and appearing before the First Instance Committee. The list concluded with a request to overturn the initial Decision and rule to dismiss the claim of the Public Authority for Customs due to lack of evidence and to cancel the fines mentioned in the Decision's text. A response memo was received through the Automated System of the secretariat from the authority dated.../.../... which summarized that the permit granted to the appellant on .../.../...AH is valid for six months, meaning that the appellant must return the camels to the Kingdom before the date .../.../...AD. However, he submitted a certificate issued by the Public Authority for Agriculture and Fish Resources on .../.../...AH, indicating his failure to comply with the commitment made to return them within six months. Additionally, customs smuggling crimes are intentional crimes that require both the material and moral elements to be present, which were met in the case at hand due to the appellant's failure to return the camels within the granted period. The memo concluded with a request to reject the appeal submitted by (...), and to uphold the initial decision in all its provisions. On Wednesday, March 13, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against Decision No. (415) for the year 1441 AH, issued by the First Instance Customs Committee in Al-Ruqai. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority.

Grounds

And since the authority did not provide anything that undermines what was apparent regarding the death of the four camels, which was supported by the attached documents in support of his statements and reinforced by the certificate issued by the Public Authority for Agriculture and Fish Resources in Kuwait dated .../.../... except for what it mentions about the long period between the presumed date for the end of the license to return the camels to the country before the date .../.../... and the issuance of the certificate of the camels' death corresponding to the date .../.../... and that it can be inferred from this that the concerned party did not adhere to the commitment taken upon him to return the camels within six months, which



expires on .../.../... and since the customs' reliance on the mere violation by the importer of the commitment to return the camels within the specified period does not negate the fact of the camels' death, it follows that merely relying on the commitment that the concerned party did not adhere to in returning the camels to support what the customs claims regarding the existence of customs smuggling and the validity of its attribution to him is not based on reality, given that the fact of death, for which there is no evidence to refute the apparent indication of the submitted document to prove it, results in the impossibility of the appellant returning the camels due to their death, which means that the initial Decision did not align with the reality and circumstances of the case, as its outcome was contrary to the truth of its facts as required by the correct application of the law. Since the customs appeal committee concluded that the defenses presented by the appellant included what confirms the invalidity of the appealed initial Decision, it was decided to annul the initial Decision in all that it ruled, and thus the committee concluded to report the following:

Decision

- 1- The acceptance of the appeal procedurally from the applicant (...), identity number (...), against the initial Decision number (415) for the year 1441 AH, issued by the First Instance Customs Committee in Al-Ruqai.
 - 2- Acceptance of the appeal on its merits, and the annulment of the initial Decision regarding everything that was ruled against the appellant, and that is for the Grounds and considerations stated in this Decision.
- Third: Acceptance of appeal / Company (...) , Commercial Registration No. (...) Regarding the double taxation of my company contract (...) and colleges (...), and the cancellation of the Decision of the first circuit regarding violations and disputes of the value-added tax in Jeddah Governorate No. (VJ-2021-766), and the referral of the case back to the issuing circuit to consider it.

Similar Decisions:

- Decision of the Appeals Committee in Riyadh No. (AC-2023-203067) dated 09/05/2024 AD.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-230544

Case No. PC-2024-230544

Principle No. 7

- Legally, the determination of the confiscation of the means of transport is contingent upon whether the transport vehicle itself has been specifically prepared for smuggling the seized materials, such as the arrangement of hidden compartments or secret pockets within the vehicle for smuggling purposes..

Facts

This is to consider the appeal against the initial decision number (CSR-2023-120092) issued by the 2nd First Instance Customs Committee in Riyadh, submitted by (...), National ID number (...). On his own behalf. As for the facts of this case, they can be summarized as follows: while the appellant was entering the Kingdom via the bridge (...). Driving the Vehicle Type (...) Model (...) Plate No. (...) The vehicle was suspected and upon searching it, (...) was found. Electronic shisha supplies valued at (1,950) riyals, and (20) electronic cigarettes valued at (2,000) riyals, were found hidden inside the cavity of the right and left rear fender and were not declared. When the case was presented to the first instance committee, it issued its decision to convict the importer of customs smuggling, obliging him to pay a customs fine equivalent to the value of the seized electronic cigarettes, and obliging him to pay a customs fine equivalent to 10% of the value of the seized electronic shisha supplies, and to confiscate the vehicle used to transport and conceal the seized items or obliging him to pay an amount equivalent to its value in case it is not seized, as stated in the text and reasons of the initial decision subject to appeal, which is referred to in order to avoid repetition. Upon reviewing the appeal list, the appellate customs committee found that it includes a summary stating that the appellant objects to the committee's decision to confiscate the vehicle, as the vehicle does not belong to him but is owned by a company (...), and that it has not been proven that its owner was involved in smuggling, which makes the confiscation penalty extend to others. Additionally, most of the seized materials are for personal use and do not have any significant commercial value. The appellant also argues that he is unaware of customs regulations and the related penalties, and that he has no prior offenses in this regard. Therefore, he requests the cancellation of paragraph five of the initial decision and a ruling against the confiscation of the vehicle. And I request the response from the appellant against her on the date .../.../... and enabling her



to exercise her right to respond for a period of (45) days without submitting the required answer, and based on paragraph (1) of Article (35) of the rules of operation of the Zakat, tax, and customs committees, the committee decided to rule on the case in light of the documents available thereto. After reviewing the case file and the submitted appeal, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.

Grounds



After reviewing the unified customs law of the Gulf Cooperation Council countries approved by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the relevant regulations and laws. Since the appellant was notified of the initial decision on 18/12/2023, and submitted the appeal on 13/01/2024, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law. Since it has been established according to the appeal regulations that the appellant has limited his requests to canceling paragraph five of the initial decision and ruling against the confiscation of the vehicle, and since the law relied upon for determining the confiscation of the means of transport is inherently linked to the extent to which the means of transport itself is prepared for smuggling the seized materials, such as arranging hiding places or pockets within the means of transport for use in smuggling, based on that, and since it has not been proven through the case documents that the means of transport used in the smuggling operation has undergone the changes previously mentioned, this committee concludes to uphold the initial decision in paragraphs (1, 2, 3, 4), while canceling paragraph number (5) of its ruling and declaring the non-confiscation of the means of transport as it was no longer used for smuggling. Accordingly, the committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from (...), national ID number (...), against the initial Decision number (CSR-2023-120092) issued by the 2nd First Instance Customs Committee in Riyadh.

Secondly: on its merits, the affirmation of the initial decision regarding what was stated in paragraphs (1, 2, 3, 4), and the cancellation of paragraph (5) related to the confiscation of the vehicle, for the reasons and justifications mentioned in this decision.



Similar Decisions:

- The Decision of the Appeals Committee in Riyadh No. (PC-2023-226198) dated 09/05/2024 AD.
- The Decision of the Appeals Committee in Riyadh No. (PC-2022-142058) dated 03/12/2023 AD.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-231355

Case No. PC-2024-231355

Principle No. 8

- The difference in the customs declaration number mentioned in the facts of the Decision subject to appeal and what was stated in the public prosecution's indictment and the motion submitted by the Zakat, Tax, and Customs Authority does not affect the Decision subject to appeal, as long as the Decision referred to the public prosecution's letter, which correctly included the customs declaration and the seizure report, and this was followed by the committee's reasoning in accordance with what was mentioned in both in terms of description and value.

Facts

This is to consider the appeal against Decision number (CFR-2023-205295) issued by the 1st First Instance Customs Committee in Riyadh, submitted by (...), National ID number (...). The law license number (...), as the agent for the owner of the institution (...), national ID number (...), based on the agency number (...) issued on 03/08/1445 AH..

As for the facts of this case, they are summarized by the arrival of a shipment belonging to the appealing institution through the customs of Jeddah Islamic Port under import declaration number (...). On the date 13/12/1442 AH, it was declared in the documents as (footwear), and upon inspection by the customs inspector, there was suspicion of well-known trademarks. The samples were referred to the consulting company, and then the Ministry of Commerce and Investment was contacted, and it was reported that they bore a counterfeit trademark and were considered a violation of the trademark law and would not be cleared. It was also found during the inspection that there were (travel bags) that had not been declared. The first instance committee issued its decision to convict the institution of customs smuggling and impose the associated penalties as stated in the decision subject to appeal, based on the fact that the importer imported items that violated the trademark law and the anti-commercial fraud law, and that the attempt to introduce counterfeit and fraudulent items constitutes an attempt at customs smuggling according to the provisions of articles (142, 143, 144) of the unified customs law. Additionally, the institution's failure to declare the discovered items led to the loss of the due customs duties and bypassed the inspection



procedures to ensure compliance with the approved Saudi specifications, which constitutes customs smuggling. Upon reviewing the appeal list submitted, the appellate customs committee found that it includes a summary stating that there is no letter to initiate the case from the Public Prosecution concerning the import declaration number (...). On 29/12/1442 AH as stated in the contested decision, as well as the letter to initiate the lawsuit from the prosecution number (...). On 21/02/1445 AH, it concerns the customs declaration number (...) On 13/12/1442 AH, in addition to the fact that the items specified in the decision do not pertain to the statement outlined in the decision but rather to the customs declaration specified in the letter initiating the lawsuit from the prosecution, and that the investigations conducted with the institution pertain to the customs declaration number (...). The list of the lawsuit initiated by the authority against the prosecution clarifies the customs declaration number (...), and accordingly, the appealing institution argues that the customs declaration mentioned in the decision subject to appeal does not pertain to the list of the lawsuit attached to the case file, and the list concluded with a request to overturn the decision and acquit the institution. And I request the response from the appellant against her on 04/02/2024 and enabling her to exercise her right to respond for a period of (45) days, and she did not submit the required answer. Based on paragraph (1) of Article (35) of the rules of operation of the Zakat, tax, and customs committees, the committee decided to rule on the case in light of the documents available thereto. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.

Grounds



After reviewing the unified customs law of the Gulf Cooperation Council countries approved by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the relevant regulations and laws. Since the appellant was notified of the initial decision on 21/01/2024, and submitted the appeal against the decision on 01/02/2024, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established by Article (163) of the Unified Customs law. After reviewing the case file and its contents, and considering the defenses presented by the appellant, it is noted that there is no reproach against the reviewing authority for adopting the reasons for the decision subject to the appeal without adding anything new, whenever it finds in these reasons sufficient justification to refrain from introducing any new evidence. This is because its support is based on its reasons, indicating that it did not find in the objections raised against it anything that warrants a response beyond what those reasons contained. Furthermore, the argument presented by the appellant regarding the discrepancy in the customs declaration number mentioned in the facts of the decision subject to the appeal and what was stated in the public prosecution's lawsuit and the letter of initiation submitted by the Zakat,



Tax and Customs Authority does not undermine this, as it is established that the decision subject to the appeal referred to the same number as the letter from the Chief Public Prosecutor in Jeddah numbered (...). The customs declaration and the seizure report were correctly stated, and this was followed by the committee's reasoning in accordance with what was mentioned in both in terms of description and value. This indicates that what was stated in the facts of the decision is merely a matter of material errors that do not affect the validity of the decision reached. Since the reasons for the decision under appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and thus must be rejected. Accordingly, the committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from its presenter (...), commercial registration number (...), owned by (...), national ID number (...), against the initial Decision number (CFR-2023-205295) issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on the merits, and the initial decision is upheld in all that it ruled, for the reasons and considerations stated in this decision.

Similar Decisions:

- Decision of the Appeals Committee in Riyadh No. (PC-2023-226280) dated 05/09/2024.
- Decision of the Appeals Committee in Riyadh No. (PC-2023-225994) dated 04/09/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-230454
Case No. PC-2024-230454

Principle No. 9

- The customs inspection of the violating item, and the lack of a remark regarding the establishment of the origin indication while agreeing to release the shipment without requiring the importer to establish the origin indication before handling, results in the absence of the smuggling crime considering that the origin indication is one of the requirements for customs clearance that customs address during inspection without the need to refer the sample to the laboratory.

Facts

This is to consider the appeal against the initial Decision number (CFR-2023-104130) issued by the 1st First Instance Customs Committee in Riyadh.

As for the facts of this case, they are summarized by the arrival of a shipment (hand flashlights) through the Riyadh customs dry port under import declaration number (...). On the date 03/03/1438 AH, upon inspection, it was found that there was a trademark, and samples were seized and referred to the Ministry of Commerce and Investment, and a response was received in letter number (...). On 28/03/1438 AH, for the item flashlight bearing the trademark (...) Origin (...) It is included that it has been found that there is no registration for the mark, but it is noted that it violates the commercial data law for not explicitly mentioning the country of origin on the sample, and it is necessary to verify the accuracy of the country of origin. The first instance committee issued its Decision not to convict the importer of customs smuggling, as stated in the text and Grounds for the Decision subject to appeal, which is referred to in order to avoid repetition. Upon reviewing the objection list submitted, the appellate customs committee found that it included a summary indicating that the violation in question is technical, and thus it falls under prohibited goods, based on the statement from the Ministry of Trade and Industry No. (...) The date 03/07/1437 AH indicates that the sample is poorly manufactured and violates the commercial fraud law, as also stated in the letter from the Ministry of Commerce and Investment (...) The date 28/03/1438 AH indicates that upon reviewing the sample, it was found that there is no registration for the trademark; however, it is noted that it violates the commercial data law for not explicitly mentioning the country of origin. Where "the administration



prohibits under the provisions of this law "law" or any other "law" law or Decision the entry of prohibited or violating goods or their exit or transit, and also prohibits the entry of restricted goods or their exit or transit except with the approval issued by the competent authorities in the state", according to the text of Article (24) of the Unified Customs law. Additionally, the law defined commercial fraud in its first article as any product that does not conform to the approved standard specifications. Article (142) of the Unified Customs law states that: "Smuggling is the introduction or attempt to introduce goods into the country or their exit, or attempt to exit them in violation of the applicable legislation, without paying the customs taxes "fees" in whole or in part, or contrary to the provisions of prohibition or restriction contained in this law "law" and other laws and laws." Article (143/16) of the same law included the following: "The following is specifically included in the definition of smuggling: ... 16- "The import or export of counterfeit goods or imitation goods"; therefore, the action taken by the importer in attempting to introduce counterfeit items is considered an attempt at customs smuggling, due to the deception it causes to the consumer. It concluded with a request to convict the importer of customs smuggling and to impose a customs fine equivalent to three times the value of the goods, and to confiscate the goods or rule for an amount equivalent to their value if they are not seized. Upon reviewing the response memorandum submitted by the appellant against it, the customs appellate committee found that it included a summary stating that the authority based its appeal on the letter from the Ministry of Trade and Industry No. (...) On 03/07/1437 AH, this reference is incorrect; because the letter does not pertain to the shipment in question, but rather to the institution ..., and it was issued prior to the date of the shipment's arrival, and as for the letter issued with the number (...). It does not indicate a violation of the sample, and the committee responded to that in its First Instance Decision, concluding with a request to reject the appeal and uphold the First Instance Decision. Upon reviewing the appeal committee's response to the rebuttal submitted by the appellee, it became clear that it summarized that the authority based its appeal on the importer's violation of the commercial data law by importing goods that do not bear a clear country of origin. Additionally, the importer did not return the violating item, which is not held at customs, thus confirming his handling of the violating shipment, which constitutes customs smuggling under Article (142) of the Unified Customs law. The response concluded with the authority's insistence on the requests stated in its appeal. After reviewing the case file and the appeal submitted by the authority and the response of the appellant against it, the committee found that the case is ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and rule on it in light of the Grounds on which the appeal was based.

Grounds

After reviewing the unified customs law of the Gulf Cooperation Council countries approved by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the relevant regulations



and laws. Since the appellant was notified of the initial decision on 31/12/2023, and submitted the appeal against the decision on 10/01/2024, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law. Since there is no reproach against the reviewing authority for taking the reasons of the decision subject to the appeal without adding anything whenever it sees in these reasons what suffices to avoid presenting anything new, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. This is not affected by what the authority mentioned in its appeal statement that the violation related to the shipment subject to the case is of the same kind as technical violations, as the customs inspected the violating item in the case and did not express its observations regarding the establishment of the origin indication. Moreover, it approved the clearance of the shipment without requiring the institution to establish the origin indication before proceeding, considering that the origin indication is one of the requirements for customs clearance that customs addresses during inspection without the need to refer the sample to the laboratory, which negates the crime of customs smuggling against the importer. Therefore, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and necessitates its rejection. Accordingly, the committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant / the General Authority of Zakat and Tax and Customs, against the initial Decision No. (CFR-2023-104130), issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: Dismissal on its merits and upheld the initial decision in all that it ruled, and that is for the reasons and grounds stated in this decision.

Similar Decisions:

- Decision of the Appeals Committee in Riyadh No. (PC-2024-230322) dated 26/09/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-204717
Case No. AC-2022-109105

Principle No. 10

- The evidence relied upon for a conviction of smuggling does not need to be based on the competence of each piece of evidence to conclusively address every detail of the case, considering that the original premise in proving those facts is that the evidence regarding them should be supportive of one another, collectively forming the conviction of the adjudicating body.

Facts

This is to consider the appeal submitted by/ Foundation ... The commercial entity, commercial registration number (...), owned by / ..., national ID number (...), against the initial decision number (...), issued by the 2nd First Instance Customs Committee in Riyadh, ruling as follows:

- 1- Conviction of the defendant / Institution Commercial, commercial registration number: (...), in person for customs smuggling.
- 2- Obliging it to pay a customs fine equivalent to the value of the violating item in the amount of (29,402) twenty-nine thousand four hundred and two riyals.
- 3- Obliging it to pay an amount equivalent to the value of the violating item as a confiscation fee of (29,402) twenty-nine thousand four hundred and two riyals.

Since the appellant was notified of the decision subject to the appeal on .../.../... and submitted the appeal on .../....., this entails the acceptance of the appeal procedurally as it was submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment consisting of (tires) belonging to the importer through the customs of Jeddah Islamic Port under import declaration number (...). and the date .../.../... and its total value amounted to (29,402) twenty-nine thousand four hundred and two riyals, which was granted under a commitment not to dispose of it until it is approved by the competent authority, and after presenting the sample to the laboratory, the response was received in report number (...) and the date .../.../... which includes non-compliance due to the sample not passing the speed test, and the importer was notified of the result through several letters, but he did not respond. The first instance committee issued



its decision as stated in its ruling, based on the fact that the violation is technical and affects the quality and safety of the product and the health and safety of the consumer. Furthermore, the lack of response from the importer to customs to return the non-compliant item, despite it not being approved by the competent authority, is considered a violation of Article (56) of the Unified Customs law, and is also considered customs smuggling according to Article (142) of the same law, and it arranged for the application of penalties against the importer as stated in its decision.

Upon reviewing the objection list submitted by the importing institution, the customs appellate committee found that its summary mentioned that the import was based on the commercial register without the knowledge of the institution's owner. Additionally, it did not pay any fees on the imported goods and is unaware of anything regarding them. Furthermore, the commitment not to act attached to the case file is a copy and not the original, and it did not include the details of the shipment in question. It is noted that the information mentioned in the commitment, such as mobile numbers, telephone numbers, postal box, and bank account number, all do not belong to the institution. It is known from the unified customs law that the commitment must be the original for each import declaration, and a copy cannot be attached to more than one import declaration. Moreover, the institution is a victim of a force majeure that it had no control over, and therefore it cannot bear responsibility for goods that exploited the institution's name with incorrect documents according to Article (154) of the unified customs law. In addition, the customs broker is responsible for those actions under Article (157) of the same law, along with the responsibility of the Al-Batha customs for failing to perform its duties due to not verifying the validity of the commitment and the submitted data. The list concluded with a request not to convict the institution and to overturn the initial decision.

A response memo from the authority was received through the Automated System of the secretariat dated .../.../... included a summary that the institution is responsible to the customs as the customs declaration number (...) The date .../.../... is registered in its name, and all customs and commercial transactions submitted to the authority are certified documents signed by the institution. It can hold accountable those who caused harm before the relevant authorities. Additionally, the incident occurred during a period when there was no electronic linkage between government entities to verify the validity of commercial records and agencies, except on paper. Therefore, the documents submitted to the authority allowed for temporary clearance until the laboratory results were issued after taking a commitment not to act by the importer. Furthermore, customs smuggling crimes are intentional crimes that require both the material and moral elements to be present, which were available in the case at hand. The memorandum concluded with a request to reject the appeal submitted by the institution and to uphold the initial decision in all its provisions.

On Wednesday, .../.../... the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against decision number (...), issued by the 2nd First Instance Customs



Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based and the response of the authority.

Grounds



Whereas there is no reproach against the authority reviewing the appeal for taking the Grounds of the Decision subject to the appeal without addition whenever it sees that these Grounds suffice to avoid presenting anything new, because in its support, based on its Grounds, it implies that it did not find in the objections raised against it anything that deserves a response beyond what those Grounds contained. This is not affected by what the appellant claims regarding the alleged lack of jurisdiction over the shipment and that it is unaware of the exploitation of the institution's name without its knowledge in importing the shipment in question as stated in the Grounds for its appeal. This is because customs have no concern when applying the customs law regarding the clearance of shipments in relation to the importer and the customs broker, as long as those shipments have been organized in the import declaration in the name of the importer, whether this resulted in a smuggling incident related to the violating shipment or the shipment was linked to a violation of customs procedures when the importer violated the commitment taken regarding it and acted with the shipment that has not been cleared from the jurisdiction. The appellant is responsible for returning to whoever claims to have suffered damage from the exploitation of his data and the relationship that existed with him regarding the import of the shipment organized in his name. As for what was regarding the claim of the invalidity of the conviction for customs smuggling, alleging that the commitment taken not to act with the shipment in question was devoid of the completion of its data in a manner that confirms its connection to the shipment in question and that there exists only a copy of it without its original. Whereas, since it is relied upon in criminal matters - which include violations and crimes of customs smuggling - that it is not necessary for the evidence to be confined to certain methods, and it is also not essential for the evidence relied upon in the conviction Decision for smuggling to be based on the competence of each piece of evidence in every detail of the case, considering that the original in those facts when proven is that the evidence regarding them should be supportive, complementing each other, and collectively forming the conviction of the reviewing authority of the case. Thus, it is not appropriate to discuss each piece of evidence separately, isolated from the rest of the documents, evidence, and indications, but rather it becomes sufficient that the evidence and indications collectively lead to forming the conviction of that authority and completing its direction in stabilizing its belief and reassurance. This is because the punishable act is not in the fact of holding the importer accountable for violating the commitment taken regarding him, as the act constituting the crime of customs smuggling is embodied in entering or attempting to enter the shipment without completing its clearance from the jurisdiction. The commitment is nothing but a document from the shipment papers to prepare for the commencement of its



customs clearance, reminding the importer of the general duty known to the importer by necessity not to act with the shipment except after being permitted to do so. Since the Grounds for the Decision subject to the appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the Decision, which makes the appeal without a supporting basis, necessitating its rejection. Accordingly, the committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ institution ... Commercial, commercial registration number (...), owned by / ..., national ID number (...), against the First Instance Decision number (...), issued by the 2nd First Instance Customs Committee in Riyadh.
- 2- Dismissal on its merits and upheld the initial decision in all that it ruled, and that is for the reasons and grounds stated in this decision..



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-179147

Case No. PC-2023-179147

Principle No. 11

- The mismatch of items due to the name of the items not indicating the nature of the product, the difference in components between Arabic and English, and the absence of a country of origin falls under the rule of customs smuggling.

Facts

This is to consider the appeal against the initial Decision No. (CFR-2022-2202) issued by the 1st Customs Committee in Riyadh, submitted by the agent / ..., Civil Registration No. (...), under Agency No. (...), and since the appellant was notified of the initial Decision on 06/02/2023, and submitted the appeal against the Decision on 16/02/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the prescribed period for its submission as stipulated in Article (163) of the Unified Customs law.

As for the facts of this case, they are summarized by the arrival of a shipment (dried cake, coconut cake, butter cookies, Angari biscuits) through the Islamic Port of Jeddah Customs under import declaration number (...) dated 03/04/1438 AH, which was allowed under a commitment not to dispose of it until the results of the examination by the competent authority appeared. Upon examining the sample by the laboratory, the report number (...) dated 19/05/1438 AH was received, indicating non-compliance in that the product name does not reflect the nature of the product, the ingredients in Arabic do not match those in English, there is a quality system logo, and there is no country of origin. The importer was addressed with the result by the customs, but he did not respond. The first instance committee issued its Decision to convict the importer of customs smuggling and impose the associated penalties, as stated in the text and Grounds for the Decision subject to appeal, which is referred to in order to avoid repetition.

Upon reviewing the objection list submitted, the Customs Appeals Committee found that it includes a summary indicating that the initial Decision was issued in absentia against the appellant, and that the facts of the Decision indicate that the violation is considered procedural, which necessitates ruling in favor of the appellant (the institution) and applying the provisions of Article (30/6) of the Unified Customs law. Furthermore, the case is subject to statute of limitations since the shipment is dated 03/04/1438H, and



there is a circular from the Director General of Customs canceling the commitments for the year 1438H and prior. The appeal concluded with a request to overturn the initial Decision.

Upon reviewing the response memorandum submitted by the appellant against it, the customs appellate committee found that it includes a summary stating that the institution did not comply with the commitment made to it and did not respond to the customs letters. The violation of the commitment regarding the handling of goods is considered customs smuggling according to Article (142) of the Unified Customs law. Furthermore, the violation is technical and directly affects the health and safety of consumers, impacting their financial resources due to the purchase of goods that do not meet the required specifications and standards. It concluded with a request to reject the appeal and uphold the initial Decision in all its provisions.

After reviewing the case file and the appeal submitted by the appellant and the response from the appellee regarding it, the committee found that the case is ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and to rule on it in light of the Grounds on which the appeal was based.

Grounds



After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws.

Whereas the appellate customs committee, upon reviewing the case file and its attachments, and whereas it is established by the letter from the Food and Drug Authority number (...) dated 19/05/1438 AH, which states that the items do not comply in that the name of the item does not indicate the nature of the product, and the components in Arabic differ from those in English, and there is a quality law logo, and there is no country of origin, and whereas the importer's action regarding the items released temporarily without the approval of the competent authority falls under the definition of customs smuggling specifically according to paragraph (17) of Article (143) of the Unified Customs law, especially since he did not deny his action regarding the non-compliant items. As for the appellant's argument that the Decision was issued in absentia against him, this is rejected; considering that it is established through the narration of the facts of the initial Decision subject to appeal that the appellant was present before the First Instance Committee in the hearing dated 15/03/1444 AH, thus the conclusion of the Decision that it was in person is consistent with the correct law. As for the appellant's argument regarding the statute of limitations, this is also rejected; as the law has set a period of (15) years to pursue actions.

Customs smuggling based on Article (176) of the Unified Customs law, which states that: "... The statute of limitations regarding customs administration, if no prosecution has been initiated, is as follows: Fifteen years for the following two cases: 1- Smuggling activities or similar actions starting from the date of



committing the crime. Since the Grounds for the Decision subject to appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the Decision, which makes the appeal unsupported and must be rejected. Accordingly, the customs appeals committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, submitted by/ Institution, commercial registration number (...), owned by/ ..., civil registration number (...), against the initial Decision number (CFR-2022-2202), issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on the merits, and the initial Decision is upheld in all that it ruled, for the Grounds and considerations stated in this Decision.

This Decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-205412

Case No. PC-2023-205412

Principle No. 12

- The shipment has been released with a commitment not to dispose of it, which means that the importer is aware of the prohibition on disposing of the shipment before its approval, and violating this by the importer indicates his disregard for the commitment taken and his intention to dispose of the shipment without considering the condition of its release.

Facts

This is to consider the appeal submitted by (...), national ID number (...), in his capacity as the owner of the institution (...), commercial registration number (...), against the initial Decision number (**CFR-2023-103556**), issued by the 1st First Instance Customs Committee in Riyadh, which ruled as follows:

1-Condemnation of the importer (Institution ...) Commercial registration number (...), owned by / ..., National ID number (...), present for customs smuggling.

2-To impose a customs fine equivalent to the value of the violating item in the amount of (660,000) six hundred sixty thousand riyals.

3- Obliging him to pay an amount equivalent to the value of the violating item as a confiscation fee of (660,000) six hundred sixty thousand riyals, making the total amount claimed (1,320,000) one million three hundred twenty thousand riyals.

Since the appellant was notified of the Decision subject to the appeal on 30/08/2023, and submitted the appeal on 09/09/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the prescribed period for its execution as stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment consisting of a (scooter) belonging to the importer through the Al-Batha customs under import declaration number (...) dated 09/02/1437 AH, which was released based on a commitment not to dispose of it until it is approved by the competent authority. After presenting the sample to the laboratory, the response was received in report



number (...) dated 30/11/2015 AD, which included non-compliance regarding the explanatory data, instructions, and prevention from accessing the electrified parts. The importer was notified of the result through several letters, but he did not respond. The first instance committee issued its decision as stated in its ruling based on the fact that the importer did not review the customs or return the shipment to the customs area, which implies that he acted with the unapproved shipment, violating the commitment taken from him, which constitutes customs smuggling according to Article (142) of the Unified Customs law, and arranged for the application of penalties against the importer as stated in the ruling subject to appeal.

Upon reviewing the objection list submitted by the owner of the importing institution, the customs appellate committee found that its summary mentioned that a customs clearance office was authorized to import the goods and clear them customs-wise after being provided with all the required documents for import. However, this office did not execute what was agreed upon; it acted without consulting the owner of the institution and imported multiple times without the owner's knowledge. The committee that issued the decision condemned the institution for customs smuggling, relying on Article (142) of the Unified Customs law, which does not apply to the case at hand. This is because the office that was authorized did not introduce or attempt to introduce the goods in violation of the applicable regulations, as evidenced by the goods passing through legally and with import data, and they were released based on a commitment not to act. Therefore, the handling of the goods in this case does not rise to the level of being described as customs smuggling but rather constitutes a violation according to Article (141) of the Unified Customs law. Additionally, there was no criminal intent on the part of the institution and its owner, as it was not proven to the First Instance Committee that he was an actor, partner, intervenor, instigator, or possessor, as stated in Article (144) of the Unified Customs law, which the committee relied upon in condemning the institution. The list concluded with a request to accept the appeal on its merits and to challenge the contested decision in its entirety.

A response memo from the authority was received via the Automated System of the Secretariat dated 18/10/2023, summarizing that the importing institution is responsible for the subsidiary actions according to Article (158) of the Unified Customs law. Furthermore, the shipment in question is registered in the name of the institution, and Article (143) explicitly states that the handling of goods temporarily released falls under the definition of customs smuggling. Additionally, the institution was notified through several letters sent to the addresses registered with the authority, indicating that the shipment did not comply and that it must return the shipment according to the commitment signed by it; however, it did not respond. The institution should have communicated with customs instead of acting on the shipment. Moreover, customs smuggling crimes are intentional crimes that require both the material and moral elements to be present, which were met in the case at hand. The memo concluded with a request to reject the appeal submitted by the institution and to uphold the initial Decision in all its provisions.



On Wednesday, 07/02/2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision number (CFR-2023-103556), issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority.

Grounds

Whereas there is no reproach against the appellate authority for taking the Grounds of the Decision subject to the appeal without addition whenever it sees that these Grounds suffice to avoid the need to present anything new, because in its support, based on its Grounds, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those Grounds contained. This is not affected by what the appellant mentions in his statement that the customs clearance office was authorized to complete the procedures for the shipment subject to the lawsuit and did not fulfill what was agreed upon for importing the goods without his knowledge, as customs has no concern when applying the customs law regarding the clearance of shipments in relation to the importer and the customs clearance agent, as long as those shipments have been organized in the import declaration in the name of the importer, whether this resulted in a smuggling incident related to the violating shipment or the shipment was linked to a violation of customs procedures when the importer violated the commitment taken regarding it and dealt with the shipment that was not cleared by the competent authority. The appellant is free to claim against anyone who claims to have suffered damage by exploiting what he claims to be an authorization that exceeds what was agreed upon with the customs clearance office. The result reached by the Decision is not affected by what the appellant claims that the shipment was introduced in a regular manner, as such a defense is rejected considering that it contradicts reality, as it is established that the shipment was cleared with a commitment not to deal with it except after its approval by the competent authority, which was not the case with the importer's dealings with the shipment. As for what the appellant mentions about the absence of criminal intent on his part, it is rejected, considering that the shipment was cleared with a commitment not to deal with it, thus confirming the importer's knowledge of the prohibition of dealing with the shipment before its approval, and the violation of this by the importer indicates his disregard for the commitment taken on him and his intention to deal with the shipment without regard to the condition of its clearance. Since the Grounds for the Decision subject to the appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the Decision, which makes the appeal without a supporting basis, necessitating its rejection. However, the appellate committee noted that the committee issuing the Decision had ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs law, which applies to prohibited goods. Since the



goods in question are not prohibited in their nature and type, but their entry was prohibited due to non-compliance with some required specifications, which is confirmed by the request from the importer to bring the shipment to the customs area for re-export, this committee decides to apply paragraph (2) of Article (145) of the Unified Customs law contrary to what was ruled by the initial Decision. Thus, this committee concludes to calculate the amount of the customs fine at twice the customs duties as will be stated in the ruling. Accordingly, the committee concluded to report the following:

Decision

1- Acceptance of the appeal procedurally submitted by / Institution ..., Commercial Registration No. (...), owned by / ..., National ID No. (...), against the initial Decision No. (CFR-2023-103556), issued by the 1st First Instance Customs Committee in Riyadh.

2- on its merits, the appeal is rejected, and the affirmation of the initial Decision regarding the conviction of the importer for customs smuggling and the confiscation fee, with the amendment of the customs fine to be twice the customs duties, making the total amount claimed from the importer an amount of (726,000) seven hundred twenty-six thousand, and that for the Grounds and considerations stated in this Decision.

Similar Decisions:

- Decision of the Appeals Committee in Riyadh No. (PC-222712 -2023) dated 09/04/2024.
- The Decision of the Appeals Committee in Riyadh No. (PC-225493-2023) dated 29/08/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-174690

Case No. PC-2023-174690

Principle No. 13

- The non-compliance of the two items (screens, computer) with the specification of the explanatory data and the shape of the plug is considered a non-essential observation that does not affect consumer deception and the safety of using the product.

Principle No. 14

- The non-compliance of the lighting supplies shipment with the specification for preventing accidental contact with electrified parts is considered a technical observation, and the importer's action regarding that item, while burdened with that violation, is deemed to be customs smuggling.

Facts

This is to consider the appeal submitted by / Institution ..., Commercial Registration No. (...), against the initial decision No. (1128) for the year (1441 AH), issued by the First Instance Customs Committee at the Al-Bathaa customs, ruling as follows:

First) Condemnation of the importer/... , of Saudi nationality, under national ID number (...) Issued by Al-Ahsa, Owner/Founder of ..., Commercial Registration No. (...) On 08/07/1431 AH, Al-Ahsa - in person - for customs smuggling.

Secondly) He is fined an amount equivalent to the value of the violating shipments, which number (862) cartons (lighting supplies – computer screens – laptops) in the amount of (11,202) eleven thousand two hundred and two riyals. Due to the impossibility of confiscation, the importer is required to pay an amount equivalent to its value as a confiscation substitute, amounting to (11,202) eleven thousand two hundred and two riyals, making the total amount demanded from the owner of the institution ... An amount of (22,404) twenty-two thousand four hundred and four riyals.

Since the appellant was notified of the decision subject to the appeal on 12/08/2020, and submitted the appeal on 30/08/2020, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established by Article (163) of the Unified Customs law.



As for the facts of the case, they are summarized by the arrival of a shipment consisting of (lighting supplies – computer screens – laptop) belonging to the importer through the Al-Batha customs under import declaration number (61373) dated 18/05/1435 AH, which was released based on a commitment not to dispose of it until the result of the competent authority appears. After presenting the sample to the laboratory, the response was received in report number (170400), report number (170401), and report number (170402), which included non-compliance in terms of the shape of the plug and examination of the explanatory data and protection against accidental contact. The importer was contacted to return the shipment to the customs area, but he did not respond. The First Instance Committee issued its decision as stated in its ruling, based on the fact that the importer did not return the shipment to the customs area, which he committed not to dispose of until it was approved by the competent authority, which implies that he acted with the unapproved shipment, which constitutes customs smuggling according to Article (142) of the Unified Customs law, and it arranged for the application of penalties against the appellant as stated in its decision.

Upon reviewing the objection list submitted by the importing institution, the appellate customs committee found that its summary mentioned that the institution objects to paragraphs (2) and (3) of the initial decision because the samples were procedurally rejected by the laboratory as they do not harm the consumer, and that procedural issues are settled with customs by paying a fine of (1,000) one thousand riyals, and that the customs have been approached several times to request a settlement, and the list concluded with a request to refer the case to the appellate committee.

A response memorandum from the authority was received via the Automated System of the Secretariat dated 27/03/2023, which summarized that the objection list submitted by the appellant was devoid of Grounds for the objection and requests of the appellant. Therefore, the list was not drafted in the required legal form according to Article (188) of the Judicial Procedures law. The memorandum concluded with a request to reject the appeal and uphold the initial Decision in all its provisions.

On Thursday, June 13, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision No. (1128) for the year (1441 AH), issued by the First Instance Customs Committee at the Al-Batha Customs. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in its current condition.

Grounds

Whereas, regarding the response of the authority after giving it the right to respond to the appellant's statement that the submitted list is not drafted as required due to the lack of Grounds for objection and requests therein, which according to its claim necessitates the rejection of the submitted appeal, it is



rejected, considering that the list submitted by the appellant included sufficient information to indicate his objections and requests, making his appeal drafted as required. And whereas, concerning the two categories (screens - computers) for which each has a laboratory report, it is established in the rules of litigation that applying the law correctly is an obligation on the authority examining the case, and it must do so on its own without the need for a request from the parties. Therefore, the authority examining the case has broad discretion in assessing the facts and giving them the appropriate description and correct classification without being bound by the classification of the claimant or his opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and taking it as a basis for its ruling, as long as the documents related to it within the case file do not contradict what has been inferred and established in its conviction and belief to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it reached. This is consistent with what is stated in Article (158) of the Criminal Procedure law, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description it deserves, even if it contradicts the description in the indictment...". And whereas, according to the report of the sample examination results for the two categories, it has shown that the violation subject to the case relates to (explanatory data - plug shape), and since this violation has been established by the customs appeal court's practice as a non-essential observation that does not affect consumer deception and the safety of using the imported product, especially since the sample has passed other fields of testing, it follows that the importer's action regarding the two problematic categories, which are burdened with such an observation, constitutes in reality considering it an observation of a procedural nature that does not rise, in the case of dealing with them in its presence, to classify the importer's action as customs smuggling. Therefore, it is decided to annul the initial Decision in all that it ruled against the appealing institution regarding those two categories. However, since the importing institution violated the commitment taken upon it and acted with the shipment without notifying customs, it is decided to consider the action of the importing institution a violation governed by Article (31/6) of the executive regulations of the customs law, and to impose a financial penalty on it as will be stated in the text of this Decision, in application of what that article stipulates. As for the state of the category (lighting supplies), it is established that the importer acted with the violating category as stated in the laboratory report confirming its violation of the specification related to (protection against accidental contact with electrified parts). Since that observation is of a technical nature, the importer's action with that category, which is burdened with that violation, is considered customs smuggling, and it is established to impose a conviction penalty and a fine equal to twice the customs duties with compensation for the confiscation of that category as will be stated in the total amount in the text of this Decision. Accordingly, the committee concluded to report the following:



Decision

- 1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), against the initial Decision (1128) for the year (1441 AH), issued by the First Instance Customs Committee at the Al-Bathaa customs.
- 2- Acceptance on its merits, and supporting the initial Decision regarding the conviction for customs smuggling and the confiscation fee against the appellant, limiting it only to the category of (lighting supplies) with the imposition of a customs fine equivalent to twice the customs duties, the total amount claimed from the importer for his conviction for customs smuggling is (2,798) two thousand seven hundred and ninety-eight riyals, and this is for the Grounds and considerations stated in this Decision.
- 3- Considering the importer's actions as constituting a penalty for violating customs procedures amounting to (500) five hundred riyals for each of the two violating items (screens - computer), the total amount of the fine demanded from the importer for that violation is (1,000) one thousand riyals, for the reasons and considerations stated in this decision.

Similar Decisions:

- The Decision of the Appeals Committee in Riyadh No. (PC-230188-2024) dated 26/09/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-224834
Case No. AC-2022-105294

Principle No. 15

- The non-compliance of a shipment (lantern) due to its grounding issues is, in fact, a technical and substantive violation that affects the quality of the product and its safe use. Therefore, the importer's action regarding that item, while burdened with that violation, is considered as committing customs smuggling.
- The item represented by (lighting fixture) did not include the laboratory report regarding it, except for its non-compliance in terms of labeling, which results in considering the importer's action with that item as being burdened with that violation, constituting a violation of customs procedures.

Facts

This is to consider the appeal submitted by/ the General Authority for Zakat and Tax, against the initial Decision number (CTR-2023-10529).

The decision issued by the Third First Instance Customs Committee in Riyadh, ruling as follows:

- 1- Non-conviction/ ... , commercial registration number (...), present for customs smuggling.
- 2- Obligating it to pay a customs fine amounting to (5,000) five thousand riyals, at a rate of (2,500) two thousand five hundred riyals for each item, in accordance with Article (30/1) of the executive regulations of the unified customs law.

Where the appellant was notified of the decision subject to the appeal on 18/09/2023, and filed the appeal against the decision on 08/10/2023.

This entails accepting the appeal procedurally for being submitted by a person with standing within the time period established by Article (163).

From the unified customs law.

As for the facts of the case, they are summarized by the arrival of a shipment (lighting fixture - fixed lantern) belonging to the defendant through the Al-Batha customs.



Under import declaration number (...) On 24/12/1436 AH, I was granted permission based on a commitment not to dispose of it until it is approved by the authority.

The specialized department, after examining the sample from the laboratory, received the information included in report number (...) On 09/01/1437 AH for non-compliance

In terms of grounding and labeling, the importer was notified of the result through several correspondences, but he did not respond, and the first instance committee issued

Its decision is based on the fact that the violations mentioned in the laboratory report are considered violations.

The formalities are non-essential and do not relate to the quality and specifications of the product, which leads to considering the incident a customs violation.

What Article 141 of the Unified Customs law has decided.

Upon reviewing the objection list submitted by the Zakat, Tax and Customs Authority, the summary shows that

It has been mentioned that the result of laboratory number (...) The sample did not pass the grounding test, which is a technical violation affecting quality.

The product specifications, and that the shipment is considered prohibited goods and handling it contrary to the commitment is considered customs smuggling according to what has been decided.

Article 142 of the Unified Customs law, and the regulation concluded with a request for acceptance of the appeal, and a ruling convicting the institution of smuggling.

The customs duty, and obliging it to pay a customs fine equivalent to three times the value of the goods, and what is equivalent to its value as a confiscation substitute.

On Wednesday, January 17, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the authority against decision (CTR-2023-105294), issued by the Third First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, and noting that the importer did not respond after being requested to reply to the appeal submitted on January 7, 2024, without any response until the date of this hearing, as shown in the case file, the Appeals Committee decided that the case was ready for adjudication in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based and the conduct of the importer in failing to provide a response to the authority's appeal after being granted his right to defense and his failure to do so. It was determined that, according to the regulations governing the appellate authority when overturning a judgment wholly or partially, this should be in accordance with what is stated in Article 191 of the Sharia Litigation law, which stipulates: "If the Court of Appeals finds that the ruling in the cases being reviewed without a hearing is consistent with its legal principles; it shall uphold it, with guidance on any observations it may have that do not necessitate overturning the ruling. If it overturns the ruling wholly or partially, it must rule on what has been overturned after hearing the parties' statements." This was also confirmed by Article 197 of the Criminal Procedure law.





Whereas, upon reviewing the appeal submitted by the Zakat, Tax and Customs Authority, which included a summary considering the violation mentioned in the laboratory report as a technical violation that warrants a conviction for customs smuggling... It was found by the appellate committee that the violating item represented by the (fixed lantern) was noted by the laboratory for non-compliance regarding grounding. Since the violation reported by the laboratory is, in fact, treated according to established customs jurisprudence as a technical and substantive violation affecting the quality of the product and its safe use, and since it was established through the documents that the customs authority communicated with the importer to return the violating shipment, which was not the case with the importer's handling of the shipment, this leads to the conviction of the importer for customs smuggling concerning the item (fixed lantern), thus necessitating the imposition of a customs fine and confiscation as will be stated in the ruling. Furthermore, the customs authority was contacted on 27/02/2024 to provide the appellate committee with an estimate of the value of the first item (SWD-24) mentioned in the detailed invoice number (...). The report from the laboratory number (...) regarding him. Regarding the crime of customs smuggling as previously investigated, and as stated in the invoice regarding its quantity and number, and granting it a period of 10 days for that, yet it did not submit what was requested from it until the date of this hearing, the appellate committee concluded regarding the valuation of the item by taking the lower value mentioned in the declaration document and requesting preparation and inspection for the shipment that only included two items (lamps), the first of which had a value of (48,285) riyals according to the documents, and the other valued at (48,812) riyals. The amount of (48,812) riyals is considered the certain amount encompassing the value of the violating item (lamps) in light of the lack of response from the authority to what was requested from it and the importer's failure to respond to the appeal submitted by the authority. As for the other item represented by (lighting spotlight), the laboratory report regarding it only indicated non-compliance in terms of labeling, which leads to considering the importer's action regarding that item as carrying that violation, thus constituting a violation of customs procedures and imposing a fine regarding it as stipulated in Article (31/6) of the executive regulations of the customs law. Accordingly, the appellate committee concluded to report the following:



Decision

Acceptance of the appeal procedurally, submitted by the General Authority for Zakat and Tax and Customs, against the initial decision No. (CTR-2023-105294), issued by the Third First Instance Customs Committee in Riyadh.

acceptance on its merits, and the ruling is as follows:

First/Condemnation of the importer/ ..., Commercial registration number (...) For its owner/ ..., national ID number (...), for customs smuggling regarding the item (fixed lantern), and obliging him to pay a customs fine amounting to twice the customs duties and the confiscation fee, making the total amount demanded (53,693) fifty-three thousand six hundred and ninety-three riyals, for the reasons and details stated in this decision.

Secondly, considering the importer's action regarding the item (lighting fixture) as a basis for imposing a customs fine of (1000) one thousand riyals, for the reasons and justifications stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-191228

Case No. PC-2023-191228

Principle No. 17

- The non-compliance of the shipment (perfume filling machines and their accessories) due to failing the specified frequency test is considered a type of technical violation related to the quality, specifications, and safety of the product. Therefore, the importer's action regarding that item, while burdened with that violation, is deemed to constitute customs smuggling.

Facts

This is to consider the appeal against the initial decision No. (CFR – 2022 - 3119) issued by the 1st Customs Committee in Riyadh, submitted by the owner of the establishment / ..., Civil Registration No. (...), and since the appellant was notified of the initial decision on 20/03/2023, and he submitted the appeal against the decision on 30/03/2023, this entails accepting the appeal procedurally as it was submitted by a person with standing within the prescribed period for its submission as stipulated in Article (163) of the Unified Customs law.

The facts of this case are summarized by the arrival of a shipment (perfume filling machines and their accessories) through the Islamic Port of Jeddah customs under import declaration number (...). On the date 13/02/1437 AH, it was allowed under a commitment not to act until the result of the examination by the competent authority appears, and upon examining the sample by the laboratory, the report number (...) was received. On 25/02/1437 AH, which included non-compliance in terms of the specified frequency, the importer was notified of the result by the customs, but he did not respond. The first instance committee issued its decision to convict the importer of customs smuggling and impose the associated penalties, as stated in the text and reasons for the decision subject to appeal, which is referred to in order to avoid repetition.

Upon reviewing the objection list submitted, the appellate customs committee found that it includes a summary stating that based on Royal Order No. (30174) regarding the transfer of investigation powers in customs cases dated 02/06/1440 AH, the customs committee considers itself not competent to hear the case. Additionally, according to the laboratory report, all tests conducted on the item were passed except for the specified frequency, and thus this is not a substantial reason to consider the result non-compliant.



Furthermore, the machine is specific to the factory for manufacturing perfumes and not for human consumption, and the facts of the case do not amount to a crime of customs smuggling. The request concluded with a demand to annul the decision issued by the First Instance Customs Committee for lack of jurisdiction and to reclassify the case as a violation of customs procedures.

Upon reviewing the response memorandum submitted by the appellant against the customs committee, it became clear that it includes a summary stating that the case falls under the jurisdiction of the Zakat, Tax, and Customs Authority, considering that the date of the customs declaration is before 02/09/1440 AH. Additionally, the importer acted on the unapproved shipment by releasing it from the competent authority and did not review the customs to settle the commitment taken against him, thus violating Article (56) of the Unified Customs law, as the commitment is still in effect and has not been settled. According to the laboratory report indicating that the shipment does not comply with the specified frequency, the violation is considered technical, affecting the quality of the product. Accordingly, the authority has the right to prevent the entry of prohibited, restricted, or violating goods except with approval from the competent authorities as stipulated in Article (24) of the same law. Furthermore, customs smuggling crimes are intentional crimes that require the presence of both their material and moral elements, which were present in the case at hand. The memorandum concluded with a request to reject the appeal and uphold the decision of the First Instance Customs Committee in all its provisions.

After reviewing the case file and the appeal submitted by the appellant and the response of the committee regarding it, the committee found that the case is ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and to rule on it in light of the reasons on which the appeal was based.

Grounds

After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws.

Whereas the appellate customs committee, upon reviewing the case file and its attachments, has established that the shipment arrived on a date prior to Royal Order No. (30174) which mandates the transfer of investigative and public prosecution powers in customs cases to the Public Prosecution, and the coordinating report between the General Authority for Customs and the Public Prosecution, which includes the commencement of the transfer of jurisdiction starting from 2/9/1440 AH, and since the incident occurred on 13/02/1437 AH, the authority is considered to have jurisdiction to file the lawsuit. As for the appellant's argument that the violation concerning the item for not passing the specified frequency test is considered a procedural violation because the machine is designed for manufacturing perfumes and not for



human use, this is rejected, given that the violation is of a technical nature related to the quality, specifications, and safety of the product. Moreover, the importer is not authorized to determine the extent to which the shipment is related to a procedural or technical violation, and it is their duty to follow up on the matter of its approval without assuming the role of a judge by deciding to act on it without regard to its approval status. Failing to fulfill this duty results in their responsibility and consequences. Therefore, the appellate customs committee concluded the following report:

Decision

First: Acceptance of the appeal procedurally, from the applicant/..., commercial registration number (...), owned by/..., civil registration number (...), against the initial Decision number (CFR – 2022 - 3119), issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on the merits, and the initial Decision is upheld in all that it ruled, for the Grounds and considerations stated in this Decision.

This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.

Similar Decisions:

- The Decision of the Appeals Committee in Riyadh No. (PC-231771-2024) dated 21/11/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-197303

Case No. AC-2022-101775

Principle No. 18

- The importer is not exempted at the time of payment from being notified by customs about the result of the clearance of the shipment, given his responsibility to follow up on the clearance procedures of the shipment, which involves the usual care and diligence of a merchant in managing his business affairs.

Facts

This is to consider the appeal submitted by/ ..., national ID number (...), owner of the ... establishment, commercial registration number (...), against the initial Decision number (CFR-2023-101775), issued by the 1st1st First Instance Customs Committee in Riyadh, which ruled as follows:

1-Condemnation of the importer (Institution ...) Commercial register number (...), present at customs smuggling.

2-To impose a customs fine equivalent to the value of the violating item in the amount of (6,693) six thousand six hundred and ninety-three riyals.

3- Obliging him to pay an amount equivalent to the value of the violating item as a confiscation fee of (6,693) six thousand six hundred and ninety-three riyals, making the total amount claimed (13,386) thirteen thousand three hundred and eighty-six riyals.

Since the appellant was notified of the Decision subject to the appeal on 18/04/2023, and submitted the appeal on 21/05/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment consisting of (accessories) belonging to the importer through the Al-Batha customs under import declaration number (...). On the date 25/05/1439 AH, it was granted based on a commitment not to act until the result appears from the competent authority, and after the sample was presented by the laboratory, the response was received in report number (...) On the date 01/06/1439 AH, which included non-compliance regarding the location of symbols and composition, the importer was notified to return the shipment to the customs area, but he did not respond. The first instance committee issued its Decision as stated in its ruling, based on the fact that the failure of the importer to return the unauthorized shipment to the customs area, which he committed not to



dispose of until it is approved by the competent authority, is considered a violation of Article (56) of the Unified Customs law. It is also considered customs smuggling according to Article (142) of the same law, and the committee imposed its penalties as stated in its Decision.

Upon reviewing the objection list submitted by the owner of the importing institution, the customs appeals committee found that its summary mentioned that the customs made a mistake in sending the analysis results, as all notifications sent by customs did not reach the institution's mail, nor did any call or text message arrive. This error cannot be attributed to the institution or hold it accountable for the outcome, especially since it is evident from the import activity that the institution repeatedly imports and continuously submits commitments. If customs were concerned with settling commitments or notifying about analysis results, it would only have required stopping the institution when it submitted the nearest subsequent commitment. Furthermore, the initial Decision imposed a fine on the institution and obligated it to pay an amount equivalent to the value of the violating item, based on Article (145/4) of the Unified Customs law. Applying this article to the incident in question does not correctly apply the provisions of the law, as the text of the article pertains to goods that are prohibited in themselves and not for another reason that is separate from their origin. The list concluded with a request not to convict the institution of the charges against it.

A response memorandum was received through the Automated System of the Secretariat from the authority dated 21/06/2023, which summarized that the commitment signed by the institution stated that the shipment should not be disposed of in any way except after notification from the authority granting its clearance from the competent authority. The institution was notified by several letters from the authority at the addresses registered with it, indicating that the shipment did not comply and that it should return the shipment according to the commitment signed by it; however, it did not respond. It would have been more appropriate for the institution to communicate and respond to the authority instead of disposing of the shipment and violating the commitment, which constitutes customs smuggling according to articles (142) and (143) with paragraphs (16-17) of the unified customs law. Based on the result of the laboratory report attached to the case file, the violation is technical due to the fraud it involves against consumers and affects their financial resources, as a result of purchasing goods that do not meet specifications. The memorandum concluded with a request to reject the appeal submitted by the institution ... And support for the initial Decision in all that it ruled.

On Wednesday, 01/05/2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against decision number (...), issued by the 1st1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based and the response of the authority.



Grounds



Whereas there is no reproach against the authority reviewing the appeal for taking the reasons of the decision subject to the appeal without addition whenever it sees that these reasons suffice to avoid the need to present anything new, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained, and this is not affected by what the appellant mentions in his statement about the non-arrival of customs letters to the institution's email and that if the customs were concerned with settling the commitments or informing the importer of the analysis result, it would have only required stopping the institution when it presented the nearest subsequent commitment, which is rejected, considering that it is established from the documents attached to the case file that the importer was notified of the return of the shipment in question to customs through several letters, the last of which was dated 08/07/1439 AH. Moreover, this defense, assuming its validity, does not exempt the importer from following up on the matter of clearing the shipment, considering that such follow-up represents the usual care and diligence of a trader in managing his business affairs. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and thus must be rejected. However, the appellate committee noted that the committee issuing the decision had ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs law, which applies to prohibited goods. Since the imported goods are not prohibited in their nature and type, but their entry was prohibited due to non-compliance with some required specifications, which is confirmed by the request from the importer to bring the shipment to the customs yard for re-export, it is determined by this committee to apply paragraph (2) of Article (145) of the Unified Customs law contrary to what was ruled in the initial decision, which is not affected by what the appellant claims regarding the inapplicability of paragraph (4/145) of the Unified Customs law when calculating the amount of the customs fine against him, as paragraph (2/145) of the same law, which applies the fine to non-prohibited goods, has set its upper limit at the value of the violating goods, which was the case with the value of the imposed fine, and this is not altered by the error in relying on the correct paragraph for its application on the calculation of the customs fine as long as it did not exceed the maximum limit applicable under paragraph (2/145) of the law. Accordingly, the committee concluded to report the following:



Decision

- 1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), owned by ... , national ID number (...), against the initial Decision number (CFR-2023-101775), issued by the 1st1st First Instance Customs Committee in Riyadh.
- 2- rejection on its merits, the affirmation of the initial Decision in all that it ruled regarding the importer, and that for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-192758

Case No. PC-2022-123993

Principle No. 19

- If the incoming goods are not prohibited in their type and nature, but the prohibition of their entry is due to non-compliance with certain required specifications, then paragraph (2) of Article (145) of the Unified Customs law shall be applied.

Facts

This is to consider the appeal submitted by/ ..., national ID number (...), in his capacity as an agent for/ ..., national ID number (...), in his capacity as the manager of the company in ..., commercial registration number (...), under the agency number (...). On the date 05/02/1443 AH, against the initial Decision No. (CFR-2022-2921), issued by the 1st1st First Instance Customs Committee in Riyadh, which ruled as follows:

1-Condemnation of the importer (Institution ...) Commercial register number (...), present at customs smuggling.

2-Obligating him to a customs fine equivalent to the value of the violating item in the amount of (79,749.06) seventy-nine thousand seven hundred and forty-nine riyals and six halalas.

3- Obliging him to pay an amount equivalent to the value of the violating item as a confiscation fee amounting to (79,749.06) seventy-nine thousand seven hundred and forty-nine riyals and six halalas, making the total amount claimed (159,498.12) one hundred fifty- nine thousand four hundred and ninety-eight riyals and twelve halalas.

Since the appellant was notified of the Decision subject to the appeal on 22/03/2023, and submitted the appeal on 25/04/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its execution as stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment of (perfumes) belonging to the importer through the Islamic Port of Jeddah customs under import declaration number (...). On the date 20/05/1437 AH, it was allowed based on a commitment not to act until the result appears from the competent authority, and after presenting the sample to the laboratory, the response was received in report



number (...) On the date of 20/03/2016, which included non-compliance due to the decrease in the percentage of essential oil below the permissible limit, the importer was notified of the result through several letters, but he did not respond. The First Instance Committee issued its Decision as stated in its ruling, based on the fact that the item that was re-exported, according to the defendant's statement, was not linked to the re-export declaration with the import declaration, and a conformity report was not made, which indicates that it is not the non-compliant item due to the importer's failure to communicate with customs. Additionally, the importer's failure to re-export the non-compliant shipment to the customs area implies that his actions are in violation of Article (56) of the Unified Customs law, and it is considered customs smuggling according to Article (142) of the same law, and penalties were applied against the importer as stated in the ruling.

Upon reviewing the objection list submitted by the agent of the importing company, the customs appellate committee found that its summary mentioned that the company had contacted the Director General of the General Authority for Customs on 12/06/1440 AH, requesting permission to re-export the shipment through the Wadi'ah outlet, as evidence that the company had kept the goods in its warehouses since the date of receipt in 1437 AH, and that it had not been disposed of for more than 3 years. Due to the importer's diligence, he re-exported it since the shelf life of perfume products does not exceed 5 years. Furthermore, the reason for the error made by the importer was due to the customs not responding to him despite his correspondence with the customs administration regarding the non-linking of the re-export declaration with the import declaration number. In addition, this error does not warrant a conviction for customs smuggling. The list concluded with a request to overturn the initial Decision and rule that the importer is not guilty of customs smuggling.

A response memo from the authority was received through the Automated System of the Secretariat dated 06/06/2023, which summarized that the commitment not to dispose of the shipment signed by the appellant, stated in its fourth paragraph: "He is fully aware that customs will not recognize any destruction or re-export operation for any shipment that has not been issued a permit for its destruction or re-export from the same customs through which it was received." Since the shipment was received through the Islamic Port of Jeddah customs, it would have been more appropriate for the appellant to return the shipment to the same outlet and not to another outlet, as well as the re-export statement number (...) On the date 14/06/1440 AH, it was not linked to the import statement, and no matching report was made. Therefore, the item that was re-exported is not the item in violation due to the importer not writing to the customs, which implies that their action with the shipment is unauthorized, which constitutes customs smuggling according to Article (142) of the Unified Customs law. The memorandum concluded with a request to reject the appeal submitted by the company ... And the affirmation of the initial Decision in all that it ruled.



On Sunday, February 20, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision number (CFR-2022-2921), issued by the 1st1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority.

Grounds

Whereas there is no reproach against the appellate authority for taking the reasons of the decision subject to appeal without addition whenever it sees that these reasons suffice to negate the need for any new arguments, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. The defenses presented by the appellant do not contradict the established original fact upon which its decision was based. Since the reasons for the decision subject to appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and thus must be rejected. However, the appellate committee noted that the committee issuing the decision had ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs law, which applies to prohibited goods. Since the imported goods are not prohibited in their nature and type, but their entry was banned due to non-compliance with certain required specifications, as confirmed by the request from the importer to bring the shipment to the customs area for re-export, this committee decides to apply paragraph (2) of Article (145) of the Unified Customs law, contrary to what was ruled in the initial decision. Consequently, this committee concludes to calculate the amount of the customs fine at twice the customs duties as will be stated in the ruling. Therefore, the committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ Company ..., commercial registration number (...), against the initial Decision number (CFR-2022-2921), issued by the 1st1st First Instance Customs Committee in Riyadh.
- 2- Rejection on its merits, and the affirmation of the initial Decision regarding the conviction of the appellant for customs smuggling and the penalty of confiscation compensation, with the amendment of the imposed customs fine to be twice the customs duties, making the total amount claimed by the importer an amount of (90,116) ninety thousand one hundred and sixteen riyals, and this is for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-192832

Case No. PC-2022-124608

Principle No. 20

- The status of the importer in the customs claim is linked to the person for whom the import declaration has been prepared.

Facts

This is to consider the appeal submitted by/ ..., national ID number (...), in his capacity as an agent for/ ..., national ID number (...), based on the power of attorney number (...). On 13/03/1444 AH, issued by the electronic services of the Ministry of Justice, against the initial Decision number (CFR-2022-2300), issued by the 1st First Instance Customs Committee in Riyadh, whose ruling is as follows:

- 1-Condemnation of the importer institution ..., commercial registration number (...). In person with customs smuggling.
- 2-To impose a customs fine equivalent to the value of the violating item in the amount of (45,291) forty-five thousand two hundred and ninety-one riyals.
- 3-Obligating it to pay an amount equivalent to the value of the violating item as a confiscation fee of (45,291) forty-five thousand two hundred and ninety-one riyals, making the total amount claimed (90,582) ninety thousand five hundred and eighty-two riyals.

Since the appellant was notified of the Decision subject to the appeal on 28/03/2023, and submitted the appeal on 26/04/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its execution according to what is stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment (lamps) belonging to the importer through the customs of Jeddah Islamic Port, according to import declaration number (...). On the date 15/05/1438 AH, it was released based on a commitment not to act until it is approved by the competent authority, and upon examining the sample, the report number (...) was received. On the date of 23/02/2027, which included non-compliance in terms of tagging, guidelines, electrical durability testing, and moisture resistance, the importer was addressed but did not respond. The first instance committee



issued its Decision as stated in its ruling, based on the fact that the importer did not review the customs or return the shipment to the customs area, which implies his actions. Consequently, it was decided to convict the importer of customs smuggling for his actions regarding the shipment, contrary to the commitment taken based on Article (142) of the Unified Customs law, and penalties were imposed on the importer as stated in the ruling subject to appeal.

Upon reviewing the objection list submitted by the agent of the importing institution, the appellate customs committee found that its summary mentioned that the Decision subject to appeal contains procedural defects, represented by the lack of signatures from some members on the first page of the Decision. Additionally, the Decision indicated the absence of a representative of the appellant, whereas it is correct that hearings were held to consider the case. The Decision also did not include all the facts and grounds of the case, and the appellant was unable to present her statements and defenses before the committee, which makes the committee's Decision subject to cancellation. Furthermore, the Decision was issued against the institution ... While the institution was transformed into a company on 20/06/2022, the lawsuit was filed against a party without standing. It was also argued that the claim is time-barred since the commitment was made to the institution on 21/02/2017, and the appellant did not file the lawsuit until 25/04/2022, which is more than five years later, in violation of Article (176) of the Unified Customs law. The appellant's representative referred to the circumstances related to the loss of the shipment, which included changes in the warehouse and the theft of some goods by the institution's employees. The appellant's representative also mentioned that the importer did not receive any notification regarding the return of the shipment from customs. Additionally, it was argued that there was no criminal intent constituting the crime of customs smuggling, and that most of the observations in the laboratory results are merely procedural notes that do not rise to the level of conviction for customs smuggling. The petition concluded with a request to accept the objection procedurally and on its merits, to overturn the initial Decision subject to appeal, and to hold a hearing in person or remotely to provide further responses and clarifications.

A response memorandum from the authority was received via the Automated System of the Secretariat dated 04/06/2023, which summarized that the importer had been notified of the result through several correspondences, but he did not respond. The import declaration is prepared in the name of "Institution ...", and the commitment explicitly stated that the shipment should not be disposed of in any way until notified by customs of its clearance from the competent authority. Violating the commitment by disposing of the shipment is considered customs smuggling according to what is stipulated in Article (142) of the Unified Customs law. Additionally, the violation mentioned in the laboratory report is classified as a technical violation due to the fraud it entails against consumers. The statute of limitations for customs smuggling activities is (15) years. The memorandum concluded with a request to reject the appeal and uphold the initial Decision in all its provisions.

The response from the importing institution was received on 30/07/2023 and did not deviate from what was presented in the appeal list. The response concluded with a request to accept the objection procedurally



and on its merits, to overturn the initial Decision subject to the appeal, and to consider the appeal in a hearing and hold a hearing in person or remotely to provide further responses and clarifications.

On Monday, July 8, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision (CFR-2022-2300), issued by the 1st First Instance Customs Committee in Riyadh, after the hearing was closed with the exchange of written notes between the parties to the case. This committee determines that what has been presented is sufficient based on what is stipulated in Article (15) of the Customs Committee's Rules of Procedure in order to form its conviction and make a Decision in light of the Grounds on which the appeal was based, the response of the authority to it, and the documents included in the case file.

Grounds

Whereas, regarding the argument made by the appellant's agent about the lack of the defendant's status in relation to the importer, it is rejected, considering that what is required when verifying the existence of the defendant's status concerning the customs case is its connection to the person for whom the import declaration was prepared, as it is established through the documents that the import declaration was prepared in the name of the importing institution (Institution ...). The owner of this institution has the right to revert to any rights she sees fit against whoever has acquired the ownership of the imported institution in whole or in part. There is no blame on the reviewing authority for accepting the reasons for the decision subject to appeal without adding anything new, whenever it sees that these reasons suffice without the need to introduce anything new. This is because its support is based on its reasons, indicating that it found no merit in the objections raised against it that warrants a response beyond what those reasons contained. The customs procedure related to completing the entry of the shipment into the country requires the importer to observe the general duty imposed by the customs law regarding their dealings with the incoming shipment, which is manifested in complying with all that the customs law and other related regulations require for the clearance of the shipment. This necessitates that the importer does not act upon it in any way until it is approved and permission is granted for its handling. Therefore, the importer's violation of this duty by acting upon the shipment without regard for the permission for its entry into the country constitutes behavior contrary to that general duty, which is something that is known to them by necessity, and does not negate the validity of attributing the crime of customs smuggling to them. The claims raised regarding the lack of criminal intent and the act constituting the crime of customs smuggling should be disregarded. Furthermore, the result reached by the decision subject to appeal is not affected by the appellant's mention of the statute of limitations regarding the alleged customs smuggling crime, as this defense is rejected considering that the law has granted the customs prosecution a period of 15 years to pursue incidents related to the crime of customs smuggling, which is the case in the current lawsuit. As for the mention by the appellant's attorney that the importer did not receive any notification regarding the



return of the shipment from customs, this is also rejected, as it is established from the documents attached to the case file that the importer was notified of the return of the disputed shipment to customs. Moreover, even assuming the validity of this defense, it does not exempt the importer from following up on the clearance of the shipment, as this follow-up represents the usual diligence and care of a trader in managing their business affairs. Regarding the claim that the observations in the laboratory results concerning the shipment are merely procedural observations that do not rise to the level of a conviction for customs smuggling, this is also rejected, as the importer is not authorized to determine the extent to which the shipment is related to a procedural or technical violation, and it is their duty to follow up on its approval without positioning themselves as judges by deciding to act upon it without regard for its approval status. Their failure to fulfill this duty results in their responsibility and consequences. As for the claim that the decision subject to appeal contains a procedural defect due to the lack of signatures from some members on the first page of the decision, while this claim is based on a correct observation, the absence of signatures is merely an incidental oversight that is not significant and does not affect the validity of the decision, which can only be invalidated when it does not include the signature on the page concluding the decision that clarifies what is stated in its text. Therefore, the appellate committee concluded to report the following: it is amended as will be stated in the text of this decision, and since this observation does not affect the result reached by this decision regarding the submitted appeal, the appellate committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally, submitted by / Institution ..., Commercial Registration No. (...), against the initial Decision No. (CFR-2022-2300), issued by the 1st First Instance Customs Committee in Riyadh.
- 2- Rejection on its merits, and the support of the initial Decision in all that it ruled, for the Grounds and considerations stated in this Decision.

Similar Decisions:

- The Decision of the Appeals Committee in Riyadh No. (PC-202085-2023) dated 14/07/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-181735
Case No. PC-2022-123363

Principle No. 21

- The importer is not authorized to determine the extent to which the shipment is related to a procedural or technical violation, and it is his duty to follow up on the matter of its approval without considering himself a Adjudicator by deciding to act on it, regardless of whether it is approved or not.

Facts

This is to consider the appeal submitted by/ ..., national ID number (...), in her capacity as an agent for/ ..., national ID number (...) As the owner of the institution ..., commercial registration number (...), under agency number (...). On the date 29/06/1444 AH, issued by the notary ... the notary public in the notary office in South Jeddah, against the initial Decision number (CFR-2022-1519), issued by the 1st First Instance Customs Committee in Riyadh, whose ruling states the following:

- 1-Condemnation of the importer (Institution ...) Commercial register number (...), present at customs smuggling,
- 2-Obligating him to a customs fine equivalent to the value of the violating item, an amount of (141,750) one hundred and forty-one thousand seven hundred and fifty riyals.
- 3-Obligating him to pay an amount equivalent to the value of the violating item as a confiscation fee of (141,750) one hundred and forty-one thousand seven hundred and fifty riyals, making the total amount claimed an amount of (283,500) two hundred and eighty-three thousand five hundred riyals.

Since the appellant was notified of the Decision subject to the appeal on 07/02/2023, and submitted the appeal on 02/03/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its execution as stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment (DVD player) belonging to the importer through the Islamic Port of Jeddah customs according to import declaration number (...). On the date 23/08/1432 AH, it was granted based on a commitment not to act until its approval from the competent authority, and after examining the sample by the laboratory, the report was received with report number (...).



On 21/08/2011, it was noted that there was non-compliance in terms of mechanical strength and fire resistance. The importer was contacted, but did not respond. The first instance committee issued its Decision based on the fact that the importer acted on the shipment before obtaining the necessary clearance from the competent authority, thus violating the commitment made under Article (56) of the Unified Customs law, which constitutes customs smuggling according to Article (142) of the same law, and imposed penalties on the importer as stated in its Decision.

Upon reviewing the objection list submitted by the representative of the appellant institution, the customs appellate committee found that its summary mentioned that there is no letter or lawsuit from the public prosecution in accordance with the Decision to transfer the jurisdiction of investigation and prosecution in customs cases from customs to the public prosecution since the year 1440 AH. The absence of a letter to initiate the lawsuit from the prosecution deprived the importer of the opportunity for exemption from the customs fine based on the royal pardon numbered (61700) dated 01/10/1443 AH, as the case was raised before the issuance of the royal order and thus is included in the exemption. Additionally, there is no record of seizure from the customs commitments department, and the laboratory result did not appear until after (21) days, contrary to what was stipulated in the Royal Decree number (M/3) dated 28/02/1423 AH, which required the result to be shown within (3-15) days. Furthermore, the case file lacks the original commitment, and the customs committee included the item (car screens) in the violation despite the fact that the laboratory did not test it. The committee also considered the violation technical and based the conviction of the importer on suspicion and conjecture, as the laboratory is the one that determines whether the violation is technical or formal. Additionally, the laboratory report pertains to only one item of the shipment and not others. The list concluded with a request to cancel the initial Decision in all that it ruled against the institution regarding the conviction of customs smuggling and the resulting penalties, and to dismiss the lawsuit after overturning the Decision for not being drafted in the required form and limiting the violation to the tested model without others, in case the violation is considered technical, and not to consider the item (Optima) as one of the violating items for not being subjected to testing, and to exclude the item (car screens) from the value of (DVD player) for not being tested and to present the original commitment taken from the violating institution as formal.

A response memorandum from the authority was received through the Automated System of the Secretariat dated 11/05/2023, which summarized that the appellant filed an appeal against the initial Decision after the objection period had expired according to Article (163) of the Unified Customs law, which necessitates the rejection of the case procedurally. Furthermore, the case was initiated by a written letter from the governor of the authority based on Article (150) of the Unified Customs law, and the date of the customs declaration subject to the case was issued on 21/09/1432 AH, which was before the transfer of the jurisdiction of prosecution and investigation in customs cases from customs to the public prosecution according to Royal Order No. (30174) dated 02/06/1440 AH, effective from 02/09/1440 AH. Therefore, the case falls under the authority's jurisdiction. Additionally, the commitment is attached and present in the case file, and the



importer violated it by acting on the shipment subject to the violation before obtaining clearance from the competent authority. He was notified by customs to return the shipment without responding, thus violating Article (56) of the Unified Customs law. According to the laboratory results indicating that the shipment did not meet Saudi specifications, the violation is considered technical as it affects the quality of the product and has negative implications for the health and safety of consumers and their financial resources. Moreover, the authority conducts testing through the laboratory on random samples from the shipment and requires the importer to refrain from acting on the shipment until it is cleared by the competent authority. Based on the laboratory results, which indicated that some samples did not pass, the importer was therefore addressed to return the shipment to customs according to the commitment taken from him, and he did not respond, thus violating Article (56) of the Unified Customs law, which constitutes his action as customs smuggling according to Article (142) of the same law. Additionally, the date of receiving the samples, the date of their fees, and the date of issuing the report occurred after (14) days. Therefore, all actions taken by the authority are in accordance with the law, in addition to the presence of the elements of the crime of customs smuggling against the importer for acting on the shipment subject to the case, breaching the commitment taken from him, and introducing goods whose entry into the country is restricted. The appeal memorandum concluded with a request to reject the appeal submitted by the institution ... And support for the initial Decision in all that it ruled.

On Sunday, May 5, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision number (CFR-2022-1519), issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority thereto.

Grounds



And since there is no blame on the reviewing party of the appeal to take the Grounds for the Decision subject to the appeal without addition whenever it sees that these Grounds suffice to avoid presenting anything new, because in its support, based on its Grounds, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those Grounds contained, and this is not affected by what the appellant argued that the jurisdiction to initiate the lawsuit is with the Public Prosecution and not with Customs, as stated in the coordination record for transferring jurisdiction dated 11/08/1440 AH, which stipulates in its thirteenth item that: "The transfer of jurisdiction in crimes and the rules contained in this record shall commence from the date:" 02/09/1440 AH, as for the crimes that occurred before this date, they are handled by the General Authority for Customs. This was how the Authority dealt with the incident related to the shipment in question. As for the appellant's argument regarding the absence of a seizure



report for the violation, it is rejected; considering that a seizure report is required to be prepared upon discovering the violation or smuggling crime when preparing the import declaration and submitting it to complete the shipment's procedures. Such an argument does not negate the established fact of the importer's action regarding the shipment by not returning the violating item after being notified by customs. As for the appellant's claim that the original commitment not to dispose of the shipment, which is not included in the case file, must be presented, it is also rejected; as such an argument does not negate the importer's knowledge that the shipment cannot be disposed of except after its approval and clearance, which is the case for imported shipments intended to be brought into the country and are subject to sampling sent to the laboratory for examination according to clearance procedures. Especially since the violation of the commitment is not the customs crime for which the importer is held accountable, as the commitment is merely a reminder to the importer that clearance has not been completed and that it is still considered to be within the customs circle. It is established from the documents that the laboratory report pertains to the item (sienna 9 portable DVD player) and not to any other items included in the shipment. Therefore, the customs smuggling crime attributed to the importer is limited to what is stated in the laboratory report without including the rest of the shipment. It is established from the documents that the value of that violating item not approved by the laboratory is an amount of (18,300) US dollars, which necessitates calculating the amount of confiscation and customs fine based on the value of the item, as stated in the text of this Decision. The result reached by the appellate committee is not affected by the appellant's claim that there should be no conviction unless it is free from the suspicion of possibility by claiming that the violation is a procedural violation, as this is rejected. Considering that the importer is not authorized to determine the extent to which the shipment is related to a procedural or technical violation, and that it is his duty to follow up on its approval without considering himself a judge by declaring its disposal without regard to its approval or not. His failure to fulfill this duty results in him bearing his responsibility and consequences. Since the Grounds for the Decision under appeal are sufficient to support its ruling regarding the conviction of the importer for customs smuggling, it is necessary to state that the defenses presented do not affect the outcome of the Decision in this regard, with the adjustment of the amount of confiscation and customs fine as achieved. Therefore, the appellate committee concluded to report the following:

Decision

- 1 Acceptance of the appeal procedurally, submitted by / Institution ..., Commercial Registration No. (...), against the initial Decision No. (CFR-2022-1519), issued by the 1st First Instance Customs Committee in Riyadh.
- 2 Rejection on its merits, and the affirmation of the initial Decision regarding the conviction for customs smuggling, and limiting the violation to the item (SIENNA) (DVD PLAYED-9COLORTFTLCD9)



specified in the laboratory report without regard to the rest of the shipment's contents, and ruling him to pay the confiscation fee for that item and calculating the customs fine based on the value of the violating item, the total amount claimed becomes (36,600) thirty-six thousand six hundred US dollars, for the Grounds and considerations stated in this Decision.

Similar Decisions:

- The Decision of the Appeals Committee in Riyadh No. (PC-190878-2023) dated 04/07/2024.
- The decision of the Appeals Committee in Riyadh No. (PC-202694-2023) dated 16/04/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-202354
Case No. AC-2022-102039

Principle No. 22

- The failure of the importer to prove the re-exportation after being notified of the non-approval of the clearance of the shipment through the customs broker results in the conclusion of the importer's action regarding the shipment.

Facts

This is to consider the appeal submitted by the General Authority for Zakat and Tax against the initial Decision No. (CTR-2023-102039), issued by the Third First Instance Customs Committee in Riyadh, which ruled as follows:

1-Non-conviction/ ..., commercial registration number (...) In person for customs smuggling, due to insufficient evidence.

2-Obliging it to pay a fine for violating customs procedures in the amount of (5,000) five thousand riyals, in accordance with Article (30/1) of the executive regulations of the unified customs law.

Since the appellant was notified of the Decision subject to the appeal on 08/06/2023, and submitted the appeal on 22/06/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment consisting of (nail polish) belonging to the importer through the customs of Jeddah Islamic Port, under import declaration number (...).

On the date 28/09/1433 AH, it was granted under a commitment not to dispose of it until it is approved by the competent authority, and upon presenting the sample to the laboratory, the response was received in report number (...) On 15/09/2012, which included its non-compliance regarding the assessment of toxic metals, the First Instance Committee issued its Decision as stated in its ruling based on the fact that the notice sent to the importer was not sent to his registered postal address on the Bond Commitment according to what was stated in paragraphs 1 and 4, which is an obligation of customs to inform him of the results. However, it was not proven to the First Instance Committee that he was properly notified, considering that it is an obligation between the two parties that customs must inform the result and the importer must not act until he is informed of the result. Furthermore, rulings are based on certainty and conviction, not on doubt, suspicion, and conjecture. The authority did not prove that he was properly notified of those results



in a manner that is beyond doubt, which leads the committee to conclude that there is insufficient evidence to convict the defendant of customs smuggling as described in Articles (56) and (142) of the Unified Customs law, and to consider the incident a customs violation according to Article (141) of the same law and to fine him in accordance with the nature of the violation and the value of the violating item according to Article (30/1) of its executive regulations.

Upon reviewing the appeal list submitted by the authority, the customs appellate committee found that its summary mentioned that the obligation not to dispose of the shipment except after notifying the importer of its clearance from the competent authority is a fundamental obligation on the defendant under the first paragraph of the commitment submitted by him, attached on page nine of the case file. Therefore, even if he was not properly notified, he is obligated under the commitment taken upon him not to dispose of the shipment except after notification, and this does not negate the proof of his violation of the commitment. Additionally, the laboratory results indicated that the violation is technical, affecting the quality of the product and posing a risk to consumer health and safety. However, the shipment consists of prohibited goods that are banned from entering the Kingdom according to Article (24) of the Customs Law. Furthermore, disposing of the cleared shipment under the commitment is considered customs smuggling according to Article (142). The list concluded with a request to accept the appeal procedurally, convict the defendant of customs smuggling, impose a customs fine equivalent to three times the value of the goods, and obligate her to pay an amount equivalent to the value of the goods as a confiscation substitute.

The respondent was requested to respond to the appeal submitted against him on 22/06/2023, and he was given a period of (45) days, but he did not submit the required response.

On Wednesday, December 27, 2023, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against Decision No. (CTR-2023-102039), issued by the Third First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the behavior of the importer against whom the appeal was made, who refrained from responding to the appeal submitted by the authority after being given a period of 45 days to submit his response and exercise his right to defense, and his failure to do so until the date of this hearing.

Grounds

It was established that a shipment of (nail polish) belonging to the importer arrived through the Islamic Port of Jeddah customs, under import declaration number (...). On the date 28/09/1433 AH, it was granted under a commitment not to dispose of it until it is approved by the competent authority, and upon presenting the sample to the laboratory, the response was received in report number (...) On 15/09/2012, it was noted that



it did not comply with the permissible limit regarding the estimation of toxic metals. Since it was decided regarding the importer to follow up on the shipment that was subjected to laboratory testing and to know any importer of the procedures for clearing shipments and what that requires from the laboratory's permission to approve it, especially since the commitment taken from the importer regarding the shipment explicitly stated the importer's acknowledgment and knowledge that it is not permissible to dispose of the shipment except after it is approved by the competent authority, and that disposing of it contrary to that is considered customs smuggling. This was the case with the importer, and this result is not affected by what the First Instance Committee mentioned in its decision about the lack of evidence that the importer was notified of the laboratory result, because assuming that this occurred does not contradict the established principle that the importer must not dispose of the shipment except after it is approved by the competent authority. Since the importer did not prove the re-export of the shipment after being addressed about it through the customs broker, this leads to the conclusion that the importer disposed of the shipment while it was loaded with the violation reported by the laboratory report, which confirmed the validity and safety of the consumer. Therefore, it is decided that the importer's action constitutes a crime of customs smuggling according to what is stated in Article (142) of the Unified Customs law, and thus the penalties resulting from that, including a customs fine and confiscation compensation, will be imposed as will be stated in the text of this decision according to the provisions of Article (145/2) of the Unified Customs law. Accordingly, the appellate committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally from the appellant / the Zakat, Tax and Customs Authority, against the initial Decision No. (CTR-2023-102039), issued by the Third First Instance Customs Committee in Riyadh.

Secondly: acceptance of the appeal on its merits, and the annulment of the appealed initial Decision, and the ruling as follows:

- 1- Condemnation of the importer/ ..., commercial registration number (...), owned by/ ..., national ID number (...), for customs smuggling.
- 2- To be under obligation to pay a confiscation fee for the violating shipment (nail polish) in the amount of (56,612) fifty-six thousand six hundred and twelve riyals, and a customs fine equivalent to the value of the shipment in the amount of (56,612) fifty-six thousand six hundred and twelve riyals, making the total amount demanded from the importer (113,224) one hundred and thirteen thousand two hundred and twenty-four riyals, for the Grounds and justifications stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-198607

Case No. AC-2022-101101

Principle No. 23

- In the event that the violation is related to the importer's action regarding the violating shipment contrary to the commitment taken regarding it, without it being considered as customs smuggling, it is decided to apply what is stipulated in Article (31/6) of the Executive Regulations of the Unified Customs law.

Facts

This is to consider the appeal submitted by/..., national ID number (...). As the owner/entity ..., commercial registration number (...), against the First Instance Decision number (CTR-2023-101101), issued by the third First Instance Customs Committee in Riyadh, ruling as follows:

- 1-Non-conviction / Institution ..., Commercial Registration No. (...), present for customs smuggling.
- 2-Obligating it to pay a customs fine in the amount of (5,000) five thousand riyals, in accordance with Article (30/1) of the executive regulations of the unified customs law.

Since the appellant was notified of the Decision subject to the appeal on 09/05/2023, and submitted the appeal on 26/05/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its execution as stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment (water heater) through the Al-Batha customs, according to import declaration number (...). On the date 13/09/1436 AH, it was granted under a commitment not to act until the result of the competent authority appears, and upon examining the sample, the response included in report number (.../...) was received. On the date 19/09/1436 AH, which included its non-compliance in terms of labeling and guidelines, the importer was notified of the result through several correspondences, but he did not respond. The First Instance Committee issued its Decision as stated in its ruling, based on the fact that the violation related to the shipment in question is limited to labeling and guidelines, and in this description, it is considered a procedural violation that is not substantive



and does not relate to the quality and specifications of the product. Therefore, it is determined that the incident is a customs violation that does not rise to the level of being considered customs smuggling, based on what is stated in Article 141 of the Unified Customs law.

Upon reviewing the objection list submitted by the owner of the institution, the customs appeal committee found that its summary mentioned that he had authorized a customs clearance office to import goods and clear them customs-wise and bring them into the country legally according to the applicable customs regulations, provided that he supplies them with a mandate from him and all the required documents for importation, and this is what happened. However, he did not implement what was agreed upon, and therefore, it is requested to verify the validity of the commitment as it is a copy and not the original. Moreover, what the First Instance Committee relied on in its Decision to convict him of customs smuggling according to Article 142 of the Unified Customs law does not apply to the incident in question because the office he authorized did not introduce or attempt to introduce the goods in violation of the applicable legislation. The evidence is that the goods passed through customs in a regular manner and with import data, and they were released with a commitment not to dispose of them until their release was approved by the competent authority. This action can be considered a violation punishable by law without elevating the incident to the level of describing it as a customs smuggling crime. Additionally, the Decision contradicted what was stipulated in Article 144 of the same law, and the list concluded with a request to accept the objection to the Decision under appeal in its entirety.

A response memo from the authority was received via the Automated System of the Secretariat dated 01/08/2023, which summarized that the importer had been notified to return the shipment to customs, but he did not respond, which implies that his actions regarding the shipment are contrary to the commitment made by him, especially since his actions have many negative effects on consumers. The owner of the institution claims that he agreed with the customs broker and that he did not implement what was agreed upon and imported in the name of the institution without referring to him. However, the shipment was received in the name of the institution, which is responsible before customs since the customs declaration is in its name, and the relationship between the broker and the institution is a contractual one in which the authority is not a party. The concerned party can refer to the broker or those who authorized them to the competent judicial authorities. Regarding his claim that the committee did not correctly classify the incident, the institution violated the commitment made to act regarding the shipment without notifying customs. It also did not review customs to settle the commitment, as it is still in effect and has not been settled. Moreover, customs smuggling crimes are intentional crimes that require the existence of both their material and moral elements, which were present in the incident subject to the lawsuit. The memorandum concluded with a request to reject the appeal and uphold the initial Decision in all its provisions.

On Wednesday, December 20, 2023, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision (CTR-2023-101101), issued by the Third



First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, as well as the authority's response to it, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the authority's response thereto.

Grounds

Since there is no reproach against the reviewing authority for taking the reasons of the decision subject to the appeal without addition whenever it sees that these reasons suffice to omit any new ones, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained, considering that the appellant opposes his conviction for customs smuggling, which is an incorrect perception of what the initial decision concluded, which ruled that he was not convicted of customs smuggling and imposed a penalty for violating customs procedures against him as stated in the text of the initial decision. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal without a supporting basis, necessitating its rejection. However, the appellate committee noted that the First Instance Committee had classified the violation among those violations to which the penalty mentioned in paragraph (30/1) of the executive regulations of the unified customs law applies and ruled to impose a penalty on the importing institution for the committed violation amounting to (5,000) five thousand riyals, while the ruling of that paragraph limited the application of the penalty to violations related to customs data that would lead to the disposal of any condition or restriction related to import or export, which was not the case in the matter under consideration, as the violation was linked to the importer's action regarding the violating shipment contrary to the commitment taken regarding it without rising to the level of being considered customs smuggling. Therefore, it is decided to amend the amount of the fine to be (1,000) one thousand riyals, in accordance with what was stipulated in Article (31/6) of the executive regulations of the unified customs law, as this is consistent with the correct application of the law to the matter under consideration as previously stated. This is not affected by what the appellant claims regarding the existence of a relationship between him and the customs broker that resulted in harm to him in terms of not executing what was agreed upon between them regarding the shipment in question, as customs is not concerned with applying the customs law regarding the relationship between the importer and the customs broker, and the appellant is free to claim from whoever he alleges has caused him harm. Moreover, the appellant's claim that the commitment is invalid and his inference that it is forged and that it is a copy and not the original does not help in proving the fact attributed to him, as it is rejected, considering that it is relied upon in criminal matters - which customs smuggling violations are among - that it is not necessary to adhere to specific methods of proof,



and it is also not essential that the evidence relied upon for the conviction of customs smuggling or attributing the customs violation to the importer is based on the exclusivity of each piece of evidence in every detail of the case, considering that the original in those facts when proven is that the evidence regarding them should be supportive of each other, complementing one another, and collectively forming the conviction of the reviewing authority in the case. Thus, it is not appropriate to discuss each piece of evidence separately, isolated from the rest of the documents, evidence, and indications, but rather it becomes sufficient that the evidence and indications collectively lead to forming the conviction of that authority and completing its direction in stabilizing its belief and reassurance. This is because the punishable act is not in the act of holding the importer accountable for violating the commitment taken against him, as the act constituting the violation for which he is held accountable is embodied in bringing in the shipment without completing its clearance from the competent authority, and what supports the commitment is merely a document from the shipment papers to prepare for the commencement of customs clearance for it, reminding the importer of complying with the general duty known to the importer by necessity not to act with the shipment except after being permitted to do so, which was not the case with the importer's dealings with the shipment. Accordingly, the appellate committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally, submitted by / ..., commercial registration number (...), against the initial Decision number (CTR-2023-101101), issued by the third First Instance Customs Committee in Riyadh.
- 2- Rejection on its merits, and the support of the initial Decision regarding the appellant institution, with the amendment of the imposed customs fine to be in the amount of (1000) one thousand riyals, for the Grounds and considerations stated in this Decision.

Similar Decisions:

- Decision of the Appeals Committee in Riyadh No. (CR-2024-201644) dated 14/07/2024.
- Decision of the Appeals Committee in Riyadh No. (CR-2024-202695) dated 16/04/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2023-170820

Case No. PC-2022-125912

Principle No. 24

- The claim of destruction of the shipment is not valid without presenting a destruction report or any document that can verify the validity of the destruction.

Facts

This is to consider the appeal submitted by/..., national ID number (...), in his capacity as the director - under the articles of incorporation - of the company ..., commercial registration number (...), against the initial Decision number (CTR-2022-1675), issued by the third First Instance Customs Committee in Riyadh, which ruled as follows:

1-Conviction of the defendant/company ..., commercial registration number (...). In person for customs smuggling according to Article 142 of the Unified Customs law.

2-Obligating it to pay a customs fine equivalent to the value of the violating item in the amount of (188,224) one hundred eighty-eight thousand two hundred twenty-four riyals, in accordance with Article 145/4 of the Unified Customs law.

3-Obligating it to pay the value of the violating item as a confiscation fee, an amount of (188,224) one hundred eighty-eight thousand two hundred twenty-four riyals, bringing the total amount to (376,448) three hundred seventy-six thousand four hundred forty-eight riyals, in accordance with Article 145/5 of the same law.

Since the appellant was notified of the Decision subject to the appeal on 02/01/2023, and submitted the appeal on 19/01/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment belonging to the company consisting of (electric stoves) through the customs of Jeddah Islamic Port under import declaration number (...). On the date 20/03/1435 AH, it was granted based on a commitment not to act until it is approved by the competent authority, and after examining the sample by the laboratory, the report number (...) was



received. The date 05/04/1435 AH includes the non-compliance of samples in terms of labeling and illustrative data, high temperature, leakage current, and electrical durability at normal temperatures and abnormal operation. The importer was contacted, but he did not respond to the customs. The first instance committee issued its Decision as previously mentioned, condemning the company for customs smuggling and obliging it to the associated penalties based on the fact that the importer did not review the customs or return the shipment to the customs area, contrary to the commitment taken regarding it. This implies that his actions regarding the shipment, which was proven not to be approved for clearance according to the laboratory report containing procedural and technical violations related to the quality and specifications of the product, involve commercial fraud against the consumer, which constitutes customs smuggling according to Article (142) of the Unified Customs law.

Upon reviewing the objection list submitted by the company's director, the appellate customs committee found that its summary confirmed the destruction of the tested model number (H-703) under the supervision of customs, where the customs employee (...) attended the destruction. The representative of the agent (...) We were provided with a copy of the destruction report, and accordingly, the original commitment letter taken from the company at that time was withdrawn. However, a copy of the destruction report and the original commitment letter could not be found due to the long period, as approximately nine years have passed since the shipment, coinciding with the change of some of the company's warehouses and the resulting transfer of documents due to the arrangements that took place in Jeddah. Additionally, the incoming shipment included electric stoves in three models, and model number (H-703) was tested but did not pass the test for some technical specifications, with a quantity of (1504) units valued at (9776) dollars, equivalent to (36660) Saudi riyals. As for the rest of the shipment, it was not tested, although it had been tested in previous data and passed several times. The appellant added that he requests to communicate with the Public Prosecution because the case is covered by the royal pardon number (61700) dated 01/10/1443 AH, according to the import statement issued on 20/03/1435 AH. The company has been importing for more than (37) years, and its record is free of customs cases up to the date of filing this lawsuit. The memorandum concluded with a request for justice for the company and the cancellation of the commitment after writing to customs and requesting the destruction report, as well as writing to the prosecution because the royal exemption includes this case.

The response of the authority to the appeal list was received through the Automated System of the Secretariat on 14/03/2023, summarizing that the Bond Commitment signed by the company stated that the shipment should not be disposed of in any way except after notifying the customs of its clearance by the competent authority. It was also reported that the company was notified by several letters to the addresses registered with the authority, indicating that the shipment did not comply and that it should be returned according to the Bond Commitment signed by it, but it did not respond, which indicates its disposal of the shipment, thus violating the signed Bond Commitment. The violation of the Bond Commitment by



disposing of these items is considered customs smuggling according to Article (142) of the Unified Customs law. Additionally, the violation mentioned in the laboratory report is a technical violation that directly affects the health and safety of consumers and impacts their financial resources. The memorandum added that regarding the importer's payment for the destruction of the non-compliant part in the presence of customs, an inquiry was made from the relevant department at customs, and their response indicated that there was no destruction report and that the Bond Commitment is still in effect and has not been settled. As for what the appellant claimed regarding the inclusion of the case facts in the royal pardon, according to the general provisions, this pardon applies to prisoners, and the application of pardon provisions is the jurisdiction of the regions and judicial authorities. The memorandum concluded with a request to reject the submitted appeal and uphold the initial Decision in all its provisions.

On Wednesday, November 29, 2023, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted against the First Instance Decision No. (CTR-2022-1675), issued by the Third First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, as well as the authority's response to it, the Appeals Committee decided that the documents presented and the contents of the case file were sufficient to form its conviction and to rule on the matter in light of the Grounds on which the appeal was based.

Grounds



Whereas there is no reproach against the appellate authority for adopting the Grounds for the Decision subject to appeal without addition whenever it sees that these Grounds suffice to negate the need for any new submissions, as its support is based on its Grounds indicating that it found no merit in the objections raised against it that warrants a response beyond what those Grounds contained. This is not undermined by what the appellant mentions regarding the destruction of the shipment under customs supervision, considering that he did not present a destruction report or any document that could be verified by the committee in light of the authority's confirmation that the commitment is still in effect and has not been settled, and its submission of a copy of the electronic law to clarify this, which makes the arguments presented in this regard a mere statement without evidence. As for what the appellant mentions regarding the request to communicate with the Public Prosecution in light of the inclusion of the case facts under the royal pardon issued in 1443 AH, the plaintiff is the public prosecution represented by the Zakat, Tax, and Customs Authority, not the Public Prosecution, considering that the Public Prosecution's jurisdiction to prosecute customs smuggling crimes is limited to import incidents occurring after the date of 02/09/1440 AH, which does not fall within the jurisdiction of the Public Prosecution. Therefore, it is necessary to determine that the defenses presented do not affect the outcome of the Decision that resulted in the conviction of the importer for customs smuggling. However, the appellate committee, after examining the case file, found that the item (Cooking Devices Type H-703) valued at (9,776) US dollars according to the



invoices attached to the case file is the one that received substantial remarks from the laboratory, which included non-compliance of the samples in terms of labeling and explanatory data, high temperature, leakage current, and electrical durability at normal temperatures, and abnormal operation. Thus, this committee concludes to uphold the initial Decision regarding the conviction of the importer for customs smuggling and limit it to the item reported by the laboratory without other items, and to calculate the customs fine and the confiscation fee based on its value according to the documents attached to the electronic case file as will be stated in the text of this Decision. Accordingly, the appellate committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ Company ..., Commercial Registration No. (...), against the initial Decision No. (CTR-2022-1675), issued by the Third First Instance Customs Committee in Riyadh.
- 2- The appeal was rejected on the merits, and the initial Decision regarding the company's conviction for customs smuggling was upheld, limiting it to the contraband category (Cooking Devices of type H-703), with a modification of the imposed customs fine and the confiscation substitute to be equal to the value of the contraband item, making the total amount claimed from the company an amount equivalent to (19,552) nineteen thousand five hundred and fifty-two US dollars, for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-174980
Case No. PC-2022-120813

Principle No. 25

- The non-compliance of the item (electrical connections) with the required specifications due to the flexible cable and cross-sectional area is considered a type of substantial observation.

Principle No. 26

- The non-compliance of items (electrical switches and sockets) due to the lack of labeling data, instructions, shape, dimensions, characteristics, and assembly is considered a type of procedural observation.

Facts

This is to consider the appeal submitted by / Institution ..., Commercial Registration No. (...), against the initial Decision No. (CFR-2022-1256), issued by the 1st First Instance Customs Committee in Riyadh, which ruled as follows:

- 1-Condemnation of the importer / Institution ..., Commercial Registration Number (...). In person with customs smuggling.
- 2-To impose a financial penalty equivalent to the value of the violating items in the amount of (88,098) eighty-eight thousand and ninety-eight riyals.
- 3-Obligating him to pay an amount equivalent to the value of the violating items as a confiscation fee of (88,098) eighty-eight thousand and ninety-eight riyals.
- 4-To be under obligation to pay a fine for violating customs procedures in the amount of (500) five hundred riyals, according to Article (31/6) of the Unified Customs law for items that are procedurally non-compliant, making the total amount claimed (176,696) one hundred seventy-six thousand six hundred ninety-six riyals.

Since the appellant was notified of the Decision subject to the appeal on 23/01/2023, and submitted the appeal on 02/02/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established by Article (163) of the Unified Customs law.



As for the facts of the case, they are summarized by the arrival of a shipment consisting of (a key, plugs, and electrical connections) belonging to the importing institution through the Al-Batha customs under import declaration number (...). On the date 02/06/1436 AH, it was released under a commitment not to act until the result of the competent authority appears, and after examining the samples by the laboratory, the report was received with the reports number (...). and the number (...) and the number (...) and the number (...) and the number (...) and the number (...). The date 03/07/1436 AH includes the non-compliance of the samples in terms of labeling, dimensions, characteristics, composition, flexible cable, and cross-sectional area. The importer was addressed, but he did not respond. The first instance committee issued its Decision as stated in its ruling, based on the fact that the incident falls under the category of technical customs violations that directly affect the safety and health of the consumer, in addition to the importer's violation of the Bond Commitment taken against him regarding the handling of the shipment in question, which constitutes his behavior as customs smuggling according to Article (142) of the Unified Customs law, and imposed penalties on the importer as stated in its ruling.

Upon reviewing the objection list submitted by the appellant, the appellate customs committee noted that its summary mentioned that the appellant is appealing the Decision issued against the institution, as he was unable to attend the hearing in which the Decision subject to the appeal was issued due to communication and internet issues. Furthermore, the shipment in question is still present, and he has not taken any action regarding it, and he is willing to destroy it in coordination with the authority.

A response memorandum from the authority was received through the Automated System of the Secretariat on 02/04/2023, summarizing that the appellant was notified by the General Secretariat of the Committees in accordance with the notification methods outlined in the rules of operation of the customs Committees. This was included in the Grounds for the Decision subject to appeal. Furthermore, customs smuggling crimes are intentional crimes that must have both the material and moral elements for their occurrence, which were present in the case under consideration due to the importer's actions regarding the shipment in question and his violation of the commitment taken upon him. The authority concluded its memorandum by requesting the rejection of the appeal submitted by the appellant and the affirmation of the initial Decision in all its provisions.

On Tuesday, June 25, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against Decision No. (CFR-2022-1256) issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the concerned party, and after reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in its current state.



Grounds



Since there is no blame on the reviewing authority for the appeal to accept the conclusion reached regarding the importer by convicting him of customs smuggling and violations of customs procedures as stated in its ruling, given that the appellant did not provide with his appeal any evidence to support his claim of not having acted with respect to the items in question contrary to the established basis for his conviction of customs smuggling and the violations attributed to him, however, the committee noted that the decision was incorrect in not specifying and limiting the conviction for customs smuggling to the items for which the importer was convicted based on his actions with them, which were loaded with technical observations, and not separating the other items for which the importer's actions were considered as such, which were loaded with those observations as a violation of customs procedures. Since Article (191) of the Law of Judicial Procedures states: "If the Court of Appeal finds that the ruling in the cases being reviewed without a hearing is consistent in terms of its result with its legal principles; it shall uphold it, with guidance on any observations it may have that do not necessitate the annulment of the ruling, and if it annuls the ruling wholly or partially; it must rule on what has been annulled after hearing the parties' statements." It has been established through the case documents that the item (electrical connectors) was the subject of the technical observation regarding its non-compliance with the required specification due to (the flexible cable and cross-sectional area) as detailed in the laboratory report regarding that item. It has also been established through the documents that the value of the item based on the samples taken as evidenced by the documents amounted to (59,768) riyals, which necessitates limiting the conviction of the importer for customs smuggling to this item from the shipment and imposing a penalty of confiscation and customs fine for violating the restriction related to the shipment that was not approved by the competent authority, thus ensuring the validity of attributing the crime of customs smuggling to him as stated in Article (142) of the Unified Customs Law and imposing the penalties resulting from that according to what is included in Article (145/2 and 5) of the same law, as will be detailed in the total amount claimed from the importer accordingly in the ruling of the appeal decision. It has also been established through the documents that the other items that were subject to testing (electric switches and plugs made in China) were limited to the laboratory's observation regarding the absence of data (labeling, instructions, shape, dimensions, characteristics, and composition) as required by the required specification. The customs appeal court has ruled that such observations are of a procedural nature that do not rise to the level of the importer's actions with the item while being loaded with them, thus constituting a violation of customs procedures, which necessitates imposing a financial penalty on him as stipulated in Article (31/6) of the Executive Regulations of the Unified Customs Law, at a rate of (500) riyals for each of the two violating items. Therefore, the appellate committee concluded to report the following:



Decision

- 1- Acceptance of the appeal procedurally from its presenter / Institution ..., commercial registration number (...), for its owner / ..., against the initial Decision number (CFR-2022-1256) issued by the 1st First Instance Customs Committee in Riyadh, for the Grounds and considerations stated in this Decision.
- 2- The Appeal is Rejected on its merits, and upheld the initial Decision regarding the conviction of the importer for customs smuggling, limiting it to the item (electrical connections) and calculating the penalty for confiscation and the customs fine at its value, making the total amount claimed by the appellant for his conviction for the crime of customs smuggling an amount of (119,536) one hundred nineteen thousand five hundred thirty-six riyals, for the Grounds and considerations stated in this Decision.
- 3-Considering the importer's action regarding the two items (electrical switches and plugs made in China) as a violation of customs procedures and imposing a financial penalty of (500) riyals for each item, the total amount demanded from the importer for the violation related to each item amounts to (1,000) one thousand riyals.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-171114

Case No. PC-2022-127176

Principle No. 27

- Customs have no concern when applying the customs law regarding the relationship between the importer and the customs clearance agent, as long as the shipment documents are prepared in the name of the importing entity, and the importer is responsible for claiming from anyone who claims to have suffered damage due thereto.

Facts

This is to consider the appeal submitted by/..., in his capacity as the owner of the institution..., commercial registration number (...), against the initial Decision number (CFR-2022-2395), issued by the 1st First Instance Customs Committee in Riyadh, whose ruling is as follows:

1-Not condemning the importing institution ... Commercial register number (...) In person with customs smuggling.

2-Obligating the importer to a fine for violating customs procedures amounting to (5000) riyals in accordance with Article (31/6) of the Unified Customs law.

Since the appellant was notified of the Decision subject to the appeal on 03/01/2023, and submitted the appeal on 24/01/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment consisting of (cosmetics) belonging to the importer through the customs of Jeddah Islamic Port according to the import declaration (...). On 24/07/1428 AH, it was allowed under a commitment not to act until it is approved by the competent authority, and upon referring the sample to the laboratory, the report number (...) was received. On 28/08/1428 AH, it was stated that the concerned party did not review the laboratory, and the importer was contacted by customs to return the shipment to the customs area, but he did not respond. The first instance committee issued its Decision as stated in its ruling, based on the fact that the importer's violation by acting on the shipment does not rise to classify it as a customs smuggling crime in light of the result presented in



the laboratory report, which led the first instance committee to consider the incident a violation of customs procedures according to the provisions of Article (30/2) of the Unified Customs law.

Upon reviewing the objection list submitted by the owner of the institution, the appellate customs committee found that its summary mentioned that he had not received any notification regarding any case concerning the institution. He requests to be provided with the contact numbers that the authority had notified him about regarding this case, as well as the name of the customs broker who handled the clearance of the goods under import declaration number (...). On 24/07/1428 AH, confirming that he had authorized the customs broker licensed by customs, and thus the importer did not commit any violation that would warrant a fine, and that the broker did not inform him of what happened and that he received his goods as usual.

On 14/03/2023, the authority submitted its response memorandum through the Automated System for the Secretariat to respond to the appeal, summarizing that the institution was notified by several letters from customs at the addresses registered with the authority, indicating that the shipment did not comply and that it should be returned according to the commitment taken from it; however, it did not respond. Additionally, the importer did not communicate with customs, and it would have been more appropriate for him to contact customs and inquire about the shipment instead of acting on it and violating the commitment he signed. Furthermore, the institution is responsible for the actions of the customs broker since it delegated him of its own free will and can seek recourse against whoever caused it harm before the competent authority. The memorandum concluded with a request to reject the submitted appeal and uphold the initial Decision in all that it ruled.

On Sunday, February 4, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision number (CFR-2022-2395), issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the submitted appeal, the Appeals Committee decided that the case was ready for adjudication in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority regarding it.

Grounds



Whereas there is no reproach against the appellate authority for taking the reasons of the decision subject to the appeal without adding anything whenever it sees that these reasons suffice to avoid the need to present anything new, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. The claims made by the appellant regarding defenses that do not contradict the established fact through the documents that included the notification from the customs authority based on the letter issued by the



Director General of Jeddah Islamic Port Customs numbered (15902/35) dated 02/02/1434 AH addressed to the importer, as well as the commitment taken from the importer included in the case file stating that the importer should not act on the shipment before obtaining permission for its clearance, which was not the case for the importer in dealing with the importer. Furthermore, customs has no concern when applying the customs law regarding the relationship between the importer and the customs clearance agent as long as the shipment documents were prepared in the name of the importing institution, and the importer is responsible for claiming from whoever alleges harm due thereto. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision regarding the established customs violation attributed to the importer, which makes the appeal unsupported and thus must be rejected. However, the appellate committee noted that the First Instance Committee had classified the violation among those that fall under the penalty stated in paragraph (30/2) of the executive regulations of the unified customs law in its enumeration of reasons, yet it ruled to impose a penalty on the importing institution for the committed violation amounting to (5,000) five thousand riyals based on what was stated in the text of its decision relying on Article (31/6) of the unified customs law. Since it was established from the facts of the case that the violation related to the laboratory report was due to the merchant's failure to review the laboratory without stating the non-clearance of the shipment, and since the importer's action regarding the shipment without completing the laboratory review, considering that the laboratory had not yet declared the shipment as unapproved, this results in considering the importer's action as constituting a violation of customs procedures. Therefore, it is decided to amend the penalty amount to be (1,000) one thousand riyals, in accordance with what was stipulated in Article (31/6) of the executive regulations of the unified customs law, as this is consistent with the correct application of the law to the case under consideration, contrary to what was ruled by the First Instance Committee that issued the decision and its inconsistency in attributing the determination of the penalty between Article (30/2) of the executive regulations of the unified customs law and Article (31/6) of the unified customs law as previously established. Accordingly, the appellate committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), owned by ... , against the initial Decision number (CFR-2022-2395), issued by the 1st First Instance Customs Committee in Riyadh.
- 2- Rejection of the Appeal on its merits, and the support of the initial Decision regarding the non-conviction of the importer for customs smuggling, and imposing a penalty of a customs violation fine on him with a modification to be in the amount of (1000) one thousand riyals, for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-181040

Case No. PC-2022-123415

Principle No. 28

- The release of goods with the commitment not to dispose of them requires the importer not to dispose of them in any way except after they are approved and permission is granted to dispose of them.

Facts

This is to consider the appeal submitted by/..., national ID number (...). As an agent for / ..., national ID number (...), as the owner of the ... institution, commercial registration number (...), under agency number (...). The date 07/08/1444 AH issued by the electronic services at the Ministry of Justice, against the initial Decision number (CFR-2022-2244), issued by the 1st First Instance Customs Committee in Riyadh, ruling as follows:

- 1-Condemnation of the importer institution ..., commercial registration number (...), present for customs smuggling.
- 2-To impose a customs fine equivalent to the value of the technically violating item in the amount of (18,381) eighteen thousand three hundred and eighty-one riyals.
- 3- Obliging him to pay an amount equivalent to the value of the item as a confiscation fee, amounting to (18,381) eighteen thousand three hundred and eighty-one riyals.
- 4-To impose a fine for violating customs procedures in the amount of (1000) one thousand riyals according to Article (31/6) for items that are procedurally non-compliant, making the total amount claimed (37,762) seventy-seven thousand seven hundred and sixty-two riyals.



Since the appellant was notified of the Decision subject to the appeal on 13/02/2023, and submitted the appeal on 28/02/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment consisting of (brake cloth - air filter) belonging to the importer through the customs of King Abdulaziz Port under import declaration number (...). On the date 05/07/1434 AH, it was allowed under a commitment not to act until it is approved by the competent authority, and after presenting the sample to the Ministry of Commerce and Industry, a response was received in letter number (...). On the date of 21/08/1434 AH, it was noted that the brake fabric type did not comply due to the trader's failure to provide a certified certificate from the manufacturer proving that the sample was free of asbestos. It was also observed that there was no country of origin on the sample, and the two types of air filters did not comply due to the trader's failure to provide a certified compliance certificate. The importer was contacted, but he did not respond. The first instance committee issued its Decision as stated in its ruling, based on the fact that the importer did not return the unapproved shipment to the customs area, which he committed not to dispose of until the laboratory results appeared, which implies that his actions were in violation of Article (56) of the Unified Customs law, and it is considered customs smuggling according to Article (142) of the same law. Since the results of the sample analysis proved non-compliance for technical Grounds regarding the brake type and for procedural Grounds regarding the air filter type, the first instance committee concluded to apply Article (140) of the same law and arranged for the application of penalties against the importer as stated in its Decision.

Upon reviewing the objection list submitted by the agent of the owner of the importing institution, the customs appellate committee found that its summary mentioned that the committee issuing the Decision overlooked proving the notification to the concerned party, whether by the laboratory result or by notifying the importer to re-export the shipment. Additionally, the customs broker's relationship with the importer is limited to the customs area, and he has no connection to judicial matters, nor is there any legal authorization for him or anyone else in the case. Furthermore, the case file lacks evidence proving that the importer was notified of the laboratory result and the date of notification, which negates the argument against him for committing the crime of customs smuggling and leads to uncertainty regarding the existence of the criminal intent required for criminal liability according to Article (144) of the Unified Customs law. There is also a judicial precedent based on the Decision of the customs appellate committee in Dammam No. (231) issued on case No. (4501) for the thirty-fourth judicial year. Moreover, the shipment has been in the country for



nearly (6) years since its entry, and this delay in notifying the importer is inconsistent with commercial practice, which relies on the turnover of goods to benefit from the financial cycle. Based on the letter from His Excellency the Minister of Finance No. (1830) dated 10/07/1437 AH, it is necessary to overturn the Decision under appeal. Additionally, the shipment in question is not among the prohibited goods, and the circumstances leading to conviction are not related to consumer safety when using the imported item, as evidenced by the laboratory result indicating that the trader did not review the laboratory and fulfill the requirements. The memorandum concluded with a request to accept the appeal procedurally, overturn the initial Decision, and rule for acquittal.

A response memorandum from the authority was received via the Automated System of the Secretariat dated 08/05/2023, summarizing that the importer violated the commitment taken upon him and acted with the shipment without being notified by the customs of its clearance. He was also notified to return the shipment through several notifications, the last of which was in the year 1434 AH, but he did not respond, nor did the importer review the customs throughout this period, which indicates his negligence and disregard, and his handling of the shipment that was not cleared, thus violating the commitment taken upon him. It is noted that the commitment is still in effect and has not been settled. Additionally, the laboratory report included that the items did not comply due to the trader's failure to provide an accredited conformity certificate and a certificate from the manufacturer, which are technical violations that affect the quality of the product as it is one of the mechanical products used in vehicles, causing significant harm to consumer safety and negatively impacting their financial resources by purchasing non-compliant goods. Moreover, customs smuggling crimes are intentional crimes that require the existence of both the material and moral elements for their occurrence, which were present in the case at hand. The memorandum concluded with a request to reject the appeal submitted by the institution ... And the affirmation of the initial Decision in all that it ruled, while the authority reserves the right to provide further responses and clarifications before the closure of the hearing.

On Wednesday, March 13, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision number (CFR-2022-2244), issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its



conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority.

Grounds

Whereas there is no reproach against the reviewing authority for taking the reasons of the decision subject to the appeal without addition whenever it sees that these reasons suffice to avoid the need to present anything new, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained, and this is not undermined by what the appellant raises in his statement regarding the lack of evidence of his notification. It is established from the case file that the customs authority communicated with the importer to return the violating items through several correspondences, the last of which was on 25/12/1434 AH. Moreover, what is being argued does not contradict the established principle that the release of the shipment was a temporary release until the procedures for its inspection were completed. The customs procedure related to completing the entry of the shipment into the country requires the importer to observe the general duty imposed by the customs law regarding his dealings with the incoming shipment, which is embodied in compliance with all that the customs law and other related regulations require for the clearance of the shipment, necessitating that he does not act with it in any way until it is approved and he is permitted to act with it. Therefore, the violation by the importer of this duty by acting with the shipment without regard to the matter of permission for its entry into the country constitutes behavior contrary to that general duty, which is presumed to be known to him as a matter of necessity, and does not negate the validity of attributing the crime of customs smuggling to him. Thus, what he claims regarding the lack of intent on his part is rightly disregarded, confirming the validity of attributing the crime of customs smuggling to him as it is defined in the unified customs law in Article (142) by introducing the shipment contrary to the prohibitions and restrictions that must be observed for the clearance of the shipment concerning the item (brake cloth). The decision subject to the appeal also ruled against the defendant regarding the other item related to the violation, considering it a customs procedure violation (air filter), as the importer's dealings with the two items did not achieve compliance with the general duty imposed by the customs law on him as previously established. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, making the appeal unsupported and thus must be rejected. Accordingly, the committee concluded to report the following:



Decision

1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), owned by/ ..., national ID number (...), against the initial Decision number (CFR-2022-2244), issued by the 1st First Instance Customs Committee in Riyadh.

2- Rejection on its merits and the affirmation of the initial Decision in all that it ruled, and that is for the Grounds and considerations stated in this Decision.

included in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-193970

Case No. PC-2022-26420

Principle No. 29

- The laboratory report did not contain any indication that the shipment was unfit for consumption or that it contained an offence related to the safety of its consumption, but only that a cholera-free certificate was not attached to the shipment.

Facts

This is to consider the appeal submitted by/ ..., national ID number (...), in his capacity as an agent for/ ..., national ID number (...), in his capacity as the director of the company in ... Company, commercial registration number (...). This is according to agency number (...) and the date .././..., issued by the notary public in North Riyadh, against the initial Decision number (CSR-2022-3082), issued by the 2nd First Instance Customs Committee in Riyadh, ruling as follows:

- 1-Conviction of the defendant/company ..., commercial registration number (...), present for customs smuggling.
- 2-Obligating it to pay a customs fine equivalent to the value of the violating item (chilled fish) in the amount of (4,962) four thousand nine hundred sixty-two riyals.
- 3- Obliging it to pay an amount equivalent to the value of the violating item as a confiscation fee amounting to (4,962) four thousand nine hundred and sixty-two riyals.

Since the appellant was notified of the Decision subject to the appeal on 27/04/2023, and submitted the appeal on 30/04/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the prescribed period for its execution as stipulated in Article (163) of the Unified Customs law.



As for the facts of the case, they are summarized by the arrival of a shipment consisting of (chilled fish) belonging to the importer through the customs of Jeddah Islamic Port according to import declaration number (...). On the date 26/07/1432 AH, its total value amounted to (4,962) four thousand nine hundred and sixty-two riyals, and its quantity was (6) six units, which were released under a commitment not to dispose of them until they are approved by the competent authority. After the sample was examined by the Food and Drug Authority, the response was received in letter number (...) On 09/08/1432 AH, stating that the items did not conform to the specifications due to the lack of a cholera-free certificate. The importer was notified of the result by several letters, but he did not respond. The first instance committee issued its decision as stated in the operative part of the decision on the basis that the failure to return the violating items to the Customs despite their lack of clearance from the laboratory violates the provisions of Article (56) of the Unified Customs Law. The disposal of these items in this state is considered customs smuggling in accordance with Article (142) of the same law, and the penalties are applied as stipulated in the operative part of its Decision.

Upon reviewing the objection list submitted by the agent of the importing company, the customs appeal committee found that its summary mentioned that the Decision subject to objection is contrary to the provisions of Article 3 of the Evidence law in its first and second paragraphs. Furthermore, there is a significant difference between the existence of the certificate and its absence, as the company possesses a certificate titled (Health Quarantine No. ... On the date of 27/06/2011, the same day the customs declaration was issued, in addition to the lack of elements for applying the crime of customs smuggling in the case subject to objection, it is clearly evident beyond any doubt that the company did not intentionally violate the law regarding customs smuggling as indicated by the text of Article (154) of the Unified Customs law, nor did it violate Article (142) of the same law, as the goods were introduced through the port in accordance with the legislation, disclosed all their contents, and paid the fees determined by the customs administration. Furthermore, the criminal intent required in Article (144) of the Unified Customs law for establishing criminal liability in the crime of smuggling is absent in this incident, as the company re-exported the goods under the export declaration number (...). On the date 26/07/1432 AH, the goods are not among the prohibited materials, and the regulation concluded with a request to cancel the initial Decision and a ruling of not guilty for the appellant regarding the accusation of customs smuggling.

A response memo was received through the Automated System of the Secretariat from the authority dated 04/06/2023, which summarized that the representative of the appealing company attended the hearing of



the First Instance Committee at the headquarters of the General Secretariat and acknowledged the actions of his client regarding the shipment, and that his acknowledgment is conclusive evidence. Furthermore, the commitment signed by the company stated that the shipment should not be handled in any way except after notification from the authority approving its clearance from the competent authority. Therefore, the company's handling of the shipment constitutes a violation of the signed commitment. It would have been more appropriate for the company to communicate and respond to the authority instead of handling the shipment and violating the commitment, which constitutes smuggling according to Article (142) of the Unified Customs law. Based on the letter from the Food and Drug Authority, the violation is technical and affects the safety and health of consumers and impacts their financial resources due to the purchase of non-compliant goods. Additionally, customs smuggling crimes are intentional crimes that require both the material and moral elements to be present, which were available in the case at hand. The memo concluded with a request to reject the appeal submitted by the company ... And the affirmation of the initial Decision in all that it ruled.

On Wednesday, April 24, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision number (CSR-2022-3082), issued by the 2nd First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority.

Grounds

Whereas it is established in the rules of litigation that the proper application of the law is an obligation on the authority examining the case, and it shall rule on its own without the need for a request from the parties, thus the authority examining the case has broad discretion in assessing the facts and giving them the appropriate description and correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and taking it as a basis for its ruling as long as the documents related to it within the case file do not contradict what has been inferred and established in its conviction and belief to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it has reached, which is consistent with what is stated in Article (153) of the Criminal Procedure law, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description



it deserves, even if it contradicts the description contained in the indictment..."; and whereas it has been established according to the laboratory report attached to the case file related to the shipment in question that it did not include anything that definitively proves the invalidity of the shipment for consumption or that it contains a violation related to the safety of its consumption, but rather it was limited to merely not attaching a certificate of absence of cholera among the attachments of the shipment; and whereas the matter of conviction for customs smuggling must be based on credible evidence and strong inferences to ensure the validity of attributing the crime of smuggling to the importer; and whereas the observation made in the laboratory report was not sufficient to base the conviction on the importer's handling of the shipment as valid for attributing the crime of customs smuggling to him, but rather the most that can be said is that the importer's violation in handling the shipment related to the laboratory's observation constitutes a violation of customs procedures that does not rise to the level of being considered customs smuggling, contrary to what was decided in the initial ruling against the importer, which leads the appellate committee to consider the importer's handling of the shipment as constituting a customs violation and imposing a customs fine of (1,000) one thousand riyals in accordance with what is stipulated in paragraph (6/31) of the executive regulations of the unified customs law. Therefore, the appellate committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ Company ..., Commercial Registration No. (...), against the initial Decision No. (CSR-2022-3082), issued by the 2nd First Instance Customs Committee in Riyadh.
- 2- Acceptance of the appeal on its merits, and the annulment of the initial Decision in all that it ruled against the appellant, and this is for the Grounds and considerations stated in this Decision.
- 3- Considering the importer's action regarding the shipment as a customs violation and imposing a customs fine of (1,000) one thousand riyals, for the reasons and circumstances stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-191893

Case No. PC-2022-127214

Principle No. 30

- The assumption of proving personal use of the incoming items and not engaging in commercial transactions does not negate, as the essence of preventing the entry of materials and restricting their clearance is not related to whether they are introduced into the commercial transaction circle or not.

Facts

This is to consider the appeal submitted by / Institution ..., Commercial Registration No. (...), against the initial Decision No. (CFR-2022-2401) issued by the 1st First Instance Customs Committee in Riyadh, whose ruling is as follows:

1-Condemnation of the importer institution ..., commercial registration number (...). In person with customs smuggling.

2-To impose a customs fine equivalent to the value of the violating item, an amount of (20,768) twenty thousand seven hundred and sixty-eight riyals.

3-Obligating him to pay an amount equivalent to the value of the violating item as a confiscation fee of (20,768) twenty thousand seven hundred and sixty-eight riyals, making the total amount claimed (41,536) forty-one thousand five hundred and thirty-six riyals.

Since the appellant was notified of the Decision subject to the appeal on 12/03/2023, and submitted the appeal against the Decision on 10/04/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its execution as stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment consisting of (ornamental fish feed) belonging to the importing institution through the customs of Jeddah Islamic Port under import



declaration number (...). On the date 11/07/1430 AH, the shipment was allowed under a commitment not to act until a label indicating the expiration date was affixed to the packages, establishing the country of origin and notifying the nearest customs office. The importer was contacted, but he did not respond. The first instance committee issued its Decision as stated in its ruling, based on the fact that the written commitment taken from the importer is limited to establishing the country of origin, and that importing ambiguous goods that do not carry a fixed country of origin violates what is stipulated in Article (25) of the Unified Customs law. The importer's action regarding the shipment is considered customs smuggling according to Article (142) of the Unified Customs law, and penalties were imposed on the appellant as stated in the ruling of its Decision.

Upon reviewing the objection list submitted by the appellant, the appellate customs committee found that its summary mentioned the appellant's claim of not being notified of the new date, as the previous hearing coincided with an official holiday by Royal Decree, and the hearing was postponed as a result. Additionally, the Decision subject to the appeal did not take into account the memorandum submitted by the appellant. The appellant argues that the shipment was cleared, and attached is proof of that. Furthermore, the authority did not provide in its claim any evidence that the sample was non-compliant. The appellant states that it is incorrect to say that he did not review customs, despite the presence of attached documents from the authority proving the review. The appellant also mentions that the incoming shipment is specifically for their private project and is not for commercial purposes. The memorandum concluded with the appellant's request for acceptance procedurally and the annulment of the Decision subject to the appeal.

A response memorandum was received through the Automated System of the Secretariat from the authority dated 30/05/2023, which summarized that the appellant was notified that he must return the shipment according to the commitment taken upon him - which is still valid and has not been settled - but he did not respond, thus violating the Bond Commitment taken upon him, which constitutes customs smuggling according to Article (142) of the Unified Customs law. Moreover, customs smuggling crimes are intentional crimes that must have both the material and moral elements, which were present in the case under consideration as the importer acted with the shipment in question. The memorandum concluded with a request to reject the appeal submitted by the appellant and to uphold the initial Decision in all its provisions.

On Tuesday, 02/07/2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against Decision number (CFR-2022-2401) issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the



appellant, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority thereto.

Grounds



Whereas the appellant's claim of not being notified of the hearing date for the case before the First Instance Committee is refuted, considering that it is established through the narration of the facts of the initial decision that he was duly notified of three hearings held to consider the case, which means that the decision was issued against him in his presence due to the validity of that notification in accordance with what is stipulated in Articles (12, 20) of the Customs Committees' Working Rules. Therefore, the appellant's claim of not being notified of the hearing date should be disregarded. Moreover, there is no blame on the appellate authority for adopting the reasons for the decision subject to the appeal without adding anything new, whenever it sees that these reasons suffice to negate the need for any new information, as its support is based on its reasons, indicating that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. The appellant did not present anything to support his appeal that contradicts the established basis on which the initial decision was built in its reasons and its ruling. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which means that the appeal is without supporting evidence and must be rejected. This conclusion is not affected by what the appellant mentions in the attached documents in the case that the incoming shipment is specific to their private project and is not for commercial purposes, as this is refuted considering that the essence of preventing the entry of materials and restricting their clearance is not related to whether they are introduced into the commercial transaction or not. Especially since the act for which the appellant is held accountable does not cease merely by assuming the proof of personal use of the incoming goods and not trading with them, as the violation is related to the breach of the required specifications in establishing the incoming goods regarding the validity date and indicating the country of origin, which was not the case with the shipment in question. However, the appellate committee noted that the committee issuing the decision had imposed the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs law, which applies to prohibited goods. Since the incoming goods are not prohibited in their nature and type, but the violation occurred due to the entry of the shipment without establishing the validity date and the indication of origin for the incoming goods after it was temporarily cleared based on the commitment



taken from him to complete that procedure by the customs, which was not proven to have been carried out by the importer. Therefore, this committee decides to apply paragraph (2) of Article (145) of the Unified Customs law contrary to what was decided by the initial decision, leading this committee to calculate the amount of the customs fine at twice the customs duties as will be stated in the ruling. Accordingly, the appellate committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally, submitted by / Institution ..., Commercial Registration No. (...), against the initial Decision No. (CFR-2022-2401) issued by the 1st First Instance Customs Committee in Riyadh.
- 2- Rejection on its merits, and the affirmation of the initial decision regarding the conviction of the importer for customs smuggling and the penalty of the confiscation substitute, with the amendment of the amount of the imposed customs fine to be twice the customs fees, making the total amount claimed from the importer an amount of (22,844) twenty-two thousand eight hundred and forty-four riyals, for the reasons and justifications stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-202066

Case No. PC-2022-106193

Principle No. 31

- The claim of destruction under the supervision of a government entity does not change, in light of the lack of notification to customs by the importer of the desire to destroy the shipment in question by another party. -I hope to refer to the Principles code for that-

Facts

This is to consider the appeal submitted by/ ..., national ID number (...), in his capacity as an agent for/ ..., national ID number (...), in her capacity as the owner of the institution ..., commercial registration number (...), under the agency number (...). On the date 29/08/1444 AH, against the initial Decision No. (CTR-2023-106193), issued by the third First Instance Customs Committee in Riyadh, ruling as follows:

- 1- Condemnation/ Institution ..., Commercial Registration Number (...) In person with customs smuggling.
- 2- To impose a customs fine equivalent to the value of the violating items, in accordance with Article (145/4) of the same law.
- 3- Obliging it to pay the value of the violating items as a confiscation fee, in accordance with Article (145/5) of the same law.

Since the appellant was notified of the Decision subject to the appeal on 23/05/2023, and submitted the appeal on 18/06/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment consisting of (peanuts) belonging to the importer through the King Abdulaziz Port customs under import declaration number (...). On the date 29/09/1436 AH, it was allowed under a commitment not to act until it is approved by the competent authority, and after examining the sample by the General Authority for Food and Drug, the



response was received in letter number (...) On the date 12/12/1436 AH, it was noted that there was non-compliance with specifications regarding the recording of the country of origin, net weight, and production and expiration dates in Arabic, and the names of the flavors corresponding to nature were not specified. The label "Halal" was recorded without providing proof of its validity, and promotional and health and nutritional slogans were noted. The importer was notified of the result through several letters, but he did not respond. The First Instance Committee issued its Decision based on the attached laboratory results in the case file, which indicate that the shipment contains technical violations related to the quality, specifications, and safety of the product, affecting the health and safety of the consumer and involving commercial fraud. The claim made by the importer's agent that the goods were not disposed of and remained in the warehouses until their expiration and were destroyed by the municipality is merely a statement aimed at evading the accusations against him. Furthermore, the importer's act of disposing of the violating shipment, contrary to the Bond Commitment taken from him, constitutes customs smuggling according to Article (142) of the Unified Customs law, and penalties were applied against the importer as stated in the Decision.

Upon reviewing the objection list submitted by the agent of the owner of the importing institution, the customs appellate committee found that its summary mentioned that the institution had no intention of disposing of the goods in any way. The goods were kept in the warehouse until they could be destroyed, as the regulations stipulate that the order for destruction must come from the customs director general in accordance with Article (56/b) of the Unified Customs law. Additionally, the fourth clause of the Bond Commitment explicitly stated that the goods must first be requested by the customs department for their return. Due to the COVID-19 pandemic, the expiration of the goods in question, the accumulation of other goods on top of each other, and the inability to dispose of them, the institution decided to resort to the General Administration of Environmental Health of the municipality to destroy the goods. It was also attached evidence that the goods were not sold to consumers, thus endangering their lives, but rather the institution incurred huge losses due to storing those goods for several years. The list concluded with a request to overturn the initial Decision and rule that the institution is not guilty of customs smuggling and exempt it from the consequences of such a conviction.

A response memo from the authority was received via the Automated System of the Secretariat dated 23/08/2023, which summarized that the institution was notified by several letters from customs at the addresses registered with the authority, indicating non-compliance by the authority and that it should



return the shipment according to the commitment signed by it, but it did not respond. Additionally, the shipment was from the year 1436 AH, and during this long period, the institution did not adhere to the commitment made. It would have been more appropriate for the institution to communicate with customs and respond instead of acting on the shipment. The violation of the commitment by acting on these non-compliant items constitutes customs smuggling according to Article (142) of the Unified Customs Law. Furthermore, upon reviewing the document submitted by the institution, it was found that the customs representative did not attend the destruction process. The commitment included the obligation for the contractor to have a customs representative present during the destruction of the shipment, and any destruction process in which a customs representative does not participate is not recognized. Moreover, customs smuggling crimes are intentional crimes that require both the material and moral elements to be present, which were available in the case at hand. The memo concluded with a request to reject the appeal submitted by the institution and to uphold the initial Decision in all its provisions.

On Monday, February 12, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against Decision number (CTR-2023-106145), issued by the Third First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority.

Grounds



The appellate committee has determined that the evidence presented by the parties to the case and the documents included in its file are sufficient to decide on the subject of the submitted appeal. Furthermore, there is no reproach against the reviewing party for relying on the Grounds for the Decision under appeal without adding anything new, as long as it finds that these Grounds are sufficient to negate the need for any new submissions. This is because its support is based on its Grounds, indicating that it did not find in the objections raised anything that warrants a response beyond what those Grounds included. Since the Grounds for the Decision under appeal are sufficient to support its ruling, it must be concluded that the defenses presented do not affect the outcome of the Decision, which renders the appeal unsupported and necessitates its rejection. The appellant's claims regarding the Decision, asserting that the destruction of the shipment in question occurred after the goods had piled up in his warehouses and coincided with the events of the COVID-19 pandemic, which forced him into the destruction process carried out by a governmental



entity, do not diminish his responsibility, according to his claims. This is because there was a long time between the arrival of the shipment and the laboratory results concerning it, and the occurrence of the pandemic (COVID-19) that the importer claims was the reason for his action of destruction without notifying customs, which does not confirm the importer's diligence in fulfilling the commitment before the alleged circumstances occurred. Furthermore, there is no evidence proving that the destruction was related to the shipment in question, which is not altered by the claimant's assertion that it was done under the supervision of a governmental entity, given the lack of notification to customs of the importer's desire to destroy the shipment in question by another entity, contrary to the commitment taken regarding the shipment in question. It was established from the documents that the laboratory report was concerned with samples of the prohibited type included in the shipment (peanuts with multiple flavors), and it was also established from the documents that the total value amounted to (8,616) riyals, which makes the attribution of the crime of customs smuggling against the importer specific to that type and determines how to calculate the customs penalty based on its value as will be stated in the text of this Decision. However, the appellate committee noted that the committee issuing the Decision had ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs law, which applies to prohibited goods. Since the incoming goods are not prohibited in their nature and type, but their entry was banned due to non-compliance with certain required specifications, this results in treating them when imposing the customs penalty regarding their importation after proving the smuggling crime related to them as previously stated, according to what was ruled by paragraph (2) of Article (145) of the Unified Customs law, contrary to what was ruled by the initial Decision, as will be stated in the text of this Decision. Therefore, the appellate committee concluded that the appellant's defenses do not alter the validity of the Decision under appeal, which means that the appellant's appeal is based on an incorrect basis and must be rejected concerning the conviction of customs smuggling and the penalty of the confiscation substitute ruled, with the adjustment of the customs fine amount according to what has been achieved. Accordingly, the appellate committee concluded to report the following:

Decision

1 - The acceptance of the appeal procedurally submitted by / Institution ..., commercial registration number (...), owned by / ..., national ID number (...), against the initial Decision number (CTR-2023-106145), issued by the third First Instance Customs Committee in Riyadh.



2- Rejection on its merits and the affirmation of the initial decision regarding the conviction for customs smuggling and the confiscation fee, with the amendment of the customs fine ruled in paragraph (2) of the initial decision to be double the customs duties of the violating items, making the total amount claimed from the importer an amount of (9,477) nine thousand four hundred and seventy-seven riyals, and this is for the reasons and considerations stated in this decision.

Similar Decisions:

- Decision of the Appeals Committee in Riyadh No. (PC-192551-2023) dated 15/08/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2023-92758
Case No. PC-2022-140377

Principle No. 32

- The uncertainty about the existence of evidence from the laboratory regarding the non-approval of the shipment, given the absence of the types' jurisdiction in the case documents, implies a lack of certainty about the prohibition of its approval.

Facts

This is to consider the appeal submitted by/ ..., a Saudi national, national ID number (...). As the owner of the institution ..., commercial registration number (...), against the initial Decision number (273) for the year 1437 AH issued by the First Instance Customs Committee at the Al-Bathaa customs, which ruled as follows:

First: Condemnation of the importer/ institution ..., commercial registration number (...), owned by ... , civil registration number (...), present for the crime of customs smuggling.

Secondly: He is fined an amount equivalent to twice the customs duties due on the violating item, which amounts to (5353) cartons (clothes) as detailed in the facts and Grounds, an amount of (13,110) thirteen thousand one hundred and ten riyals. Due to the impossibility of confiscation, the importer is required to pay an amount equivalent to its value as a substitute for confiscation, amounting to (89,298) eighty-nine thousand two hundred and ninety-eight riyals, making the total amount claimed by the owner of the establishment (102,408) one hundred and two thousand four hundred and eight riyals.

Whereas regarding the appeal submitted by the owner of the institution against the Decision, it has been established in customs judiciary that the absence of the date of notification of the appellant of the Decision results in considering the date of his notification of the Decision as the date of his appeal submission, which leads to the acceptance of the appeal procedurally for being submitted within the legal period as stipulated by the provisions of Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment of assorted clothing belonging to the defendant through the Al-Batha customs under import declaration number (...). and the date 04/11/1434 AH and the import statement number (...) and the date 20/11/1434 AH, and the import



statement number (...) On 07/11/1434 AH, it was allowed under a commitment not to act until it is approved by the competent authority, and after examining the sample by the specialized laboratory, the reports numbered (...) and numbered (...) were received. On the date 26/11/1434 AH, as well as report number (...), and number (...), on 19/12/1434 AH, in addition to reports number (...) and the number (...) Paper number (...) and number (...) And the number (...), on 03/12/1434 AH, the reports included that the samples did not meet the specifications. Customs communicated with the importer to return the entire shipment to the customs yards according to the commitment signed by him to take the necessary measures to re-export it to its source, but he did not respond. Accordingly, the first instance committee issued its Decision as mentioned above based on the importer's action regarding the unapproved shipment, which was released contrary to the commitment taken not to dispose of it until it was approved by the competent authority, which constitutes customs smuggling according to Article (142) of the Unified Customs law.

Upon reviewing the objection list submitted by the owner of the institution, the appellate customs committee found that its summary mentioned that the owner of the institution had authorized the named individual/..., and under that authorization, a commercial registration was obtained by the agent, and the shipments subject to the case were imported without the knowledge of the principal, who only discovered this matter when summoned by the customs committee at the Al-Batha customs. The principal then canceled the commercial registration on 17/04/1437 AH. Furthermore, the appellant was not aware that the customs committee had issued its Decision in absentia, convicting him and imposing a fine, and that Decision became effective without considering the defenses and responses of the importer. It is also argued that the attached Bond Commitment is merely a copy of a commitment stamped with the institution's seal and certified by the chamber of commerce, and not the original, and it did not include the shipment data relevant to the case as the fields pertaining to the shipment (import declaration number - its date - type of shipment) were not filled in, which confirms that it was signed empty of most of the essential data. Accordingly, the importer did not commit to the customs not to dispose of the shipments in question, and the claim of committing a customs smuggling crime requires the existence of a complete data Bond Commitment for the shipment being disposed of, and if it is not available, there is no crime. He added that based on the principle of not harming the appellant, the suspension of his services by the General Authority of Customs resulted in severe damages to the appellant. The appellant concluded his list by requesting the acceptance of the appeal procedurally, the annulment of the initial Decision issued in absentia, the ruling of not convicting the importer for the non-existence of the crime against him, in addition to the ruling to suspend the Decision of the General Authority of Customs No. (71466) dated 18/05/1440 AH regarding the suspension of his services to avoid further harm.

The response of the authority to the appeal submitted was received through the Automated System of the Secretariat on 14/08/2023, summarizing that paragraph (A) of Article 56 of the Unified Customs law states that the customs department has the right to analyze goods with the relevant authorities to verify the type



of goods or their specifications or compliance with what is permitted by laws and regulations. The result showed non-compliance in terms of labeling and instructions, and thus entry into the country is prohibited. Furthermore, the shipment was released upon providing a commitment not to dispose of it in any way until the laboratory result appears, and since the result showed non-compliance and the institution did not comply with returning the shipment to the customs area as stipulated in the commitment taken from it, it is determined that the authority has the right to prevent the entry of prohibited, violating, or restricted goods except with approval issued by the relevant authorities in the state. Additionally, violating the commitment to dispose of the items is considered customs smuggling according to Article (142) of the Unified Customs law. Moreover, customs smuggling crimes are intentional crimes that must have both the material and moral elements for their occurrence, which were present in the case at hand, as the institution acted with the shipment and breached the commitment taken from it and introduced goods whose entry into the country is restricted. The appellant also issued a legal power of attorney for the person named / ... He argues that he is unaware of the agent's actions in opening commercial records and importing goods in the name of the institution, as once the agency is issued, the principal is fully responsible for what has been done through it, and what the agent does is binding on the principal. Moreover, the date of the cancellation of the commercial record came after the import process, and therefore all that was imported previously is recorded in the commercial register, and its owner bears responsibility for that. The memorandum concluded with a request to reject the submitted appeal and uphold the initial Decision in all its provisions.

On Wednesday, November 29, 2023, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the owner of the institution against decision No. (273) for the year 1437 AH, issued by the First Instance Customs Committee at the Al-Batha Customs. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.

Grounds

Whereas, regarding what the appellant mentions in his statement about the issuance of the decision against him in absentia, it is rejected considering that it is established from the narration of the facts of the initial decision that the owner of the institution was present before the First Instance Committee and responded to what was conducted and investigated in the case before it, which makes this defense not based on a correct foundation from reality. It is established in the rules of litigation that applying the law correctly is an obligation on the authority examining the case, and it should do so on its own without the need for a request from the parties. Therefore, the authority examining the case has broad discretion in assessing the facts and giving them the appropriate description and correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and taking it as a basis for its ruling, as long as the documents related



to it within the case file do not contradict what has been inferred and established in its conviction and belief to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it reached. This is consistent with what Article (153) of the Criminal Procedure law states, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description it deserves, even if it contradicts the description contained in the indictment...". It is established from the documents that the types mentioned in the laboratory reports regarding the type ("Indian fabric") included in the import data related to it, summarized in the laboratory report directed to customs, which listed the violating items and dated 18/10/2013, detailed that this type did not pass the specification of pH compliance, which is one of the technical violations affecting it, resulting in considering the importer's action regarding this type as constituting the crime of customs smuggling and imposing a customs fine amounting to twice the due fees, in addition to the confiscation fee for that type, which is valued according to the documents at (5,918) five thousand nine hundred and eighteen riyals. As for the other types included in the initial decision for which the importer was held accountable for violating the required specifications, after the appellate committee examined the case documents, it found only the summary of the aforementioned laboratory report, which proved that only four types did not pass the required specifications - aside from what was previously established regarding the type ("Indian fabric") - and the violation was due to the absence of the explanatory data card and washing instructions, which makes the importer's action regarding them not rise to the level of customs smuggling, and they are burdened with those observations mentioned in the laboratory report regarding them. Therefore, it is necessary to impose a penalty for violating customs procedures amounting to (1,000) one thousand riyals for each of those four types mentioned in the summary of the laboratory report, which are (ready-made clothes "China" - women's clothes "China" - socks "China" - girls' clothes "China"). Since the matter is as mentioned, the uncertainty about the existence of evidence from the laboratory regarding their non-approval, considering the absence of the case documents regarding the remaining types included in the initial decision, confirms their inclusion of violations with certainty, thus leading to the conclusion of the absence of certainty regarding their non-approval. The response of the authority to the appeal statement was general without clarifying the laboratory report and explaining the documents related to it concerning the types for which no laboratory report was found, as mentioned in the initial decision. Therefore, it is determined by the appellate committee that the importer cannot be held accountable for acting on a confirmed basis that would establish the crime of customs smuggling and the validity of attributing it to the appellant. This result reached by the appellate committee regarding the submitted appeal is not affected by the claim that the agent of the appellant exploited the agency granted to him in importing shipments without his knowledge, as customs has no concern when applying the customs law regarding the relationship between the importer and his agent, as long as those shipments have been organized in the import declaration in the name of the importer, whether this resulted in a smuggling incident related to the violating shipment or the shipment was linked to a violation of customs procedures when the importer violated the commitment taken regarding it and acted on the shipment that was not cleared by the competent authority. The appellant is free to seek recourse against whoever claims to have suffered damage from the exploitation of what he claims to be an agency that was exploited by the one who caused him harm. Moreover, this result is not affected by the appellant's claim that the commitment taken regarding the shipment is merely a copy and not the original, and that the shipment



details were not recorded in that commitment, as such a defense is rejected and does not negate the responsibility of the one who prepared the import declaration in his name, considering the contradiction in the appellant's defenses, which sometimes deny his jurisdiction over the shipment, while in this defense, he does not deny his jurisdiction over the shipment but disputes the commitment taken regarding it and its connection to the shipment in question. Additionally, what he mentions about the lack of connection of the commitment to the shipment due to the absence of data on it does not hold, considering that customs documents complement each other, and it is established from the documents that the laboratory reports, sampling, and preparation of the import declaration are related to the items in violation. It is also known by necessity to those dealing with customs that any shipment received is subject to inspection and testing, and it is not permissible for the importer to act on it except after being notified by customs of its approval, which was not the case with the shipment, as confirmed by the letters that came with the customs correspondence to the importer to return the violating items, which the importer did not comply with. As for the appellant's request to compel customs to lift the suspension issued by the authority regarding the suspension of his services as he claims, it should be disregarded considering the appellate committee's lack of jurisdiction over it after it was established to the appellate committee, as previously investigated, that the importer was held accountable for his conduct, which resulted in the imposition of customs fines regarding the shipments for which import declarations were prepared in his name. Accordingly, the committee concluded to report the following:

Decision

Acceptance of the appeal procedurally from the applicant/ ..., National ID number (...) As the owner/institution ..., commercial registration number (...), against the initial Decision number (273) for the year 1437 AH, issued by the First Instance Customs Committee in Al-Batha.

- 1- Rejection on its merits, and the affirmation of the initial Decision regarding the conviction of the importer for customs smuggling, limited to the item ("Indian fabric"), and obliging the importer to pay a customs fine equivalent to twice the customs duties due on that item, and a confiscation fine equal to the value of the smuggled item, the total amount claimed from the importer for his conviction of customs smuggling amounts to (6,509) six thousand five hundred and nine riyals, and this is for the Grounds and considerations stated in this Decision.
- 2- Considering the importer's actions regarding the four items (ready-made clothing "China" – women's clothing "China" – socks "China" – girls' clothing "China") as constituting a violation of customs procedures, resulting in a fine of (1,000) one thousand riyals for each item, making the total amount demanded (4,000) four thousand riyals, for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-190986
Case No. PC-2022-124135

Principle No. 33

- The claim that other quantities have been previously imported and approved without issue does not negate the fact that the shipment in question is not sound.

Facts

This is to consider the appeal submitted by/..., national ID number (...). As an agent for/..., national ID number (...). As the company's director at ... And partners under agency number (...) On 24/04/1444 AH issued by the notary/ ... The licensee from the Ministry of Justice with license number (..), against the initial Decision number (CFR-2022-2310), issued by the 1st First Instance Customs Committee in Riyadh, ruling as follows:

- 1- Condemnation of the importer/company ..., commercial registration number (...). In person with customs smuggling.
- 2- To be under obligation to pay a customs fine equivalent to three times the value of the violating item, an amount of (1,091,829) million and ninety-one thousand eight hundred and twenty-nine riyals.
- 3- Obligating him to pay an amount equivalent to the value of the violating item as a confiscation fee of (363,943) three hundred sixty-three thousand nine hundred and forty-three riyals, making the total amount claimed an amount of (1,455,772) one million four hundred fifty-five thousand seven hundred and seventy-two riyals.

Since the appellant was notified of the Decision subject to the appeal on 01/03/2023, and submitted the appeal on 27/03/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its conduct according to what is stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment (tea) through the Al-Batha customs according to import declaration number (...). On the date 05/09/1431 AH, it was allowed under a commitment not to act until the result of the competent authority appears, and after examining the sample from the General Authority for Food and Drug, the response was received in letter number (...) The date



19/09/1431 AH indicates that the sample is not suitable for human consumption, and the importer was contacted but did not respond. The first instance committee issued its Decision as stated in its ruling based on the fact that the importer did not review the customs to return the violating shipment, which implies his actions regarding it. The violation mentioned in the laboratory report is considered a technical violation that affects the quality of the product and the safety of the consumer, which led to the conviction of the importer for customs smuggling due to his actions with the shipment contrary to the commitment taken from him based on Article (142) of the Unified Customs law, and the imposition of penalties on the importer as stated in the ruling subject to appeal.

Upon reviewing the objection list submitted by the agent of the importing company, the customs appeal committee found that its summary mentioned that the company has been following customs instructions and regulations since its establishment to maintain its reputation. Consequently, an import declaration was submitted along with the invoice and all required documents, and the goods were released based on a non-disposal order until the laboratory results appeared. This is in accordance with the instructions contained in the customs law and its executive regulations. The report indicated that the reason for non-release was "the sample's unsuitability for human consumption," and the plaintiff did not provide any evidence clarifying its unsuitability for human consumption, especially since the tea is from the Lipton factory in the United Arab Emirates and not from the local market, assuming it is a counterfeit of the original product, which the producing company subjects to quality standards and ensures its compliance with specifications and standards that safeguard human safety. Additionally, during the same period, numerous shipments of the same products from the same supplier factory were sent to the client, applying the same procedures for manufacturing and packaging, and there were no remarks on them, which led to their release. Therefore, it is expected that the reason for the sample's rejection is not related to the product's safety and that the reason for its non-release from the laboratory may be due to procedural Grounds. Consequently, the client attempted to contact the Food and Drug Authority to find out the reason for the sample's rejection, but due to the long time since the shipment date, which exceeded (11) years, it was difficult to obtain any information regarding the shipment. Therefore, the importing company requested to communicate with the Food and Drug Authority to verify this. Moreover, the factory producing the incoming shipment is the factory "...". In the United Arab Emirates, "Jebel Ali" is one of the most famous and important factories, known for its commitment to applying international specifications and standards in its production. Additionally, the company argues that the elements of the crime constituting the customs smuggling offense are absent, thus negating the charge of customs smuggling attributed thereto. The regulation concluded with a request to cancel the Decision under appeal and to declare the company not guilty of the customs smuggling crime attributed thereto.

A response memo from the authority was received via the Automated System of the Secretariat dated 28/05/2023, summarizing that the importer had been notified several times to return the shipment to



customs, but he did not respond, which implies his actions regarding it. Additionally, according to the laboratory report, the shipment is considered unfit for human consumption and constitutes technical violations that affect the quality of the product and consumer safety since it involves food materials. Furthermore, the importer's actions regarding the shipment, contrary to the commitment taken regarding it, are considered customs smuggling under Article (142) of the Unified Customs law due to his failure to comply with customs instructions and regulations, as the commitment is still in effect and has not been settled. The memo concluded with a request to reject the appeal and uphold the initial Decision in all its provisions.

The response from the importing company was received on 18/06/2023 and did not deviate from what was presented in the appeal list. The response concluded with a request to accept the appeal, annul the contested Decision, and declare the company not guilty of the alleged customs smuggling offense.

On Thursday, July 4, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against the initial Decision No. (CFR-2022-2310), issued by the 1st Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority thereto.

Grounds



Whereas there is no reproach against the reviewing authority for taking the reasons of the decision subject to appeal without addition whenever it sees that these reasons suffice to avoid the need for any new arguments, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. This is not affected by what the appellant claims that the importing company imports from a well-known company for the quality standards of its products and that the importing company has previously imported other quantities that were approved without issue, as such a claim does not negate the reality of the shipment in question being related to its approval from the laboratory due to the unsuitability of its samples for human consumption. The importer should have been cautious when dealing with shipments consumed by the public, not acting until ensuring their approval and not releasing them for commercial circulation, which was not the case with the importer's handling of the shipment in question. However, the appellate committee noted that the imposition of the customs fine by the committee issuing the decision against the importer was based on what was stated in paragraph (4/145) of the unified customs law without clarifying the reason for taking the maximum penalty as stipulated in this article and in light of what was stated in the subject matter. Therefore, this committee decides to amend the amount of the customs fine to be twice the value of the violating item and to calculate it along with the amount of the confiscation compensation as



will be detailed in the text of this decision. Since the reasons for the decision subject to appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and necessitates its rejection. Accordingly, the appellate committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally, submitted by/ Company, Commercial Registration No. (...), against the initial Decision No. (CFR-2022-2310), issued by the 1st First Instance Customs Committee in Riyadh.
- 2- Rejection on its merits, and the affirmation of the initial Decision regarding the conviction of the appellant for customs smuggling and the penalty of confiscation, with the modification of the customs fine amount to be equal to twice the value of the violating item, making the total amount claimed by the appellant an amount of (1,091,829) million and ninety-one thousand eight hundred and twenty-nine riyals, for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-226002
Case No. AC-2022-105374

Principle No. 34

- The non-compliance of the electric knife type regarding input power, current, and visual inspection is considered one of the essential observations that affect the health and safety of the consumer and the safety of using the imported product.

Principle No. 35

- The importer's claim that a long time has passed since the violation and that the customs did not inform him of the result does not align with the usual behavior of a trader who does not act on the shipment contrary to the commitment made regarding it until he has consulted with customs and knows what has been done regarding its clearance.

Facts

This is to consider the appeal submitted by the General Authority for Zakat and Tax, against the First Instance Decision No. (...), issued by the 1st First Instance Customs Committee in Riyadh, which ruled as follows:

- 1- Not condemning the importer (...) Institution (...), commercial registration number (...), present at customs smuggling.
- 2- To be under obligation to pay a fine for violating customs procedures amounting to (500) five hundred riyals in accordance with Article 31/6 of the executive regulations of the unified customs law.

Since the appellant was notified of the decision subject to the appeal on .../.../... and submitted the appeal on .../....., this entails the acceptance of the appeal procedurally as it was submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law. As for the facts of the case, they are summarized by the arrival of a shipment consisting of (food mills and mixers) belonging to the importer through the customs of Jeddah Islamic Port under import declaration number (...). and the date .../.../... I was granted permission based on a commitment not to act until it is approved by the competent authority, and after examining the sample, the report number (...) was received. and the date



.../.../... The inclusion of non-compliance in terms of income capacity, current, and visual inspection has been notified to the importer, but he did not respond. The first instance committee issued its Decision as stated in its ruling, based on the fact that the incident falls under the category of procedural customs violations that do not directly affect the safety and health of the consumer, and do not rise to the level of customs smuggling crimes. Rather, it falls under the category of customs violations mentioned in Article (141) of the Unified Customs law, with penalties specified in Articles (30, 31) of the Executive Regulations of the Unified Customs law. Upon reviewing the appeal list submitted by the authority, the appellate customs committee found that its summary mentioned that the violation was technical and affected the quality of the product according to what was stated in inspection report number (...). The sample did not pass the income and current capacity test, and the shipment consists of prohibited goods that are not allowed to enter the Kingdom according to Article (24) of the Unified Customs law. Furthermore, the handling of the shipment released under a commitment is considered a violation and customs smuggling according to Article (142) of the same law. The appeal statement concluded with a request to accept the appeal procedurally and to convict the institution ... For customs smuggling and obliging it to pay a customs fine equivalent to three times the value of the goods and obliging it to pay an amount equivalent to the value of the goods as a confiscation fee. Upon reviewing the response submitted by the institution on .../.../... Regarding the submitted appeal, it has been noted that its summary mentioned that there is no letter to initiate a lawsuit or a lawsuit filed by the Public Prosecution under Ministerial Decision No. (34) which includes the transfer of the jurisdiction of the General Authority of Customs to the Public Prosecution and Investigation Authority. The lawsuit was initiated by the Zakat, Tax and Customs Authority, which means that the case was raised by someone without standing, which is contrary to Article (76) of the Law of Judicial Procedures. Furthermore, the contraband shipment is the shipment of electric knives according to report No. (...), while the electric kettle passed inspection. Additionally, the shipment has been around for about (14) years from the date of import, and the disposal of the shipment does not violate the provisions of Articles (24) and (56) of the Unified Customs Law, nor is it considered customs smuggling according to Article (142) of the same law, as the violation is procedural and not technical as stated in the laboratory result, and it was disposed of due to the customs not informing the institution of the result. The memorandum concluded with a request to dismiss the lawsuit and uphold the initial Decision in all its provisions. On Thursday, .../.../... the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the authority against decision number (...), issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the authority, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.



Grounds



It is established in the rules of litigation that the proper application of the law is an obligation on the authority examining the case, and it must be done on its own initiative without the need for a request from the parties. Consequently, the authority examining the case has broad discretion in assessing the facts and giving them the appropriate description and correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and using it as a basis for its ruling, as long as the documents related to it within the case file do not contradict what has been inferred and what its conviction and belief have settled on to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it has reached. This is in accordance with what is stated in Article (153) of the Criminal Procedure law, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description it deserves, even if it contradicts the description in the indictment..." Furthermore, according to what is stated in report number (...) and the date .../.../... For the category (electric knife) that includes non-compliance in terms of input power, current, and visual inspection, and since this violation mentioned in the laboratory report has been considered one of the substantial violations that affect the health and safety of the consumer and the safety of using the imported product, it follows that the importer's action regarding this category, burdened with this violation, constitutes a customs smuggling according to Article (142) of the Unified Customs law. This is not affected by what the defendant mentions about the lack of authority for the authority to initiate the customs case as stated in his objection in this regard, considering that the facts of the case were before the Public Prosecution's jurisdiction to file the customs case, which was determined as being competent for shipments received after the date of transferring the prosecution's jurisdiction to it, specified on .../.../... . Moreover, this result reached by the appellate committee is not affected by the importer's claim that a long time has passed since the violation and that the customs did not inform him of the result, as it is established from the case documents that the customs communicated with the importer to return the item included in the shipment after it was inspected and deemed not permissible. Furthermore, such a claim does not align with the usual conduct of a trader who does not act on the shipment contrary to the commitment taken regarding it except after reviewing the customs and knowing what has been done regarding its clearance, which was not the case with the importer's dealings with the violating item. Since the matter is as mentioned, the appellate committee concluded to report the importer's conviction of customs smuggling, limiting it to the item (electric knife) valued at (3,024) three thousand and twenty-four riyals, obliging him to pay the equivalent of the confiscation and a customs fine equal to the value of that item as will be stated in the ruling. Accordingly, the committee concluded to report the following:



Decision

First: Acceptance of the appeal procedurally from the appellant / the Zakat, Tax and Customs Authority, against the initial Decision No. (CFR-2023-105374), issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: Acceptance of its merits, and the annulment of the initial Decision in all that it ruled, and the ruling is as follows:

- 1- Condemnation of the importer institution ..., commercial registration number (...). Smuggling.
- 2- Obliging him to pay an amount as compensation for the confiscation of the violating item (electric knife) along with imposing a customs fine equivalent to the value of the violating item, making the total amount demanded an amount of (6,048) six thousand and forty-eight riyals, for the reasons and considerations stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-202617

Case No. PC-2022-126107

Principle No. 36

- The request for mercy and appeal to exempt the importer from the fines imposed by the decision is outside the jurisdiction of the customs committees.

Facts

This is to consider the appeal submitted by / ..., commercial registration number (...), for its owner / ..., national ID number (...), against the initial decision number (CSR-2022-1570), issued by the 2nd First Instance Customs Committee in Riyadh, which ruled as follows:

Conviction of the defendant) ... (, commercial registration number (...), present for customs smuggling.

Obliging it to pay a customs fine equivalent to the value of the violating item in the amount of (6,770) six thousand seven hundred and seventy riyals.

Obligating it to pay an amount equivalent to the value of the violating item as a confiscation fee of (6,770) six thousand seven hundred and seventy riyals.

Since the appellant was notified of the Decision subject to the appeal on 18/06/2023, and submitted the appeal on 05/07/2023, this entails the acceptance of the appeal procedurally as it was submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment (Ben Wast with Hal Extra, Ben Al-Hosna without Hal) through the customs of Jeddah Islamic Port under import declaration number (...). On the date 16/04/1437 AH, it was granted under a commitment not to act until the result of the competent authority appears, and after examining the sample by the Food and Drug Authority, the response was received in report number (...) On the date 06/07/1437 AH, which included non-compliance regarding the



presence of aflatoxin, the importer was notified of the result through several letters, but he did not respond. The first instance committee issued its Decision as stated in its ruling based on the fact that the importer did not review the customs to return the shipment after the report from the competent authority showed that the sample did not comply. Consequently, the importer was found guilty of customs smuggling for his actions regarding the shipment, contrary to the commitment taken based on Article (142) of the Unified Customs law, and penalties were imposed on the importer as stated in the ruling subject to appeal. Upon reviewing the objection list submitted, the appellate customs committee found that its summary was a request from the appellant to reconsider the Decision and reduce the amount by dropping one of the two items or as the committee sees fit. The list also included a plea and an appeal, as the appellant is suffering from difficult financial circumstances. A response memorandum from the authority was received via the Automated System of the Secretariat dated 27/09/2023, which summarized that the violation is considered a technical violation that affects the safety and quality of the product, and that the request of the concerned party regarding the amount of the fine is unfounded, as it violates the provisions of Article (142) of the Unified Customs law, and that the appeal submitted did not include what was referred to in Article (188) of the Sharia Litigation law, and that the incident meets the material and moral elements for the commission of a customs smuggling crime. The memorandum concluded with a request to reject the appeal and uphold the initial Decision in all its provisions. On Tuesday, July 16, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against Decision number (CSR-2022-1570), issued by the 2nd First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority.

Grounds



Since there is no reproach against the authority reviewing the appeal for taking the reasons of the decision subject to the appeal without addition whenever it sees that these reasons suffice to avoid presenting anything new, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. The essence of the appeal was merely a request for clemency and compassion to exempt the importer from the fines imposed by the initial decision or part of it due to the special circumstances mentioned that make paying



the fines difficult for him. Since such a request falls outside the jurisdiction of the customs committees, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and necessitates its rejection. Therefore, the appellate committee concluded to report the following:

Decision

- 1- The appeal is accepted procedurally from the applicant (...), commercial registration number (...), owned by (...), national ID number (...), against the initial Decision number (CSR-2022-1570), issued by the 2nd First Instance Customs Committee in Riyadh.
2. Rejection on its merits and upheld the initial Decision in all that it ruled against the appellant, for the Grounds and justifications stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-179180

Case No. PC-2023-179180

Principle No. 37

- The importer's claim that he still retains the shipment and is about to destroy it is not valid, as long as he did not respond to the customs in a timely manner to return the shipment according to the commitment taken regarding it.

Facts

This is to consider the appeal against the initial Decision No. (CSR-2022-670) issued by the 2nd First Instance Customs Committee in Riyadh, submitted by the agent (...), with civil registration number (...), under agency number (...). Since the appellant was notified of the initial Decision on 05/02/2023, and submitted the appeal against the Decision on 20/02/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the prescribed period for its submission as stipulated in Article (163) of the Unified Customs law.

As for the facts of this case, they are summarized by the arrival of a shipment (black tea) through the customs of Jeddah Islamic Port under import declaration number (...). On the date 10/07/1436 AH, it was granted based on a commitment not to act until the result of the examination by the competent authority appears, and upon examining the sample by the laboratory, the report number (...) was received. On 28/07/1436 AH, it was reported that there was a non-compliance due to the presence of coliform bacteria at a rate of 1300 cells/gram, which is higher than the maximum allowable limits in the microbiological standards for tea M.Q.S 1998/1016, which states that coliform bacteria should not exceed 100 cells/gram. The importer was notified of the result by customs, but he did not respond. The first instance committee issued its Decision to convict the importer of customs smuggling and to impose the associated penalties, as stated in the text and Grounds for the Decision subject to appeal, which is referred to in order to avoid repetition. Upon reviewing the objection list submitted, the appellate customs committee found that it included a summary stating that the committee considered the entire shipment to be in violation, while the shipment



consists of two bills of lading, each containing (750) packages. It was noted that only one container was tested and not the other, and that the shipment is still with the institution and is in the process of being destroyed by the Jeddah Islamic Port customs. Furthermore, there is no letter to initiate the lawsuit from the Public Prosecution, which contradicts the Cabinet's Decision to transfer the jurisdiction of investigation and prosecution in customs cases to the Public Prosecution. The absence of a letter to initiate the lawsuit from the Public Prosecution has forfeited the opportunity for exemption from the customs fine. Additionally, the shipment has been pending for (8) years, and the initial Decision subject to appeal was issued in absentia against the institution. The appeal concluded with a request to annul the initial Decision in all its provisions. Upon reviewing the response memorandum submitted by the appellant against the customs committee, it became clear that it included a summary stating that the shipment was non-compliant and that the importer was notified of its non-compliance for the return of the shipment according to the commitment signed by him, but he did not respond. As for the appellant's argument regarding the lack of jurisdiction of the authority, it is incorrect considering the date of the customs declaration, which means that the jurisdiction is established for the authority. Regarding his argument about the passage of eight years, the law grants the authority the right to pursue violators of customs smuggling for a period of (15) years for prescription. The memorandum concluded with a request to reject the appeal and uphold the initial Decision in all its provisions. Upon reviewing the appellant's comments on the response memorandum submitted by the appellee, the customs appellate committee found that it included a summary confirming the insistence on what was presented in the appeal statement, and it concluded with a request to dismiss the case for not being drafted in the required legal form. After reviewing the case file and the appeal submitted by the appellant and the response of the committee regarding it, the committee found that the case is ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and to rule on it in light of the reasons on which the appeal was based.

Grounds

After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws. And whereas the appellate customs committee, upon reviewing the case file and its attachments, and whereas the importer has introduced a food product whose result was reported under laboratory report number (...). On the date 28/07/1436 AH, it was reported that it did not comply due to the presence of



bacteria at a level higher than the maximum permissible limits according to the statement of the Food and Drug Authority. Since the customs had addressed the importer several times about the necessity of returning the shipment and there was no response according to the attachments of the case file, it was established that he committed the crime of customs smuggling based on Article (142) of the Unified Customs law, which states: "Smuggling is the introduction or attempt to introduce goods into the country or to export them, or attempt to export them in violation of the applicable legislation, without paying the customs taxes "fees" either wholly or partially, or contrary to the prohibitions or restrictions contained in this law "law" and other regulations and laws." This is not affected by what the importer raised regarding the shipment being received in two containers and one was examined without the other, as the two containers are related to the same commodity and the same customs declaration. It is also not affected by what he raised about still retaining the shipment and being in the process of destroying it, as it would have been more appropriate for the importer to respond to customs in a timely manner and return the shipment according to the commitment taken regarding it. As for his claim that the authority is not competent to initiate the lawsuit, it is rejected, considering that the date of the customs declaration precedes the transfer of jurisdiction, so the authority has jurisdiction. Regarding the issuance of the judgment in absentia, the first instance committee proved that he was notified twice to attend the hearings and did not attend, which leads to the conclusion that the decision is considered to have been issued in his presence. Since the reasons for the decision subject to appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, making the appeal without a supporting basis, thus it must be rejected. Accordingly, the appellate customs committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant/..., commercial registration number (...), owned by (...), civil registration number (...), against the initial Decision number (CSR-2022-670), issued by the 2nd First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on the merits, and the initial Decision is upheld in all that it ruled, for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-202693

Case No. PC-2022-118745

Principle No. 38

- The non-compliance of the item (lighting bulbs) with specifications regarding the labeling of rated power is considered a procedural non-essential observation that does not affect the health and safety of consumers.

Facts

This is to consider the appeal submitted by/ ..., national ID number (...), in his capacity as an agent for/ ..., national ID number (...). Owner of the institution ..., commercial registration number (...), based on agency number (...). On 18/06/2023, against the First Instance Decision No. (CTR-2023-118745), issued by the Third First Instance Customs Committee in Riyadh, which ruled as follows:

- 1- Non-conviction of the institution ..., commercial registration number (...). In person with customs smuggling.
- 2- To impose a customs fine in the amount of (5,000) five thousand riyals, in accordance with Article 30/1 of the Executive Regulations of the Unified Customs law.
- 3- Since the appellant was notified of the Decision subject to the appeal on 19/06/2023, and submitted the appeal on 06/07/2023, this entails the acceptance of the appeal procedurally as it was submitted by a person with standing within the prescribed period for its execution as stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment consisting of (lighting bulbs) through the customs of Jeddah Islamic Port under import declaration number (...). Date 10/05/1433 AH, it was granted based on a commitment not to act until the result of the competent authority appears, and upon examining the sample, the report number (...) was received. On the date 01/06/1433 AH, which included non-compliance regarding the labeling of the rated capacity, the First Instance Committee issued



its Decision as stated in its ruling, based on what the sample inspection results showed regarding its non-compliance with the specifications concerning the labeling of the rated capacity, considering that this observation is procedural and does not rise to the level of considering the importer's action with the shipment as customs smuggling, which led the First Instance Committee to classify the incident as a customs violation according to Article (141) of the Unified Customs law. Upon reviewing the objection list submitted by the agent of the institution's owner, the customs appellate committee found that its summary mentioned that his client and others had made a power of attorney for the person named/ ... The one who opened the institution... without her knowledge, as she only learned about it after receiving a message indicating the existence of a financial fine (customs smuggling) for more than sixty lawsuits filed against her. Additionally, the agency does not have the right to import or export, and the agent violated the terms of the agency, and his client is unaware of this institution or its activities; rather, the agent exploited the agency for his personal benefit. The report added that upon reviewing the case file, it is clear that it is devoid of the original documents supporting the customs claim, which are (the original customs declaration - the original commitment - the original laboratory report), in addition to being devoid of a list to initiate the lawsuit. Furthermore, the violation mentioned in the inspection result is procedural and does not rise to the level of conviction for the crime of customs smuggling because the laboratory examination showed non-compliance for two Grounds: the first relates to the labeling, and the second relates to the guiding preamble, which are procedural issues that do not lead to a conviction for customs smuggling. The report added that the owner of the institution filed a lawsuit against the agent in the General Court in Jeddah. The report concluded with a request to accept the objection, reconsider the case, and annul the initial Decision being contested, and as a precaution, to consider the incident a violation of procedural procedures and to rule that the institution is not guilty of customs smuggling. The response from the authority was received through the Automated System of the Secretariat on 11/02/2024, summarizing that the shipment was received in the name of the plaintiff institution and that it is responsible before customs as the customs declaration number (...) On the date 10/05/1433 AH, it was prepared in the name of the institution, and all customs and commercial transactions were conducted in the name of the institution with the signature and seal of its owner as a commitment not to dispose of it. This makes it clear that all customs and commercial transactions submitted to the authority are certified documents signed by the institution, and it is not the authority's responsibility to verify the validity of the official documents presented thereto. Additionally, all documents are attached to the case file with the General Secretariat of the Zakat, Tax, and Customs Committees, and the concerned party can request the documents from the Secretariat. The memorandum



added that based on the laboratory results, the violation involves commercial fraud and affects the quality of the product and the safety of consumers, and thus is considered prohibited goods. The authority concluded its response by requesting the rejection of the submitted appeal. On Monday, February 12, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision number (CTR-2023-118745), issued by the Third First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority.

Grounds

Since there is no reproach on the reviewing authority for accepting the Grounds for the Decision subject to appeal without adding anything whenever it sees that these Grounds are sufficient to negate the need to present anything new, because in its support, based on its Grounds, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those Grounds contained, and this is not diminished by what the appellant mentions in his list regarding the exploitation of the called/ ... For the agency granted to him by the owner of the institution, and that she was not aware of the institution's activities, and that he exceeded the limits of his agency by carrying out the import process without it being stated in the agency, as such a payment does not negate the established principle of organizing the shipment papers in the name of the owner of the institution. Moreover, customs have no concern when applying the customs law regarding the relationship between the importer and his agent, whether this results in the importer being convicted of customs smuggling or merely a customs violation that does not rise to the level of a smuggling crime. The importer is responsible for claiming from anyone who alleges harm due to him. Additionally, the initial Decision's integrity is not undermined by the appellant's claim that the case file is devoid of a list to initiate it and also lacks supporting documents for the claim, relying instead on photocopied and non-original documents. This is because it is established through the examination of the case papers that there is a list to initiate it, including all the data of the shipment in question, supported by its attachments according to the number issued in the customs register with the number (...). On 11/05/1436 AH, the appellant's claim regarding the absence of documents proving the accusation and reliance on photocopied and non-original documents does not accept the report attributing the violation to the importer as claimed. This is rejected, as it is established in criminal matters—of which customs



smuggling violations are a part—that proof does not have to adhere to specific methods. It is also not necessary for the evidence relied upon in the conviction for smuggling or the attributed violation against the importer to be based on the exclusivity of each piece of evidence regarding every detail of the case. The original principle in proving such facts is that the evidence should be supportive of one another, collectively forming the conviction of the adjudicating body. Therefore, it is not appropriate to discuss each piece of evidence in isolation from the other documents, evidence, and indications. What is relied upon is the sufficiency of the evidence and indications as a whole leading to the formation of that body's conviction and its assurance in what it has reached. This was the case with the shipment in question organized in the name of the importer, and the laboratory report's jurisdiction was established through the documents. It is also unacceptable for the appellant to position themselves as a judge in determining what constitutes a procedural violation or not, without considering the general obligation embodied in the requirement for the importer to refrain from acting on incoming shipments until they are approved by the competent authority, which was not the case with the importer's dealings with the shipment. Moreover, the assessment of the nature of the violation is within the purview of the committee reviewing the case after it has comprehensively understood it and established its conviction regarding its Decision. Since it was established through the laboratory examination results that the sample (lighting bulbs) did not pass the inspection due to non-compliance with specifications regarding the labeling of rated power, which are procedural non-essential observations that do not affect the health and safety of consumers, it is determined that the importer's action regarding the shipment, which was loaded with that observation, constitutes a customs violation that results in a customs fine of (1000) riyals. This is considering that the appellate committee noted that the First Instance Committee had classified the violation among those subject to the penalty stated in paragraph (30/1) of the executive regulations of the unified customs law and ruled to impose a penalty on the importing entity for the committed violation amounting to (5,000) five thousand riyals, while the ruling of that paragraph limited the application of the penalty to violations related to customs data that would lead to the removal of any condition or restriction related to import or export, which was not the case with the incident under consideration, as the violation was linked to the importer's action regarding the violating shipment contrary to the commitment taken regarding it, without rising to the level of customs smuggling. Since the matter is as stated, it is determined to amend the fine amount to (1000) one thousand riyals, in accordance with what is stipulated in Article (31/6) of the executive regulations of the unified customs law, as this aligns with the correct application of the law to the incident under consideration as previously stated. Accordingly, the committee concluded to report the following:



Decision

- 1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), owned by/ ..., national ID number (...), against the initial Decision number (CTR-2023-118745), issued by the third First Instance Customs Committee in Riyadh.
- 2- Rejection on its merits and the affirmation of the initial Decision in all that it ruled, with the amendment of the amount of the customs violation fine to be (1000) one thousand riyals, and that for the Grounds and considerations stated in this Decision.

Similar Decisions:

- The Decision of the Appeals Committee in Riyadh No. (PC-202696-2023) dated 16/04/2024.
- Decision of the Appeals Committee in Riyadh No. (PC-209984-2023) dated 21/08/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-227597
Case No. PC-2023-227597

Principle No. 39

- The conviction against the importer is not established until the Grounds for not allowing its clearance are verified.

Facts

This is to consider the appeal against the initial Decision number (CFR-2023-103760) issued by the 1st First Instance Customs Committee in Riyadh, submitted by the agent (...), civil registration number (...), under agency number (...).

As for the facts of this case, they are summarized by the arrival of a shipment (food materials) through the Jeddah Islamic Port customs under import declaration number (...) dated 27/05/1437 AH, which was allowed under a commitment not to dispose of it until the results of the examination by the competent authority appeared. After examining the sample by the Saudi Food and Drug Authority, a report was received with report number (...) dated 18/06/1437 AH, indicating non-compliance due to the potential contamination of the product with plastic pieces, which may pose a risk to consumers according to the warning published on the Saudi Food and Drug Authority's website. The importer was notified of the result by customs, but he did not respond. The first instance committee issued its decision to convict the importer of customs smuggling and impose the associated penalties, as stated in the text and reasons for the decision subject to appeal, which is referred to in order to avoid repetition. Upon reviewing the objection list submitted, the appellate customs committee found that it included a summary indicating that the administration did not allow the appellant to access the report of the General Authority for Food and Drug until after the judgment hearing had concluded, and that the appellant company coordinated with the General Authority for Food and Drug in a voluntary withdrawal of some products from the Saudi market that bore the same operation number as the shipment included in the import statement (...) and they were indeed destroyed by the company (...) This proves the absence of criminal intent in the incident subject to the lawsuit, and the reason for the non-compliance of the item in question is due to (the possibility of contamination with plastic pieces) according to the report of the General Authority for Food and Drug Administration. It is clear from the wording in the aforementioned report that the analyses conducted by



the authority on the goods did not show any violations or non-compliance, and that the inclusion of the term (possibility) in the report indicates doubt in its content, and that "if evidence is subject to doubt, the inference is invalid." It concluded with a request to cancel the Decision subject to the appeal and to rule again on the inadmissibility of the lawsuit procedurally due to lack of jurisdiction, and for the Grounds presented. Upon reviewing the response memorandum submitted by the appellant against it, the customs appellate committee found that it included a summary stating that the violation occurred starting from the temporary clearance of the shipment according to the Bond Commitment signed by the company, which, by signing, fully commits to not disposing of the shipment except after obtaining permission from the competent authority for its final clearance, which the importing company did not do. As for the appellant's argument regarding the invalidity of the report from the General Authority for Food and Drug Administration, it is incorrect, as the laboratory results clearly and explicitly indicated that the product did not comply. Furthermore, no goods can be destroyed without customs supervision according to Article (56), paragraph (c) of the Unified Customs law. Additionally, the importer committed a clear violation of the law by not responding to customs when contacted to return the shipment in question, as it involves materials that have a direct connection with the consumer and affect their health and financial resources. The memorandum concluded with a request to reject the appeal and uphold the initial Decision in all its provisions. Upon reviewing the appellant's comments on what was stated in the response memorandum submitted by the appellee, it became clear that it included a summary that repeated what was presented in the appeal statement. It concluded with a request to hold a hearing - in person or remotely - to explain the company's position before the committee, and to annul the Decision subject to the appeal and rule again on the inadmissibility of the case procedurally due to lack of jurisdiction, and for the Grounds presented. After reviewing the case file and the appeal submitted by the appellant and the response of the committee regarding it, the committee found that the case is ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and to rule on it in light of the Grounds on which the appeal was based.

Grounds

After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related laws and regulations. Since the appellant was notified of the initial Decision on 13/11/2023, and submitted the appeal on 07/12/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

Whereas it is established in the rules of litigation that the proper application of the law is an obligation on the authority examining the case, and it must be applied ex officio without the need for a request from the



parties. Consequently, the authority examining the case has broad discretion in assessing the facts, giving them the appropriate description, and providing the correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and using it as a basis for its ruling, as long as the documents related to it within the case file do not contradict what has been inferred and what its conviction and belief have settled on to resolve the dispute, and that its inference is sound, reasonable, and leads to the conclusion it has reached. This is in accordance with what is stated in Article (153) of the Criminal Procedure law, which stipulates that: "The court is not bound by the description contained in the indictment, and it must give the act the description it deserves, even if it contradicts the description in the indictment...". Moreover, it is established in customs jurisprudence that the conviction against the importer is not established unless the reasons for not allowing its clearance are verified, and this verification must be certain and definitive, not based on doubt and possibility. It is established that the laboratory report was presented as a possibility and did not definitively conclude that the shipment in question is unfit for human consumption, which does not establish certainty of the violation of the shipment in question. Furthermore, the appellant submitted evidence of the destruction of the items subject to the "possibility" of violation by virtue of the company's letter (...). The issuance dated 10/02/2020, and that the authority did not dispute the validity of its destruction of the contraband item, but rather disputed its consideration in light of the absence of a customs representative, which collectively indicates the absence of criminal intent on the part of the importer. Therefore, it is decided to accept the appeal procedurally and on its merits, to annul the initial Decision subject to the appeal, and to rule again not to convict the appealing company of customs smuggling. However, since the importer violated the commitment taken upon them and acted with the shipment without notifying customs, it is determined that the importer's action constitutes a violation governed by Article (31/6) of the Executive Regulations of the Unified Customs law, and a financial penalty of (1000) one thousand riyals is imposed in accordance with what that article stipulates. Accordingly, the committee concluded to report the following:



Decision

First: Acceptance of the appeal procedurally, from the applicant (...), commercial registration number (...), against the initial Decision number (CFR-2023-103760), issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: Acceptance of the appeal on its merits and canceling the initial decision, and ruling not to convict the importer of the crime of customs smuggling, and obliging him to pay a fine for violating customs procedures amounting to (1000) one thousand riyals according to Article (6/31) of the executive regulations of the unified customs law, for the reasons and considerations stated in this decision.

This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-230841
Case No. PC-2024-230841

Principle No. 40

- The appellant's argument that its handling of the shipment under the commitment was for the purpose of export outside the Kingdom is not valid, considering that the delivery of the shipment to the importer temporarily for safekeeping until it is approved by the competent authority does not constitute a clearance for it, but rather it was released in exchange for a commitment from him not to dispose of it.

Facts

This is to consider the appeal against the initial Decision number (CFR-2023-126358) issued by the 1st First Instance Customs Committee in Riyadh, submitted by/..., National ID number (...). Holder of the attorney's license number (...), in his capacity as the legal representative of the company under the power of attorney number (...). Issued on .././....

As for the facts of this case, they are summarized by the arrival of a shipment (current choker) through the customs of Jeddah Islamic Port under import declaration number (...). On 06/06/1434 AH, a permit was issued based on a commitment not to act until the result of the competent authority appeared. After examining the sample by the laboratory, the report indicated non-compliance regarding the capacity factor of the circuit. The importer was addressed by customs to return the shipment, but he did not respond. The first instance committee issued its Decision convicting the importer of customs smuggling and imposing the associated penalties, as stated in the text and Grounds of the First Instance Decision subject to appeal, which is referred to in order to avoid repetition.

Upon reviewing the appeal list submitted, the appellate customs committee found that it includes a summary stating that the capacity mentioned in the laboratory report results from a reading of the electrical frequency (50 Hz), which gives the result reached in the laboratory report, and a reading of the electrical frequency (60 Hz), which gives the result permitted for use within the Kingdom of Saudi Arabia, also mentioned in the laboratory report. Since the final product is required to meet the specifications of the electrical frequency (50 Hz) - and this facility has been previously submitted - and the committee did not respond to what the appellant requested in writing to the relevant authorities to inquire about the technical difference that separates the case, it also argues that it did not commit customs smuggling from the outset, as when it imported the electrical choke, it submitted the import invoice indicating that the electrical



frequency is 50 Hz. Regarding the committee's request for a customs declaration clarifying the export of the imported item, the appellant argues that the item, when imported alone, is a single piece, and when exported, it is part of a composite product that is a main component in the final product according to the technical guide. Therefore, exporting the customs declaration under the name of lamps is correct, compliant, and matches the export of the imported materials, proving that there was no smuggling or violation of customs regulations. It also argues that the conformity of the customs declaration, the attached invoices, and the contract between the defendant and the work constitutes conclusive evidence that the import was for the purpose of manufacturing and exporting outside the Kingdom, which indicates the absence of criminal intent on the part of the appellant. Therefore, it requests the cancellation of the Decision subject to the appeal and the ruling to dismiss the plaintiff's claim. Upon reviewing the response memorandum submitted by the authority, the customs appellate committee found that it includes a summary indicating that the result of the inspection report - attached to the case file - showed non-compliance regarding the power factor of the circuit, which constitutes technical violations that affect the quality of the product and cause negative effects on consumers, adversely impacting their financial resources due to purchasing a product that does not meet specifications. According to Article (142) of the Customs Law and paragraph (17) of Article (143) of the same law, the handling of the released shipment with a commitment not to dispose of it is one of the forms of customs smuggling. Therefore, the authority requests the rejection of the appeal and the affirmation of the initial Decision in all its provisions. After reviewing the case file and the appeal submitted by the appellant and the response of the committee regarding it, the committee found that the case is ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and to rule on it in light of the reasons on which the appeal was based.

Grounds

After reviewing the unified customs law of the Gulf Cooperation Council countries approved by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the relevant regulations and laws. Since the appellant was notified of the initial Decision on 21/12/2023, and filed the appeal against the Decision on 21/01/2024, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its execution as stipulated in Article (163) of the Unified Customs law. Since there is no reproach against the authority reviewing the appeal for taking the reasons of the decision subject to the appeal without addition whenever it sees that these reasons suffice to omit any new ones, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons



contained. This is not affected by what the appellant argued, that its action regarding the shipment subject to the commitment was for the purpose of export outside the Kingdom, considering that the delivery of the shipment to the importer temporarily for safekeeping until it is approved by the competent authority does not constitute a clearance for it, but rather it was released in exchange for a commitment from him not to dispose of it. Therefore, the act concerning the disputed item and the violation of the commitment signed by him constitutes customs smuggling. Moreover, the importer's claim of the absence of criminal intent for smuggling does not hold in light of his knowledge that the shipment was subject to a commitment not to dispose of it before its approval. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and thus must be rejected. Accordingly, the customs appellate committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant/ ..., commercial registration number (...), against the initial Decision number (CFR-2023-126358) issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on the merits, and the initial decision is upheld in all that it ruled, for the reasons and considerations stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-225231
Case No. PC-2023-225231

Principle No. 41

- The non-compliance of metal roll types due to exceeding the permissible limit of lead in the coating by more than double is considered a technical observation that affects the quality of the product.

Principle No. 42

- No certificate of conformity issued by an unauthorized entity shall be recognized.

Facts

This is to consider the appeal against the initial Decision No. (CFR-2023-119210) issued by the 1st Customs Committee in Riyadh, submitted by the agent/..., Civil Registration No. (...), under Agency No. (...), and since the appellant was notified of the initial Decision on 21/09/2023, and submitted the appeal against the Decision on 17/10/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the prescribed period for its submission as stipulated in Article (163) of the Unified Customs law.

As for the facts of this case, they are summarized by the arrival of a shipment (metal rolls) through the Al-Batha customs under import declaration number (219198), which was allowed under a commitment not to dispose of it until the result of the competent authority appears, and upon examining the sample, the report number (...) was received. The date 2/1/2019, which includes non-compliance regarding lead in the paint, and the importer was addressed by customs to return the shipment, but he did not respond. The first instance committee issued its Decision to convict the importer of customs smuggling and impose the associated penalties as stated in the ruling and Grounds for the Decision subject to appeal, which is referred to in order to avoid repetition. Upon reviewing the appeal list submitted by the agent, the appellate customs committee found that it includes a summary stating that report number (...) The report dated 2/1/2019, which the authority relied on to initiate its case, indicates that the incoming shipment is valid and complies



with specifications and standards, as mentioned in the final result of the shipment inspection, stating "The following tests were conducted and found to comply with the specification." Additionally, the chemical analysis result was also acceptable as outlined in the report, along with the report issued by (Company ...), which certifies that the goods have been subjected to laboratory testing and found to comply with the technical regulations and standard specifications approved in the Kingdom of Saudi Arabia. The appellant company also argues that the violation mentioned in the report regarding the non-compliance of the sample "lead in paint" is considered a procedural violation that does not rise to the level of conviction for customs smuggling due to its lack of impact on the quality and safety of the product. The principle is the safety of the imported products, and not every violation of specifications and standards affects the safety of the product. The regulation concluded with a request to overturn the initial Decision and rule that the company is not guilty of the crime of customs smuggling. Upon reviewing the response memorandum submitted by the authority, the appellate customs committee found that it includes a summary stating that based on the result of the report numbered (CMZCOAT MOC C18944) dated 2/1/2019, which indicated that the sample did not comply with the lead content in the paint, it is classified as a technical violation that affects the quality of the product, causing negative impacts on consumers and affecting their financial resources by purchasing a product that does not meet specifications and standards. Furthermore, according to Article (24) of the Unified Customs law, which states: "The administration shall prohibit, under the provisions of this law (law) or any other law (law) or Decision, the entry of prohibited or non-compliant goods or their exit or transit, and it shall also prohibit the entry of restricted goods or their exit or transit except with the approval issued by the competent authorities in the state." Based on the above, the authority requests the committee to reject the submitted appeal and uphold the initial Decision in all its provisions. After reviewing the case file and the appeal submitted by the appellant and the response of the committee regarding it, the committee found that the case is ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and to rule on it in light of the reasons on which the appeal was based.

Grounds

After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws. The laboratory examination report confirms that the violation regarding the item in question exceeded the required limit in the paint by more than double, as the lead content in the paint sample was



(1487 mg/kg). The report stated that the required limit for the paint is (MAX.90 gm/kg), indicating that the violation is technical and affects the quality of the product, causing harm to consumers and their financial resources, considering that the quantity present in the sample is above the legally permitted limit. Additionally, it is difficult to correct the type of violation found in the sample, which confirms the validity of attributing the smuggling offense to the company for handling the shipment, which was loaded with the violation reported by the laboratory. This conclusion is not undermined by what the representative of the appealing company mentions regarding the issuance of a report from the company (...). It includes that it certifies that the goods have been subjected to laboratory testing and it was found that they comply with the technical regulations and standard specifications approved in the Kingdom of Saudi Arabia, considering that this report is not valid as it was issued by an unlicensed entity and does not indicate that the sample has obtained a certificate of conformity with specifications and standards. Rather, the report itself included at the bottom what it stated: "The issuance of this certificate does not exempt the contracting parties from their responsibilities and fulfilling their obligations..." However, the appellate committee noted that the committee issuing the Decision had ruled to calculate the customs fine on the importer by applying paragraph (4) of Article (145) of the Unified Customs law, which applies to prohibited goods. Since the imported goods are not prohibited in their nature and type, but the prohibition of their entry was due to their non-compliance with some required specifications, which is confirmed by the request from the importer to bring the shipment to the customs area for re-export, it is decided by this committee to apply paragraph (2) of Article (145) of the Unified Customs law contrary to what was decided in the initial Decision. Thus, this committee concludes to calculate the amount of the customs fine at twice the customs duties as will be stated in the ruling, and accordingly, the appellate committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant/ ..., commercial registration number (...), against the initial Decision number (CFR-2023-119210) issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on its merits, and the initial decision regarding the conviction for customs smuggling and the confiscation fee is upheld, with the customs fine imposed being modified to be twice the amount of the customs duties, making the total amount claimed by the importer an amount of (94,172) ninety-four thousand one hundred seventy-two riyals, for the reasons and considerations stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-225511
Case No. PC-2023-225511

Principle No. 43

- The royal pardon is related to the nature of the penalty described by the penal description, which is represented by imprisonment, excluding penalties of a financial criminal nature.

Facts

This is to consider the appeal against the initial Decision number (CTR-2023-125278) issued by the Third First Instance Customs Committee in Riyadh, submitted by/..., National ID number (...), in his capacity as an agent for the owner of the establishment/..., National ID number (...), under the power of attorney number (...).

As for the facts of this case, they are summarized by the arrival of a shipment (men's footwear) through the Islamic Port of Jeddah customs under import declaration number (...). On the date 12/06/1436 AH, it was granted based on a commitment not to act until the result of the competent authority appears, and upon examining the sample, the report number (...) was received. The date 01/07/1436 AH includes non-compliance regarding horizontal slip resistance, and the importer was contacted by customs to return the shipment, but he did not respond. The first instance committee issued its Decision to convict the importer of customs smuggling and impose the associated penalties as stated in the ruling and Grounds for the Decision subject to appeal, which is referred to in order to avoid repetition. Upon reviewing the appeal list submitted by the agent, the appellate customs committee found that it includes a summary stating that the case was filed by someone without standing, as the initiation of the case was on 24/11/1440 AH, which means that the jurisdiction lies with the Public Prosecution. Additionally, the case has expired due to pardon under Royal Order No. (61877) dated 27/10/1442 AH. Furthermore, the case documents lack a record of the incident, contrary to Article (129) of the Unified Customs law. The letter initiating the case also lacks the procedural and substantive legal requirements stipulated by the law, as it is devoid of the essential details for its validity. Moreover, the importer was not notified by customs about the return of the shipment to the customs area. The appeal list and the initial Decision did not specify the exact amount to be paid by the importer, leading to ambiguity in the ruling and its invalidity. The incident represents a procedural violation



rather than a technical one, and there is no suspicion of commercial fraud against the consumer. The list concluded with a request to accept the appeal procedurally, annul the initial Decision, and erase all its effects. Upon reviewing the response memorandum submitted by the authority, the appellate customs committee found that it includes a summary indicating that the violation occurred on 12/06/1436 AH according to the date of the customs declaration, which means that the authority has the jurisdiction to file the lawsuit based on Royal Order No. (...) On 02/06/1440 AH, the judge transferred the jurisdiction of investigation and public prosecution in customs cases to the Public Prosecution within three months from that date, based on which a coordination report for the transfer of jurisdiction dated 11/08/1440 AH was prepared, which stated in its thirteenth clause that: "The transfer of jurisdiction in the crimes and rules mentioned in this report will commence from 02/09/1440 AH, while any crimes that occurred before this date will be handled by the General Authority for Customs." Additionally, all documents are attached to the case file with the Secretariat, and the concerned party can request the documents from the Secretariat. The institution was also notified by letter number (...) On 28/11/1436 AH, the addresses registered with the authority indicate non-compliance of the shipment and that it should be returned according to the commitment signed by it; however, it did not respond, which indicates its handling of the shipment. The violation of the commitment by handling these items is considered customs smuggling according to Article (142) of the Unified Customs law. Based on the analysis results indicating non-compliance in terms of horizontal slip resistance, the violation is technical and involves deception of consumers, affecting their safety. As a result, the goods are considered prohibited under Article (2) of the Unified Customs law, which defines prohibited goods. The response memo concluded with a request to reject the submitted appeal and uphold the initial Decision in all its provisions. After reviewing the case file and the appeal submitted by the appellant and the response of the committee regarding it, the committee found that the case is ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and to rule on it in light of the reasons on which the appeal was based.

Grounds

After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws. Since the appellant was notified of the initial Decision on 02/10/2023, and submitted the appeal against the Decision on 24/10/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law. Whereas there is no reproach against the authority reviewing the appeal for taking the reasons of the decision subject to the appeal without addition whenever it sees that these reasons suffice to avoid presenting anything new, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. This is not affected by what the appellant mentions regarding the lack of jurisdiction of the General Authority of



Customs to file the lawsuit, claiming that the jurisdiction of the public prosecution in the raised case is vested in the Public Prosecution. This is because, considering the arrangements for enforcing the jurisdiction of the public prosecution in customs crimes under the Royal Decree issued on 02/06/1440 AH for the Public Prosecution, it has been established that the jurisdiction of the prosecution is linked to the incidents that occurred after the issuance of the coordination report for transferring the jurisdiction related to the prosecution regarding the crimes stipulated in the Customs Law, which was prepared between the Public Prosecution and the General Authority of Customs, indicating that the incidents related to smuggling crimes after the date of 02/09/1440 AH are the only ones concerned with the jurisdiction of the Public Prosecution to prosecute them, while those before it fall under the jurisdiction of the General Authority of Zakat, Tax, and Customs. Therefore, the arguments presented in this regard against the decision are based on an incorrect basis. Moreover, what is mentioned about the inclusion of the lawsuit in the royal pardon issued in 1442 AH is refuted, as the royal pardon is related to the status of the penalty described in the penal description, represented in imprisonment, and not to penalties of a financial tax nature. Additionally, what is mentioned about the absence of a seizure report regarding the incident, claiming that this leads to a defect in the procedures of the lawsuit, is incorrect, considering that the seizure report is required to be prepared upon discovering the violation or smuggling crime when preparing the import declaration and submitting it to complete the shipment procedures. Such a defense does not negate the established fact of the importer's action regarding the shipment by not returning the violating items after being notified by customs that their clearance was not approved. It would have been more appropriate for the institution to review customs and communicate with it to verify the laboratory result before acting on it. Furthermore, it is unacceptable for the importer to act as a judge in determining the nature of the violation and whether it is procedural or substantive, as the qualification of the incident is within the jurisdiction of the committee reviewing the case after it has been informed of its facts and circumstances. Since the reasons for the decision subject to the appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and necessitates its rejection. Accordingly, the customs appellate committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant/..., commercial registration number (...), for its owner/..., national ID number (...), against the initial Decision number (CTR-2023-125278) issued by the third First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on the merits, and the initial Decision is upheld in all that it ruled, for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-171050
Case No. PC-2023-171050

Principle No. 44

- The claim that a fire occurred in a warehouse adjacent to the company and that the company's warehouse and its contents, including the shipment in question, were damaged cannot be relied upon as long as the report issued regarding the fire does not prove its connection to the shipment in question.

Principle No. 45

- The non-compliance of the item (batteries) with the rated capacity is considered a type of procedural observation.

Facts

This is to consider the appeal submitted by/..., national ID number (...), in his capacity as the director - under the articles of incorporation and commercial registration - of the company ..., commercial registration number (...), against the initial Decision number (CFR-2022-607), issued by the 1st First Instance Customs Committee in Riyadh, which ruled as follows:

- 1- Condemnation of the importer (Company ...), Commercial Registration Number (...). In person with customs smuggling.
- 2- To be under obligation to pay a customs fine equivalent to the value of the violating item, amounting to (110,688) one hundred ten thousand six hundred eighty-eight riyals.
- 3- Obligating him to pay an amount equivalent to the value of the violating item as a confiscation fee of (110,688) one hundred ten thousand six hundred eighty-eight riyals, making the total amount claimed (221,376) two hundred twenty-one thousand three hundred seventy-six riyals.

Since the appellant was notified of the Decision subject to the appeal on 25/12/2022, and submitted the appeal on 23/01/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.



The facts of the case are summarized by the arrival of a shipment of (batteries) belonging to the importing company through the customs of Jeddah Islamic Port, under import declaration number (...). On 27/03/1437 AH, it was released under a commitment not to act until it is approved by the competent authority, and a sample was presented to the laboratory, and the response was received in report number (...) On 30/01/2016, which included non-compliance regarding the verification test of the specified capacity, the First Instance Committee issued its Decision as stated in its ruling based on the importer's attempt to introduce goods that do not comply with Saudi specifications and standards, and his violation of the commitment taken regarding his handling of the shipment, which was loaded in violation of the laboratory report, which constitutes customs smuggling according to Article (142) of the Unified Customs law, and arranged for the application of penalties against the importer as stated in its Decision.

Upon reviewing the appeal committee's report, it was noted that the summary mentioned that the company had not received any text messages regarding the registration of the case, the dates of the hearings, or the electronic links to attend the hearings, claiming that communication with the company was made to a number that does not belong to it but rather to another person. As for the subject matter, the imported goods consist of battery chargers, totaling (55) chargers, of which 54 were received, and the customs department retained one charger for the purpose of presenting it to the technical laboratories at the Saudi Standards, Metrology and Quality Organization. These chargers have been received and stored at the location of (Company ... factory). The incident in the city of Riyadh, however, on 03/10/1438 AH, a fire broke out at (Company ... factory) The fire spread to include eight factories, including the factory of the appellant company, resulting in almost total damage and destruction of all its contents, including the chargers subject to this case. This is confirmed by the letter from the Civil Defense Directorate in the Riyadh region and the report from the legal accountant regarding the fire, in addition to photos of the fire on the ground, all of which are attached to the appeal request. The statement added that a claim for compensation for the losses was filed against the factory of Company ... The cause of the fire was recorded in a lawsuit at the General Court in Riyadh, and thus the company has been subjected to a force majeure that prevented it from preserving the goods, which is a reason for exempting it from liability. The statement concluded with a request to annul the initial Decision and to rule that the company is not guilty and to cancel the customs fine and the confiscation fee imposed.

A response memo from the authority was received via the Automated System of the Secretariat dated 09/03/2023, which summarized that communication with the importer is done through the addresses registered with the authority, and that any error in them is their responsibility since they provided them to the authority and are responsible for their accuracy. The notification from the Secretariat is done automatically according to Article Nine of the rules of operation of the customs Committees and other related regulations and instructions, thus the claims made by the appellant are incorrect. The shipment was dated 27/03/1437 AH, and the fire occurred on 03/10/1438 AH, which is more than a year later. During



this period, the company did not comply with the commitment taken upon it and did not respond to the customs letter, which means its handling of the shipment constitutes customs smuggling according to Article (142) of the unified customs law. Additionally, the civil defense report and the legal accountant did not refer to the contents of the burned warehouse, and there is no evidence that the shipment in question was inside the warehouse at the time of the fire. The memo concluded by rejecting the appeal submitted and upholding the initial Decision in all that it ruled.

On Monday, February 19, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted against Decision No. (CFR-2022-607), issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, and the response from the authority, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based.

Grounds



Whereas, upon reviewing the appeal list submitted by the importer, the appellate committee notes the claims regarding the incorrect notification of the lawsuit, as it is mentioned that the mobile number provided for notification does not belong to the importing company, this is rejected. This is based on the attached documents which show that the company submitted a request to amend its contact information after the date of the hearing held before the First Instance Committee to consider the lawsuit. As for the claims regarding the fire occurring in a warehouse adjacent to theirs and the damage to the company's warehouse and its contents, including the shipment in question, which resulted in total damage to the shipment subject to the lawsuit, this cannot be relied upon, whether it leads to the appellant being charged with customs smuggling or any other violation that may be attributed to them regarding their dealings with the shipment in question, given that the report regarding the fire included in the lawsuit file and referenced in the submitted appeal does not prove its connection to the shipment in question. It is established in litigation rules that the authority reviewing the case has broad discretion in assessing the facts and giving them the appropriate description based on its conviction and the state of the evidence and inferences drawn from it, relying on them and using them as a basis for its ruling, as long as the documents related to it in the lawsuit file do not contradict what has been inferred and established in its conviction and belief to resolve the dispute, and that its inference is sound, reasonable, and leads to the conclusion it reached. According to the report on the sample examination, the violation in question relates to verifying the specified capacity, and the appellate committee did not find this observation in the laboratory report to be among the substantial observations affecting the safety and quality of the product or misleading the consumer regarding its reality and material, especially since the sample passed other testing fields. This means that the importer's action regarding the item in question, which is burdened with such an observation, constitutes a



consideration of it as a procedural observation that does not elevate, in the case of dealing with the shipment, to classify the importer's action with the shipment as customs smuggling. Therefore, it is decided to annul the initial decision in all that was ruled against the appealing company. It is established that the importing company violated the commitment taken upon it and dealt with the shipment without notifying customs as previously verified. Therefore, the company's action is considered a violation governed by Article (31/6) of the executive regulations of the customs law, and a financial penalty of (1000) one thousand riyals is imposed, in accordance with what that article stipulates. When the appellate committee examined the lawsuit file and the laboratory report issued regarding the shipment in question, it became clear that there was no evidence of the severity of the violation related to the laboratory's observation regarding the specification (specified capacity), as the observation indicated that the specified capacity according to the specification for the incoming item is (225 amperes. The hour) and that the sample test showed the specification at the specified capacity (214.6 amperes. The time) and since this discrepancy is slight between the required specification and what was reported by the laboratory in light of the sample passing other test fields and the report not disclosing a prohibition on clearance and only stating that the sample is non-compliant, especially since the claiming party did not clarify the extent of the impact of this slight difference on the necessity of preventing the shipment from entering the country, the committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally submitted by / Company ..., Commercial Registration No. (...), against the initial Decision No. (CFR-2022-607), issued by the 1st First Instance Customs Committee in Riyadh.
- 2- Acceptance of appeal on its merits, and the annulment of the initial Decision in all that it ruled against the appellant, and that for the Grounds and considerations stated in this Decision.
- 3-Considering the importer's action regarding the violating shipment as constituting a customs violation amounting to (1,000) one thousand riyals, for the reasons and circumstances stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-190799

Case No. PC-2023-190799

Principle No. 46

- The failure of the item (alcohol swab) to comply with the requirements of the medical devices and products control regulations and the lack of a clear statement regarding the nature of the violation makes it impossible to definitively conclude that the item in question does not meet the specifications, and it is considered that the non-compliance refers to technical observations.

Facts

This is to consider the appeal submitted by/ ..., national ID number (...), in his capacity as an agent for/ Company ..., commercial registration number (...), under agency number (...) dated 01/02/1444 AH, against the initial Decision number (CFR-2022-2430), issued by the 1st First Instance Customs Committee in Riyadh, which ruled as follows:

- 1- Condemnation of the importer/ branch of the company ..., commercial registration number (...), in person for customs smuggling.
- 2- Obliging him to pay a customs fine equivalent to the value of the violating item in the amount of (499,845) four hundred ninety-nine thousand eight hundred and forty-five riyals.
- 3- Obliging him to pay an amount equivalent to the value of the violating item as a confiscation fee of (499,845) four hundred ninety-nine thousand eight hundred forty-five riyals, making the total amount claimed (999,690) nine hundred ninety-nine thousand six hundred ninety riyals.

Since the appellant was notified of the decision subject to the appeal on 22/02/2023, and submitted the appeal on 22/03/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the prescribed period for its execution as stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment consisting of (an alcohol swab) belonging to the company through the Riyadh customs – the dry port under import declaration number (...) dated 28/01/1438 AH, which was cleared based on a commitment not to dispose of it until it is approved



by the competent authority. After examining the sample by the Saudi Food and Drug Authority, a response was received in letter number (6/J/M J) dated 25/04/1438 AH, stating non-compliance with the requirements of the medical devices and products control regulations. The importer was notified of the result, but he did not respond to customs. The first instance committee issued its decision as stated in its ruling based on the fact that the importer did not review customs or return the shipment, which implies that he acted contrary to the commitment taken after it was established that its clearance was not approved, which constitutes customs smuggling according to Article (142) of the Unified Customs law.

Upon reviewing the objection list submitted by the agent of the importing company, the customs appeal committee found that its summary mentioned that the company received an invitation to participate in a tender for hospital supplies and submitted its offer. After being studied by the relevant committee, the tender was awarded to it, and the Saudi Ministry of Health contracted with the company to supply the items, including the item in question (alcohol swab). On the date of the shipment's arrival, the item (alcohol swab) was registered with the Food and Drug Authority under registration certificate number (MDNR091002950418) dated 29/09/2013. Subsequently, the registration requirements for that item changed – during the supply period – from the National Registry Certificate for Medical Devices and Products (MDNR) to the Marketing Authorization Certificate for Medical Devices and Supplies (MDMA), and the MDMA certificate was not a requirement before that. After the importing company became aware of this, it fulfilled the Food and Drug Authority's observation and re-registered the same item with certificate number (ME0000010607SFDAA00002) dated 03/12/2019, confirming that the result of the sample examination indicating non-compliance with the requirements of the Medical Devices and Products Control Regulation was due to the non-issuance of the MDMA certificate because of the change in registration requirements during the supply period. Nevertheless, the company met all the new registration requirements to handle the shipment. The list added that there is no truth to what was mentioned in the Grounds for the initial Decision regarding the violation being technical and affecting the quality and safety of the consumer, as this violation, assuming it is proven, is merely a procedural violation that does not affect in any way the quality of the product and the health and safety of the consumer. The product complies with the highest quality standards, as the item is not used in the Ministry of Health hospitals until after testing (21) samples from the shipment by the Medical Supply Department and stamping them, after which the Ministry of Health pays the price to the importer. This is exactly what happened with the item in question, which is considered a clearance issued by the Saudi Ministry of Health. Additionally, the General Authority for Food and Drug has confirmed that the company has met all the Authority's conditions to handle the shipment.

In response to the company's inquiry about this specific item, except for the (MDMA) certificate which was fulfilled later as previously mentioned, this violation, assuming it is proven, is procedural and does not reach the level of committing a customs crime. Moreover, the company was only informed of it after the case was



registered with the customs Committees, as the attached letters from the plaintiff were addressed to the customs broker and it has not been proven that they were delivered to the company, which establishes the responsibility of the customs broker in this regard. Additionally, the initial Decision was incorrect in its reasoning as it relied on Article (65) of the Unified Customs law, while the company did not act on the shipment until after fulfilling the observation of the Food and Drug Authority and re-registering the item according to the new requirement as previously presented, which clarifies the absence of criminal intent on the part of the importing company. The appeal concluded with a request to annul the initial Decision and rule in favor of the company, releasing it from this case.

A response memo from the authority was received through the Automated System of the Secretariat dated 11/05/2023, which summarized that the company had been notified by several letters at the addresses registered with it, indicating that the shipment did not comply and that it should return it according to the commitment signed by it, and it did not respond. The company should have communicated and responded to the authority instead of acting on the shipment and violating the commitment. This commitment stated that the shipment should not be acted upon in any way except after notification from customs granting its clearance from the competent authority. Therefore, acting on these items constitutes customs smuggling according to Article (142) of the Unified Customs law, as the laboratory result indicated non-compliance with the requirements of the Medical Devices and Products Control Regulation, which are technical violations that affect the health and safety of consumers and impact their financial resources. The appellant's mention of the customs broker's responsibility is merely an evasion of responsibility and an unsubstantiated claim, as it contradicts Articles (158), (144), and (154) of the Unified Customs law. The legal principle states that the negligent party bears the consequences of their negligence. The company contracted with the customs broker without oversight, accountability, or follow-up, and the relationship between the importer and the broker is a contractual relationship, allowing each party to claim damages from the other before the competent judicial authorities. The memo concluded with a request to reject the appeal and uphold the initial Decision in all its provisions.

On Wednesday, December 20, 2023, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision number (CFR-2022-2430), issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority.

Grounds

It was established through the appellate committee's review of the report issued by the Food and Drug Authority regarding the item in question that it was vague and did not specify the nature of the violation or



describe it, as it was limited to stating that the item did not comply with the requirements of the medical devices and products control regulations. Furthermore, the appellate committee was not reassured by the contents of that report, considering it mentioned the non-compliance of other items that were subject to laboratory examination, while the report itself clearly showed their compliance with the specifications. This makes it impossible to definitively assess the report's claim of non-compliance of the item in question with the specifications and to consider that, as the customs prosecution claims, the non-compliance refers to a technical observation that could be relied upon to establish the validity of attributing the crime of customs smuggling to the importer concerning the item in question. Therefore, the importer's conduct does not rise to the level of a customs smuggling crime as stated in Article (142) of the Unified Customs law: "Customs smuggling is the act of bringing or attempting to bring goods into the country or taking them out or attempting to take them out in violation of the applicable legislation without paying customs duties in whole or in part or contrary to the provisions of prohibition and restriction in this law and other regulations." Rather, it falls under the category of a customs procedural violation, obliging him to pay a customs fine as will be stated in the ruling of this decision according to Article (31/6) of the executive regulations of the Unified Customs law. Accordingly, the appellate committee concluded with the following report:

Decision

1- Acceptance of the appeal procedurally from the applicant/ Company ..., commercial registration number (...), against the initial Decision number (CFR-2022-2430), issued by the 1st First Instance Customs Committee in Riyadh.

2- The appeal is accepted on its merits, and the initial Decision is annulled in all that it ruled, considering the actions of the importing company a violation governed by Article (31/6) of the executive regulations of the customs law, and imposing a financial penalty on it in the amount of (1000) one thousand riyals, for the Grounds and considerations stated in this Decision.

Similar Decisions:

- The Decision of the Appeals Committee in Riyadh No. (PC-189211-2023) dated 30/04/2024.
- The Decision of the Appeals Committee in Riyadh No. (PC-193964-2023) dated 25/03/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-227748

Case No. PC- 2023-227748

Principle No. 47

- The failure of the category (cable) and (power supply) to meet the required specifications is considered a technical observation that affects the safety and security of the product.

Facts

This is to consider the appeal submitted by the Zakat, Tax and Customs Authority against the initial Decision No. (CTR-2023-106009) issued by the Third First Instance Customs Committee in Riyadh.

As for the facts of this case, they are summarized by the arrival of a shipment (blankets, a power supply cable, batteries, an energy storage device, a headset, and a battery charger) through the Al-Batha customs under import declaration number (...). On the date 22/01/1437 AH, it was allowed under a commitment not to act until the result of the examination by the competent authority appeared, and upon examination of the sample by the laboratory, the report number (...) was received. On 10/11/2015, and number (...) On 17/11/2015, and number (...) On 12/11/2015, and number (...) On 15/11/2015, and number (...) On 16/11/2015, and number (...) On 11/11/2015, and number (...) On 16/11/2015, it was noted that there was non-compliance regarding the inspection of the plug shape, explanatory data, labels, instructions, maximum temperatures, and visual inspection. The importer was notified of the result by the customs, but he did not respond. The first instance committee issued its Decision not to convict the importer of customs smuggling, while obliging him to pay a fine for violating customs procedures amounting to one thousand riyals, as stated in the text and Grounds for the Decision subject to appeal, which is referred to in order to avoid repetition. Upon reviewing the appeal by the customs committee, it became clear that the objection list included a summary stating that the Decision was based on the premise that the violation was procedural, whereas this contradicts what was stated in the laboratory report indicating that the sample did not pass the maximum temperature test. Thus, the violation is considered technical and affects the quality of the product and consumer safety, making the shipment consist of prohibited goods. The importer's handling of the shipment released under a commitment is considered a violation of Article (56) of the Unified Customs law, and it is also deemed customs smuggling according to what is stipulated in Article



(142) of the same law. The conclusion requested the conviction of the importer for customs smuggling and obliging him to pay a customs fine equivalent to three times the value of the goods, as well as the equivalent of its value as a confiscation substitute. The appellant's opponent was requested to respond and to enable her right to reply, but she did not submit the required answer. Based on paragraph (1) of Article (35) of the rules of operation of the Zakat, tax, and customs Committees, the committee decided to rule on the case in light of the documents available thereto. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.

Grounds

After reviewing the unified customs law of the Gulf Cooperation Council countries approved by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the relevant regulations and laws. Since the appellant was notified of the initial Decision on 19/11/2023, and submitted the appeal on 13/12/2023, this entails the acceptance of the appeal procedurally as it was submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law. Whereas the appellate customs committee, upon reviewing the contents of the case file and its attachments, and whereas the First Instance Committee decided not to convict the importer of customs smuggling while imposing a fine for violating customs procedures amounting to one thousand riyals, and whereas the committee reviewed the laboratory report on the violating items, which indicated that the item (cable - power supply) did not meet the required specifications, thus the violation is deemed technical and affects the safety and security of the product; it is therefore decided by this committee to convict the importer of customs smuggling and the penalties resulting therefrom concerning the item (cable - power supply) as will be stated in the ruling. As for the other items, there is no fault on the part of the appellate authority in adopting the reasons for the decision under appeal without addition whenever it sees that these reasons suffice to negate the need for any new submissions, because in upholding it based on its reasons, it indicates that it found no merit in the objections raised against it that warrants a more detailed response than what those reasons contained. The defenses presented by the authority do not affect the outcome reached by the decision under appeal. Since the reasons for the decision under appeal are sufficient to support its ruling, it must be concluded that the defenses presented do not affect the outcome of the decision, making the appeal unsupported and thus must be rejected. Accordingly, the committee concluded to report the following:



Decision

First: Acceptance of the appeal procedurally, from the applicant / Zakat, Tax and Customs Authority, against the initial Decision No. (CTR-2023-106009), issued by the Third First Instance Customs Committee in Riyadh.

Secondly: In the subject:

- 1 - Cancel the outcome of the initial Decision regarding the item (power supply cable) of not being convicted of customs smuggling, and rule again to convict the importer (...), commercial registration number (...), of customs smuggling of the item (power supply cable), and punish them with a confiscation equivalent to the value of the violating item (power supply cable), and impose a customs fine equivalent to the value of the violating item (power supply cable).
- 3- Support for the First Instance Decision regarding the remaining items, for the reasons and considerations stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-225237
Case No. PC-2022-122746

Principle No. 48

- The invalidity of filing a lawsuit against the importer to rule on customs smuggling after it has been established that the violation is considered to involve a procedural violation that resulted in the approval of the importer's action regarding the shipment.

Facts

This is to consider the appeal submitted by (...), national ID number (...), in his capacity as the owner of (...), commercial registration number (...), against the initial Decision number (CFR-2023-122746), issued by the 1st First Instance Customs Committee in Riyadh, which ruled as follows:

- 1- Condemnation of the importer (...) Commercial Register No. (...) For its owner (...), civil registration number (...). In person with customs smuggling.
- 2- To impose a customs fine equivalent to the value of the violating item in the amount of (227,261) two hundred twenty-seven thousand two hundred sixty-one riyals.
- 3- Obliging him to pay an amount equivalent to the value of the violating item as a confiscation fee of (227,216) two hundred twenty-seven thousand two hundred and sixty-one riyals, making the total amount claimed (454,522) four hundred fifty-four thousand five hundred and twenty-two riyals.

Since the appellant was notified of the Decision subject to the appeal on 21/09/2023, and submitted the appeal against the Decision on 17/10/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its conduct according to what is stipulated in Article (163) of the Unified Customs law.



As for the facts of the case, they are summarized by the arrival of a shipment consisting of (batteries) belonging to the importer through Al-Batha based on import declaration number (...). On the date 21/03/1438 AH, it was allowed under a commitment not to act until it is approved by the competent authority, and after presenting the sample to the laboratory, the response was received in report number (...). On 03/01/2017, it was noted that there was a non-compliance regarding the electrical capacity, and the importer was notified to return the shipment to the customs area through several letters, but he did not respond. The first instance committee issued its Decision based on the understanding that the importer's failure to return the shipment to the customs area implies his action regarding the shipment that was not authorized for clearance, which he committed to the customs not to dispose of until the laboratory results appeared, thus violating Article (56) of the Unified Customs law, and it is also considered customs smuggling according to Article (142) of the same law. The penalties against the importer were imposed as stated in the Decision. Upon reviewing the objection list submitted by the owner of the importing institution, the customs appeal committee found that its summary mentioned that based on what was stated in letter number (...). On the date 13/06/1439 AH, sent by the General Director of Al-Batha Customs to the Director of the Department of Restrictions and Customs Tariffs, it is evident that the non-compliance is due to a procedural observation and does not affect the integrity of the import and the quality of the product. A customs fine of (1,000) one thousand riyals has been collected, which indicates that the plaintiff has no right to claim and loses his right in this regard. The regulation concluded with a request to accept the appeal procedurally and on its merits, to overturn the initial Decision, and to rule that the institution and its owner are not guilty of customs smuggling. A response memo from the authority was received through the Automated System of the Secretariat dated 16/11/2023, summarizing that the result of the sample examination was reported in report number (...). On 03/01/2017, it included non-compliance in terms of electrical capacity, which are technical violations that affect product quality and negatively impact consumers and their financial resources by purchasing a product that does not meet specifications. Additionally, the authority has the right to prevent the entry of prohibited, non-compliant, or restricted goods except with approval from the competent authority in the country, as stipulated in Article (24) of the Unified Customs law. The relevant administration was also addressed, and it was confirmed that the commitment is still in place and has not been settled to date. The memorandum concluded with a request to reject the appeal submitted by the appellant and to uphold the initial Decision in all that it ruled. On Monday, June 24, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against Decision No. (CFR-2023-122746) issued by the 1st First Instance



Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority thereto.

Grounds

It was established through reviewing the attached documents in the case file that the import statement in question was among other data included in the report from the General Director of the Al-Batha Customs sent to the Director of the Customs Tariff and Registration Department by its letter number (...). On 13/06/1439 AH, it was stated that a fine for customs procedure violations was collected for each of the statements included with the mentioned report, which confirms to this committee the customs' conviction that the violation associated with the shipment in question is of the nature of procedural violations that resulted in the release of the shipment after the importer paid the fine for that violation. Since it has been established that whoever seeks to overturn what has been done by him will have his efforts rejected, it follows that the lawsuit against the importer for a ruling on customs smuggling is not valid after it has been established that the violation is considered a procedural violation that resulted in the approval of the importer's action regarding the shipment. This is not affected by what the prosecution mentions about the commitment still being unpaid regarding the shipment in question, as such a procedure is an internal matter that does not concern the importer after it has been established through the documents that the importer was allowed to act regarding the shipment by the relevant customs authority. Therefore, the committee concluded with the following report:

Decision

- 1- Acceptance of the appeal procedurally from its presenter (...), commercial registration number (...), owned by (...), national ID number (...), against the initial Decision number (CFR-2023-122746) issued by the 1st First Instance Customs Committee in Riyadh.
- 2- Acceptance of the appeal on its merits, and the annulment of the initial Decision in all that was ruled against the appellant, and that is for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-202518

Case No. PC-2022-126902

Principle No. 49

- The refusal to approve the clearance due to the failure to complete the requirements for the clearance of cosmetics, without the report confirming the existence of a violation in the received item or indicating that it is not permissible to act on it, or that the refusal to clear it is related to a defect in it that harms the consumer, is considered one of the procedural observations.

Facts

This is to consider the appeal submitted by (...), national ID number (...). As an agent for (...), national ID number (...), as the owner of the institution (...), commercial registration number (...), under agency number (...). On 11/11/1444 AH, against the initial Decision No. (CSR-2022-2409), issued by the 2nd First Instance Customs Committee in Riyadh, which ruled as follows:

- 1- Conviction of the defendant (...), commercial registration number (...). In person with customs smuggling.
- 2- To impose a customs fine equivalent to the value of the violating item in the amount of (54,995) fifty-four thousand nine hundred ninety-five riyals.
- 3- Obliging him to pay an amount equivalent to the value of the violating item as a confiscation fee, amounting to (54,995) fifty-four thousand nine hundred and ninety-five riyals.

Since the appellant was notified of the Decision subject to the appeal on 30/05/2023, and submitted the appeal on 29/06/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment (hotel supplies) through the customs of Jeddah Islamic Port under import declaration number (...). On 16/12/1438 AH, it was granted under a commitment not to act until the result of the competent authority appears, and upon presenting the



sample to the Food and Drug Authority, the response was received in report number (...). On the date 23/07/1439 AH, it was noted that there was a non-compliance with specifications and standards. The importer was informed of the result, but he did not respond. The first instance committee issued its Decision as stated in its ruling, based on the fact that the importer did not review the customs to return the shipment after the report from the competent authority indicated that the sample did not comply. Consequently, the importer was found guilty of customs smuggling for acting with the shipment contrary to the commitment taken based on what was stated in Article (142) of the Unified Customs law, and penalties were imposed on the importer as stated in the ruling subject to appeal. Upon reviewing the objection list submitted by the appellant, the customs appellate committee found that its summary mentioned that the case documents lack the written commitment not to dispose of the shipment, and the conviction for customs smuggling is contingent upon the existence of the written commitment related to public order. Additionally, the letter initiating the lawsuit lacks the procedural and substantive legal requirements stipulated by the law, as it was devoid of the essential data for its validity. Furthermore, the lawsuit was filed by someone without standing, as the lawsuit was initiated on 09/07/1442 AH, which means that the jurisdiction lies with the Public Prosecution. Moreover, the lawsuit was initiated before obtaining permission to do so through a letter from His Excellency the Governor of the General Authority of Customs. The case documents also lack the detailed result of the analysis, as it only referred to the report number without attaching it, and they also lack the incident report in violation of Article (129) of the Unified Customs Law. The importer was not notified by customs about the return of the shipment to the customs area. Additionally, the incident represents a procedural violation and not a technical one, and there is no suspicion of commercial fraud against the consumer. The Decision was issued in absentia, which led to a violation of the right to defense, in addition to the expiration of the lawsuit due to pardon as it is covered by Royal Order No. (61877) dated 27/10/1442 AH. The list concluded with a request to accept the appeal procedurally and on its merits and to annul the initial Decision. A response memo from the authority was received via the Automated System of the Secretariat dated 24/08/2023, which summarized that the lawsuit was submitted to the committee and was reviewed by the committee that issued the Decision. It is unreasonable to rule on the lawsuit without it being initially drafted by the authority. Furthermore, the authority submitted its case through the official account registered in the name of the authority with the Secretariat, with the authority's logo and information present in all submitted documents, which is sufficient to prove the authority's status. Based on the laboratory results, it is not permissible to import the goods into the Kingdom of Saudi Arabia, as the violation mentioned in the laboratory report is a technical violation that causes negative effects on



consumers and impacts their financial resources. The memo concluded with a request to reject the submitted appeal and uphold the initial Decision in all its provisions. On Tuesday, July 16, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against the First Instance Decision No. (CSR-2022-2409), issued by the 2nd First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority thereto.

Grounds



Whereas it is established in the rules of litigation that the proper application of the law is an obligation on the authority examining the case, and it must rule on its own initiative without the need for a request from the parties. Consequently, the authority examining the case has broad discretion in assessing the facts, giving them the appropriate description, and providing the correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and using it as a basis for its ruling, as long as the documents related to it within the case file do not contradict what has been inferred and established in its conviction and belief to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it has reached. This is in accordance with what is stated in Article (153) of the Criminal Procedure law, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description it deserves, even if it contradicts the description in the indictment...". Furthermore, according to the report on the sample examination results, the observation relates to the inability to approve the clearance due to the failure to complete the requirements for the clearance of cosmetics, without the report asserting the existence of a violation in the item mentioned or indicating that it is not permissible to act upon it or that the lack of clearance is related to a defect in it that harms the consumer. Since this observation has been established in the customs appellate court's rulings as a non-essential observation, it follows that the importer's action regarding the item in question, which is burdened with such an observation, constitutes in reality a consideration of it as a procedural observation that does not rise, in the case of acting upon the shipment with its existence, to classify the importer's action regarding the shipment as being burdened with that observation as constituting customs smuggling. Therefore, the initial decision regarding everything it ruled against the appealing institution is to be annulled. However, since the



importing institution violated the commitment taken upon it and acted upon the shipment without notifying customs, it is determined that the action of the importing institution constitutes a violation governed by Article (31/6) of the Executive Regulation of the Customs law, and a financial penalty of (1,000) one thousand riyals is imposed on it for each of the five items included in the shipment, as will be stated in the total amount in the text of this decision, in application of what that article stipulates. This result reached by the committee is not affected by the appellant's claim of the absence of a letter to initiate a lawsuit concerning the import statement, as it is established that the case file included multiple documents related to the import statement of the shipment in question. Since it has been established in customs jurisprudence that documents complement each other's data, such a claim should be disregarded. Moreover, the appellant's assertion of the lack of jurisdiction of the General Authority for Customs to file the lawsuit, claiming that the jurisdiction of the public prosecution in the raised case is vested in the public prosecution, is refuted; considering that the arrangements for enforcing the jurisdiction of the public prosecution in customs crimes under the Royal Decree issued on 2/6/1440 AH for the public prosecution have come on the jurisdiction of the prosecution related to the facts that occurred after the issuance of the coordination report for transferring the jurisdiction related to the prosecution regarding the crimes stipulated in the Customs law, which was prepared between the public prosecution and the General Authority for Customs, that the facts related to customs smuggling crimes after the date of 02/09/1440 AH are the only ones concerned with the jurisdiction of the public prosecution to prosecute them, while those before it fall under the jurisdiction of the customs prosecution, which makes the appellant's argument in this regard based on an incorrect basis. Additionally, the claim regarding the inclusion of the lawsuit in the royal pardon issued in 1442 AH is refuted; considering that the royal pardon is related to the status of the penalty described in the penal description, represented in imprisonment, and not to penalties of a financial nature. Furthermore, the assertion of the absence of a seizure report regarding the incident, claiming that this leads to a defect in the lawsuit procedures, is incorrect; considering that the seizure report is required to be prepared upon discovering the violation or smuggling crime when preparing the import statement and submitting it to complete the shipment procedures, and such a claim does not negate the established fact of the importer's action regarding the shipment without returning the violating items after being notified by customs of that through what is included in the case file. Moreover, the appellant's claim that the judgment was issued in absentia against him is refuted; considering that it is established from the narration of the facts of the appealed decision that the importer was notified twice on 22/12/2021 and 03/01/2022 to attend and enable him to exercise his right to defend himself against the indictment, as stipulated in the rules of



customs committees issued by Royal Decree No. (25711) dated 08/04/1445 AH, through what is stated in Articles (12 and 20) of those rules. Therefore, the committee concluded the following report:

Decision

- 1- Acceptance of the appeal procedurally submitted by (...), commercial registration number (...), owned by (...), national ID number (...), against the initial Decision number (CSR-2022-2409), issued by the 2nd First Instance Customs Committee in Riyadh.
- 2- Acceptance of the appeal on its merits, and the annulment of the initial Decision in all that was ruled against the appellant, and that for the Grounds and considerations stated in this Decision.
- 3- The importer's actions regarding the violating items are considered a violation of customs procedures, resulting in a financial penalty for each violating item, bringing the total amount demanded to (5,000) five thousand riyals, for the Grounds and details stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-228756
Case No. PC-2023-228756

Principle No. 50

- The statement from the Ministry of Commerce regarding the shipment did not include any confirmation or certainty that the received samples are counterfeit or adulterated; rather, the ministry's observation regarding them is that they bear registered trademarks. Furthermore, what governs the handling of goods bearing registered trademarks is Article (38) of the Gulf Trademark law, approved by Royal Decree No. (M/51) dated 26/7/1435 AH.

Facts

This is to consider the appeal against the initial Decision number (CFR-2023-124051) issued by the 1st First Instance Customs Committee in Riyadh, submitted by the owner of the institution(...), civil registration number (...).

As for the facts of this case, they are summarized by the arrival of a shipment (fan dynamo - compressor) through the Al-Batha customs under import declaration number (...). On the date 23/09/1438 AH, it was allowed under a commitment not to act until the result of the examination by the competent authority appeared, and upon examining the sample by the laboratory, the report number (...) was received. On 03/07/2017, it was noted that there was a non-compliance regarding the tagging and guidelines concerning the item (fan dynamo), and the items were referred to the relevant authority at the Ministry of Commerce, and their letter number (...) was received. On 14/11/1438 AH, it was stated that the samples bear a registered trademark and thus are considered a violation of the trademark law. The importer was notified of the result by the customs, but he did not respond. The first instance committee issued its Decision to convict the importer of customs smuggling and impose the associated penalties, as stated in the ruling and Grounds for the Decision subject to appeal, which is referred to in order to avoid repetition. Upon reviewing the objection list submitted, the appellate customs committee found that it included a summary stating that



the laboratory result did not explicitly indicate that it was counterfeit and that it violated an intellectual property right (counterfeit). Instead, it pointed out that the sample bore a registered trademark, in addition to the fact that the institution pledged not to act and adhered to that pledge. Furthermore, it underwent customs review and was not informed of the laboratory result or the Ministry of Commerce's statement. It concluded with a request for reconsideration of the Decision issued against it and a ruling again of not convicting the institution of customs smuggling. The appellate customs committee, upon reviewing the response memorandum submitted by the appellant, found that it included a summary stating that the use of a registered trademark by someone other than its owner, without any relationship between the two parties, is considered a violation of Article (21) of the Trademark law, which states: "The person who registers the trademark is considered its owner, and any person's benefit from a registered mark is conditional upon the owner's consent..." The Commercial Fraud law defined the counterfeit product in its first article as any product that does not conform to the approved standard specifications. According to the statement from the Ministry of Commerce, the item in violation in this case, which is prohibited to carry, bears data with a registered trademark (...) And (...) whereas the act of importing goods that are in violation and prohibited, and the introduction or attempt to introduce prohibited goods is considered customs smuggling according to the text of Article (142) of the Unified Customs law: "Smuggling is the introduction or attempt to introduce goods into the country or to remove them, or attempt to remove them from it in violation of the applicable legislation, without paying the customs taxes "fees" in whole or in part, or contrary to the provisions of prohibition or restriction contained in this law "law" and other regulations and laws," and concluded with a request to reject the appeal and uphold the initial Decision in all that it ruled. After reviewing the case file and the appeal submitted by the appellant and the response of the committee regarding it, the committee found that the case is ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and to rule on it in light of the reasons on which the appeal was based.

Grounds

After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws. Since the appellant was notified of the initial Decision on 27/11/2023, and submitted the appeal on 24/12/2023, this entails the acceptance of the appeal procedurally as it was submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law. Whereas the initial



Decision was issued against the importer (...), commercial registration number (...), and whereas it was found upon reviewing the case file and its attachments that the import declaration prepared for the shipment subject to the case was made in the name of (...), commercial registration number (...), and upon verifying the commercial registration number mentioned in the initial Decision, it was found to be the civil registration of the owner of the establishment, therefore, the name of the importer and the commercial registration number should be amended as stated above. Whereas it is established in the rules of litigation that the correct application of the law is an obligation on the authority examining the case, and it shall rule on its own without the need for a request from the parties. Therefore, the authority examining the case has broad discretion in assessing the facts and giving them the appropriate description and correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and taking it as a basis for its ruling, as long as the documents related to it within the case file do not contradict what has been inferred and what its conviction and belief have settled on to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it has reached. This is in accordance with what is stated in Article (153) of the Criminal Procedure law, which stipulates that: "The court is not bound by the description contained in the indictment, and it must give the act the description it deserves, even if it contradicts the description contained in the indictment...". And whereas the customs appellate committee, upon reviewing the statement from the Ministry of Commerce regarding the shipment in question, which did not include anything that definitively proves that the imported samples are counterfeit or adulterated, but rather the ministry's observation regarding it is that it bears registered trademarks; and whereas the regulation governing the handling of goods bearing registered trademarks is Article (38) of the Gulf Trademark law approved by Royal Decree No. (M/51) dated 26/7/1435 AH, it is therefore decided by this committee to annul the initial Decision in all that it ruled, and thus the committee concluded with the following report:

Decision

First: Acceptance of the appeal procedurally, from (...), commercial registration number (...), owned by (...), civil registration number (...), against the initial Decision number (CFR-2023-124051), issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: on its merits, the cancellation of the initial decision in all that it ruled, and that for the reasons and considerations stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-225044

Case No. PC-2023-225044

Principle No. 51

- The handling of goods is contingent upon the commitment, and as long as the commitment is not proven by acknowledgment or document, there is no crime.

Facts

This is to consider the appeal against the initial Decision No. (CFR-2023-111769) issued by the 1st First Instance Customs Committee in Riyadh. Since the appellant was notified of the initial Decision on 20/09/2023, and submitted the appeal on 12/10/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the prescribed period for its submission as stipulated in Article (163) of the Unified Customs law.

As for the facts of this case, they are summarized by the arrival of a shipment (electrical tools) through the Al-Batha customs according to import declaration number (...). On the date 28/10/1435 AH, it was granted based on a commitment not to act until the result of the competent authority appears, and upon examining the sample, the report number (...) was received. On 15/09/2014, which included non-compliance in terms of labeling, moisture resistance, and electrical durability, the importer was addressed by customs, but he did not respond. The first instance committee issued its Decision not to convict the importer of customs smuggling as stated in the text and Grounds for the Decision subject to appeal, which is referred to in order to avoid repetition. Upon reviewing the objection list submitted, the appellate customs committee found that it includes a summary stating that the Bond Commitment, which the committee decided not to convict for customs smuggling based on the absence of such evidence in the case file, was attached in a neutral law. Additionally, the shipment consists of prohibited goods based on the results from the competent authority, which indicated its violation of the approved specifications. Furthermore, the administration prohibits, under the provisions of this law "law" or any other law "law" or Decision, the entry, exit, or transit of prohibited or non-compliant goods, as well as the entry, exit, or transit of restricted goods unless authorized



by the competent authorities in the countries, according to the text of Article (24) of the Unified Customs law. Since the handling of the released shipment without action is considered a violation of Article (56) of the Unified Customs law and is deemed customs smuggling according to Article (142), the authority requests the acceptance of the appeal procedurally and the conviction of the institution (...) For customs smuggling and obliging it to a fine equivalent to three times the value of the goods and obliging it to pay an amount equivalent to the value of the goods as a confiscation substitute. The Automated System of the Secretariat received a response from the appellant, stating that the institution was not informed by customs through the office because the office they were dealing with was closed, which is (Office ... For customs clearance), it added that the goods were sold to a Kuwaiti investor and that all the goods, totaling (40) thousand pieces including electrical materials, were exported. It confirmed that it did not dispose of any of them inside Saudi Arabia, and that it reviewed the customs in Riyadh to clarify that the goods were exported to Kuwait under a customs declaration through the Al-Raqi customs. It stated that if there was any shortcoming, it was due to the office it was dealing with, as it was not informed by the Saudi customs despite having its address and mobile number. After reviewing the case file and the appeal submitted by the authority and the response from the appellant, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and to rule on it in light of the Grounds on which the appeal was based.

Grounds

After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws. Since there is no blame on the reviewing party for taking the Grounds of the Decision subject to appeal without adding anything whenever it sees in these Grounds what suffices to avoid presenting anything new, because in its support, based on its Grounds, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those Grounds contained. This is not affected by what the appellant submitted regarding the attachment of the Bond Commitment, as the commitment came without the signature of the respondent, and the date of its issuance - according to what was stated in it - is 18/03/1445 AH, corresponding to 02/10/2023 AD, which is after the issuance of the preliminary ruling, making it worthy of being disregarded. Furthermore, upon reviewing what the respondent submitted, it is established that she acknowledged the act without acknowledging the



commitment, and the crime - subject of the case - exists or does not exist with the commitment. Since the commitment was not proven by acknowledgment or document, there is no crime. Therefore, it is determined that the defenses presented do not affect the outcome of the Decision, which makes the appeal without supporting evidence, necessitating its rejection. Accordingly, the appellate committee concluded to report the following.

Decision

First: Acceptance of the appeal procedurally, from the appellant / Zakat, Tax and Customs Authority, against the initial Decision No. (CFR-2023-111769) issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on the merits, and the initial Decision is upheld, for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-227949

Case No. PC-2023-227949

Principle No. 52

- The failure of the category (frames) to pass due to the lack of recording the heat resistance grade without ensuring that the result includes the percentage or degree of measured heat resistance and the extent of the sample's non-compliance with the required standard is considered a procedural observation.

Facts

This is to consider the appeal submitted by the Zakat, Tax and Customs Authority, against the initial Decision No. (CFR-2023-108171) issued by the 1st First Instance Customs Committee in Riyadh.

As for the facts of this case, they are summarized by the arrival of a shipment (tires) through the Al-Batha customs under import declaration number (...). On the date 12/07/1435 AH, it was allowed based on a commitment not to act until its clearance was approved by the competent authority. After examining the sample by the laboratory, the report indicated non-compliance due to the absence of the heat resistance rating on the tire according to the requirements of the Gulf specification. The first instance committee issued its Decision not to convict the importer of customs smuggling, imposing a customs fine of one thousand riyals, based on the absence of the sample test result in the case file, which does not allow for a definitive conclusion regarding the violation of the shipment. However, considering the importer's failure to adhere to the commitment taken, the first instance committee deemed the incident as merely a violation of customs procedures. Upon reviewing the appeal list submitted, the customs appellate committee found that it includes a summary indicating that the laboratory result was attached in a neutral law, and that the shipment consists of prohibited goods based on the laboratory result which showed its violation of the approved specifications. Furthermore, the administration prohibits under the provisions of this law "law" or any other law "law" or Decision the entry of prohibited or violating goods or their exit or transit, and also prohibits the entry of restricted goods or their exit or transit except with approval issued by the competent authorities in the countries" according to the text of Article (24) of the Unified Customs law. Moreover,



Article (142) of the Unified Customs law states that "smuggling is the introduction or attempt to introduce goods into the country or their exit, or attempt to exit them in violation of the applicable legislation, without paying the customs duties in whole or in part, or contrary to the prohibitions or restrictions contained in this law "law" and other laws and laws." Additionally, Article (17/143) of the same law includes the following: "Smuggling specifically includes the following: ... 17- The handling of the goods released temporarily in accordance with Article (56, paragraph B) without the approval of the competent authority. Therefore, the authority requests the conviction of the institution for customs smuggling and obliges it to pay a customs fine equivalent to three times the value of the goods and to confiscate the goods or to rule for an amount equivalent to their value if they are not seized. After reviewing the case file and the appeal submitted by the authority, the committee found that the case is ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and to rule on it in light of the Grounds on which the appeal was based.

Grounds



After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws. Since the appellant was notified of the initial Decision on 27/11/2023, and submitted the appeal on 17/12/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law. After reviewing the case file and the documents and papers it contained, as well as the Decision of the First Instance Committee, and considering what the appellant presented, and since the appellant argued in her objection that the violation related to the item is technical and not procedural, the case was referred to the Technical Studies Department to determine the type of violation. The response indicated that the laboratory result shows that the sample (did not pass) in terms of (not recording the heat resistance degree) without including that result the percentage or degree of the measured heat resistance and the extent of the sample's violation of the required standard in the specification. It was also included in the response that it is clear from the laboratory result that the failure to pass was due to the lack of recording the heat resistance degree, which indicates that the violation does not rise to the level of a customs smuggling crime but falls within the customs violations stated in Article (141) of the Unified Customs law, whose penalties are specified in Articles (30) and (31) of its executive regulations. Therefore, this committee concludes that the content of the primary



Decision is correct, and thus the appeal has no supporting basis and must be rejected. Consequently, the appellate committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the appellant / Zakat, Tax and Customs Authority, against the initial Decision No. (CFR-2023-108171) issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on the merits, for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-192796
Case No. PC-2022-127241

Principle No. 53

- The non-compliance of the item (white honey) with the sucrose specification of (18.4) without specifying that this observation renders the shipment unfit for consumption. It is considered one of the non-essential notes that do not affect consumer deception and the safety of using the product mentioned.

Facts

This is to consider the appeal submitted by (...), national ID number (...), in his capacity as the owner of the institution (...), commercial registration number (...), against the initial Decision number (CFR-2022-2404), issued by the 1st First Instance Customs Committee in Riyadh, which ruled as follows:

- 1-Condemnation of the importer institution (...), commercial registration number (...). In person with customs smuggling.
- 2-Obligating him to a customs fine equivalent to the value of the violating item in the amount of (49,062) forty-nine thousand and sixty-two riyals.
- 3- Obliging him to pay an amount equivalent to the value of the violating item as a confiscation fee of (49,062) forty-nine thousand and sixty-two riyals, making the total amount claimed (98,124) ninety-eight thousand and one hundred twenty-four riyals.

Since the appellant was notified of the Decision subject to the appeal on 06/03/2023, and submitted the appeal on 28/03/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established by Article (163) of the Unified Customs law. As for the facts of the case, they are summarized by the arrival of a shipment consisting of (white honey) belonging to the importer through the customs of Jeddah Islamic Port under import declaration number (...). On the date 18/01/1438 AH, it was released based on a commitment not to act until it is approved by the competent authority. After presenting the sample to the Food and Drug Authority, a response was received in letter number (201701170822405) dated 19/04/1438 AH, stating non-compliance due to the presence



of sucrose at a rate of (18.4%). The importer was contacted, but he did not respond. The first instance committee issued its Decision as stated in its ruling, based on the fact that the importer did not return the unapproved shipment to the customs area, which implies his action with it. This is considered a violation of Article (56) of the Unified Customs law and is also considered customs smuggling according to Article (142) of the same law, and it arranged for the application of penalties against the importer as stated in its Decision. Upon reviewing the objection list submitted by the owner of the importing institution, the customs appeal committee found that its summary mentioned that a letter had been submitted to the First Instance Committee from the warehouse management indicating that the warehouse and the stored food items, including the white honey in question, had burned down. A preliminary report from the civil defense department was also attached, confirming that the refrigerator warehouses had completely burned down. However, the committee was not convinced by the evidence presented and requested a report directed to the Zakat, Tax, and Customs Authority from the civil defense department confirming the burning of the white honey. The institution faced difficulties in convincing the civil defense department to issue the report, and after approval and the issuance of a Decision from the civil defense, they did not mention the burning of the white honey, claiming that it was not their responsibility to inventory and classify hundreds of burned food items. Additionally, when the institution reviewed the First Instance Committee, it was informed that the hearing had been held three days before the civil defense Decision was issued, without the presence of the institution's owner to review it with the civil defense. Furthermore, the shipment was temporarily released by customs, not at the request of the institution, and it had not received any notifications regarding the return of the white honey to the customs area as per the commitment text. Moreover, a letter was requested from the Jeddah postal administration, but they requested procedural correspondence from the requesting party. All food stock, valued at (800,000) eight hundred thousand riyals, had burned along with the white honey in question, and the owner of the institution was unable to obtain any compensation from any party, whether from the warehouse owners or others, as the insurance was on the buildings and not on the food items. The buildings were mortgaged to the bank, and the land belonged to the Jeddah Chamber of Commerce. Additionally, the fire caused the closure of the institution's shops, liquidation of its business, and the dismissal of workers, leaving only one representative to market some local and imported items. The owner of the institution continues to struggle to meet some obligations resulting from the fire. Furthermore, the appellant is innocent of customs smuggling, as he is over (67) years old, and at this age, he is not allowed to act contrary to the authorities and the laws. The objection concluded with a request to cancel the primary Decision. A response memorandum was received through the Automated System of the Secretariat from the authority dated 06/06/2023, summarizing that the shipment arrived on 18/01/1438 AH, and the fire occurred on 08/08/1439 AH, which is more than a year after importation. Based on the commitment not to dispose of the goods signed by the importer, which obliges him to return the goods to customs if they do not meet the conditions and specifications, his action with these items is considered customs smuggling according to Article (142) of the Unified Customs law. Moreover, customs smuggling crimes are intentional



crimes that require the existence of both the material and moral elements, which were present in the case at hand. The memorandum concluded with a request to reject the appeal submitted by the institution ... And support for the initial Decision. On Wednesday, February 21, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision number (CFR-2022-2404), issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority.

Grounds



Whereas it is established in the rules of litigation that the proper application of the law is an obligation on the authority examining the case, and it must rule on its own initiative without the need for a request from the parties. Consequently, the authority examining the case has broad discretion in assessing the facts, giving them the appropriate description, and providing the correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and using it as a basis for its ruling, as long as the documents related to it within the case file do not contradict what has been inferred and established in its conviction and belief to resolve the dispute, and that its inference is sound, reasonable, and leads to the conclusion it reached. This is consistent with what is stated in Article (153) of the Criminal Procedure law, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description it deserves, even if it contradicts the description in the indictment...". And whereas, according to the report on the sample examination results, the violation in question relates to the non-conformity of the sample with the sucrose specification at a rate of (18.4), and the report did not indicate that the shipment with such a remark renders it unfit for consumption or that the specification was recorded on the shipment's details in a manner contrary to what the conformity report showed. And whereas the principle in convicting for customs smuggling requires that it be based on credible evidence and strong inferences that establish the aspect of conviction and attribution to the importer, and whereas the evidence and inferences upon which the evidence was based lacked the realization of that aspect concerning the importer, it is determined that this remark in the laboratory report is among the non-essential remarks that do not affect consumer deception and the safety of using the imported product. This leads to the conclusion that the importer's action regarding the item in question, which is burdened with such a remark, constitutes in reality a consideration of it as a remark of a procedural nature that does not rise, in the case of dealing with the shipment with its existence, to classify the importer's action regarding the shipment as customs smuggling. Therefore, it is decided to annul the initial decision in all that it ruled against the appealing



institution. However, since the importing institution violated the commitment taken upon it and dealt with the shipment without notifying customs, it is determined that the action of the importing institution is a violation governed by Article (31/6) of the executive regulations of the customs law, and a financial penalty of (1000) one thousand riyals is imposed on it, in application of what that article stipulates. The result reached by this decision is not affected by the appellant's claim to deny any accountability regarding the shipment in question by alleging that the shipment was exposed to fire, which negates his action with it, as the fire that damages the shipment, assuming its occurrence, does not prove that the shipment in question was present at the time of the fire, especially since the period between the importation and the temporary clearance permission and the occurrence of the fire was after a year, according to the civil defense report attached to the case file, and it was not proven during that period that the usual trader was keen on following up on its clearance from customs. And whereas the committee noted the existence of a material error in collecting the amount of the customs fine imposed and the source compensation within the text of the initial decision in paragraph (3) by mentioning a number that contradicts its written record. And since this remark does not affect the result reached by this decision after annulling the conviction for customs smuggling and the penalties resulting from it against the appellant through what has been previously established, the appellate committee concluded to report the following:

Decision

- 1- The acceptance of the appeal procedurally from its submitter (...), commercial registration number (...), owned by (...), national ID number (...), against the initial Decision number (CFR-2022-2404), issued by the 1st First Instance Customs Committee in Riyadh.
- 2- Acceptance of the appeal on its merits, and the cancellation of the initial Decision in all that was ruled against the importer regarding the conviction of customs smuggling and the penalties resulting from it, for the Grounds and considerations stated in this Decision.
- 3-Considering the importer's action regarding the violating shipment as a basis for imposing a fine for customs procedure violations amounting to (1000) one thousand riyals, for the Grounds and circumstances stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-174684

Case No. PC-2022-159685

Principle No. 54

- The non-compliance of the item (clothing) with its association with pH without stating the nature of this violation and its extent, and without attaching the detailed laboratory result, is considered one of the procedural observations.

Facts

This is to consider the appeal submitted by / ..., national ID number (...), in his capacity as the owner of the ... establishment, commercial registration number (...), against the initial decision No. (1328) for the year 1439 AH, issued by the First Instance Customs Committee at the Al-Bathaa customs, which ruled as follows:

First - Condemnation of the importer / ... Saudi national with national ID number (...) On 15/1/1438H, its source is Al-Ahsa, owned by / Foundation ... Commercial Register No. (...) On 24/10/1435 AH, Al-Ahsa was issued in person for customs smuggling.

Secondly, he is fined an amount equivalent to the value of the shipments subject to the violation, which amounts to (436) cartons (clothes) totaling (123,529.36) one hundred twenty-three thousand five hundred twenty-nine riyals and thirty-six halalas. Due to the impossibility of confiscation, the importer is required to pay an amount equivalent to its value as a substitute for confiscation, totaling (123,529.36) one hundred twenty-three thousand five hundred twenty-nine riyals and thirty-six halalas, making the total amount claimed by the owner of the institution ... an amount of (247,058.72) two hundred and forty-seven thousand and fifty-eight riyals and seventy-two halalas.

Since the appellant was notified of the Decision subject to the appeal on 19/08/1440 AH, and he submitted the appeal against the Decision on 17/09/1440 AH, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its execution as stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment (clothes) belonging to the importer through the Al-Batha customs according to import declaration number (...). and the date 16/01/1436 AH, and the number (...) On the date 12/01/1436H, it was allowed under a commitment not



to act until it was approved by the competent authority. After examining the sample from the laboratory, the report number (...) was received, which included that the samples did not meet the specifications regarding the raw material components concerning the import declaration number (...), and regarding the import declaration number (...). The report number (...) indicated that the sample did not meet the specifications regarding pH testing, and the importer was notified of the result through several correspondences, but he did not respond. The first instance committee issued its Decision as previously mentioned, convicting the importer of customs smuggling and obliging him to the associated penalties, based on the importer's actions regarding the shipment contrary to the commitment taken regarding it, which constitutes customs smuggling under Article (142) of the Unified Customs law. Upon reviewing the objection list submitted by the appellant, the customs appeals committee found that its summary mentioned that there was an error in the application of the law and reliance on the text of the unified customs law, as Article (142) and Article (38) defined the intended meaning of customs smuggling. The text of the law is clear and explicit, leaving no room for doubt that the goods entered the Kingdom through the Al-Batha customs, and samples were taken from them to be sent to the General Administration for Commercial Fraud based on a commitment not to dispose of them, meaning that the goods were brought in under the supervision of the customs administration. Otherwise, how were the samples obtained, and how was the temporary permit issued in the Decision we are currently facing? Therefore, we are not dealing with a form of customs smuggling as portrayed in the initial Decision. It is also evident that the Decision is incorrect in stating that the warehouses where the goods were stored are considered an extension of the customs, as it did not take into account the delay in reporting the results of the sample examination from 1436 to 1440 AH, which implies an implicit acknowledgment that the imported goods comply with the specifications, especially since the appellant was only made aware of these issues related to the shipments by chance due to service interruptions. Meanwhile, the customs clearance office that was handling the clearance of these goods was the one that sent the letters and also informed them that the goods were compliant with the specifications and that it had obtained all its rights. Additionally, the relationship was between the customs clearance office and the customs administration, and the importer's actions were in good faith because if he had any doubts that the shipment was not compliant, he would not have acted on it or attempted to import it. The list concluded with a request to accept his objection procedurally and on its merits. The Automated System of the Secretariat received a response from the Zakat, Tax, and Customs Authority regarding the appeal list dated 27/03/2023, summarizing that the institution's representative argued that the charge of smuggling for items (142, 143) does not apply because the shipment was cleared under the supervision of the customs administration, and the latter delayed informing the institution of the laboratory results, which is considered an implicit approval. Additionally, there was no criminal intent as there was no intention to smuggle. The authority also indicated that the commitment taken from the institution stipulated not to dispose of the shipment in any way without notification from customs regarding its clearance by the competent authority. The institution was also notified by several letters from customs



at the addresses registered with the authority, stating that the shipment did not comply and that it must return the shipment according to the commitment signed by it, but it did not respond, indicating its disposal of the shipment, thus violating the signed commitment. It would have been more appropriate for the institution to communicate and respond to customs instead of disposing of the shipment and violating the commitment. Furthermore, violating the commitment by disposing of these items constitutes customs smuggling according to Article (142) of the Unified Customs law. Based on the laboratory results indicating that the sample did not meet the specifications in terms of pH testing and raw material composition testing, the violation is technical due to the commercial fraud it entails for consumers and its impact on their financial resources, resulting from purchasing non-compliant goods. The response memo concluded with a request to reject the appeal and uphold the initial Decision in all its provisions. On Wednesday, April 24, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted against the First Instance Decision No. (1328) for the year 1439 AH, issued by the First Instance Customs Committee at the Al-Batha Customs. After reviewing the case file and the appeal submitted by the appellant, the Appeals Committee decided that the documents presented and included in the case file were sufficient to form its conviction and to rule on the matter in light of the reasons on which the appeal was based and the response of the authority regarding it.

Grounds



And since it concerns the violation related to the item mentioned (clothing) which is the subject of the report of the laboratory number (...). It has been mentioned that the violation is related to (the components of the raw material). It is established in the rules of litigation that applying the law correctly is an obligation on the authority reviewing the case, and it must do so on its own without the need for a request from the parties. Therefore, the authority reviewing the case has broad discretion in assessing the facts and giving them the appropriate description and correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and using it as a basis for its ruling, as long as the documents related to it are within the case file and do not contradict what has been inferred and what its conviction and belief have settled on to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it has reached. This is in accordance with what Article (153) of the Criminal Procedure law states, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description it deserves, even if it contradicts the description in the indictment...". Since the decision established its ruling without clarifying the nature of this violation and was satisfied with the unclear content regarding its phrases, and since, considering the lack of attaching the detailed laboratory result within the case file regarding that item to verify the nature of that violation, it is determined that it cannot be definitively considered a substantial violation, and that the importer's violation by acting on the shipment



contrary to the commitment taken regarding it only results in considering it a procedural violation, which entails imposing a penalty for violating customs procedures amounting to one thousand riyals under paragraph (31/6) of the executive regulations of the unified customs law. As for the other item (clothing) regarding which laboratory report number (...) was received. It has been mentioned that the violation was related to (pH) without clarifying the nature and extent of this violation. Given the lack of a detailed laboratory result attached to the case file regarding that item to verify the nature of that violation, it is concluded that it cannot be definitively considered a substantial violation. The importer's violation in handling the shipment contrary to the commitment taken regarding it only results in it being considered a procedural violation, which incurs a penalty for violating customs procedures amounting to one thousand riyals under paragraph (31/6) of the executive regulations of the unified customs law. The result reached by the appellate committee is not affected by what was stated in the authority's response to the appeal memorandum submitted in response to the appellant's appeal, as the authority did not attach to its appeal the laboratory reports on which the conviction was based, as previously established. Furthermore, the result is not affected by what the appellant mentions in his request to object in general and in detail to what the decision concluded and not holding him accountable for what was done in handling the shipment containing the two items in question. This is because the customs procedure related to completing the entry procedures for the shipment into the country requires the importer to observe the general duty required by the customs law concerning the importer when dealing with the incoming shipment, which is embodied in complying with all that the customs law and other related regulations require regarding the clearance of the shipment. This necessitates adhering to all that the customs law and other regulations related to prohibitions and restrictions require, which was not the case with the shipment that the importer attempted to bring into the country, whether this resulted in the importer being convicted of customs smuggling or any other violation covered by the provisions of the law. Accordingly, the customs appellate committee concluded the following report:

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), against the initial decision number (1328) for the year 1439 AH, issued by the First Instance Customs Committee at the Al-Bathaa customs.
- 2- Acceptance of the appeal on its merits, and the annulment of the initial Decision in all that it ruled regarding the appellant, for the Grounds and justifications stated in this Decision.
- 3- Considering the importer's actions regarding the two violating items as sufficient to impose a penalty of a customs violation fine of (1,000) one thousand riyals for each item, resulting in a total amount claimed by the appellant of (2,000) two thousand riyals, based on the Grounds and justifications stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-177452

Case No. PC-2022-124685

Principle No. 55

- The absence of any indication in the prosecution's response that contradicts the validity of the destruction report submitted by the importer leads to the presumption of innocence and the fulfillment of the commitment.

Facts

This is to consider the appeal submitted by / ..., ID number (...), in his capacity as an agent for the owner of the institution / ..., national ID number (...), under the power of attorney issued by the Notary Public in South Riyadh number (...). issued on 26/06/1442 AH, against the initial Decision number (CTR-2022-1121) issued by the third First Instance Customs Committee in Riyadh, which ruled as follows:

- 1- Condemnation / ... , Commercial Register No. (...) In person with customs smuggling.
- 2- To impose a customs fine equivalent to the value of the violating item, in accordance with Article (145/4) of the Unified Customs law.
- 3- Obliging it to pay the value of the violating item as a confiscation fee, in accordance with Article (145/5) of the same law.
- 4- Disregard the imprisonment penalty.

Since the appellant was notified of the Decision subject to the appeal on 29/01/2023, and submitted the appeal against the Decision on 11/02/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its conduct according to what is stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment consisting of (frozen shawarma chicken) belonging to the importing institution through the customs of Jeddah Islamic Port under import declaration number (...). On the date 07/08/1438 AH, it was allowed under a commitment not to act until the result of the competent authority appeared, and after examining the sample by the General Authority for Food and Drug, the response was received in letter number (...) On 11/09/1438 AH, it was noted that



the sample did not meet the specifications due to the presence of Salmonella bacteria. The importer was contacted, but he did not respond. The first instance committee issued its Decision as stated in its ruling, based on the fact that the importer's handling of the shipment was in violation of the Bond Commitment taken against him, which constitutes smuggling according to Article (142) of the Unified Customs law. Consequently, penalties were imposed on the appellant as stated in the ruling. Upon reviewing the objection list submitted by the representative of the institution's owner, the appellate customs committee noted that its summary mentioned that the General Secretariat for Environmental Health at the Ministry of Municipal and Rural Affairs confiscated and destroyed the goods based on the destruction report dated 30/11/1438 AH. The list concluded with the appellant's request to accept the appeal, overturn the initial Decision, and compensate the institution for the value of the goods due to not being notified of the sample result, which deprived him of the opportunity to re-export the goods to the seller and recover his funds from him. A response memo from the authority was received through the Automated System of the Secretariat dated 13/04/2023, summarizing that the authority reviewed the destruction report submitted by the representative of the institution and issued by the General Secretariat for Environmental Health at the Ministry of Municipal and Rural Affairs. A response was received from the owner's representative on 13/04/2023, summarizing that the authority acknowledged it had reviewed the destruction report submitted by the institution in its reply memo dated 13/04/2023, and concluded the memo with a request to accept the appeal and annul the initial Decision. On Thursday, June 27, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision number (CTR-2022-1121) issued by the Third First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority regarding it.

Grounds

It is established that the appellant submitted a destruction report dated 30/11/1438 AH, and it is confirmed from the authority's response that it received the destruction report and mentioned in the receipt report that this report pertains to import declaration number (...). Her response did not include anything that would invalidate the validity of the destruction report, which leads to the conclusion that the presumption of innocence should be maintained due to the authority - as the prosecution - not denying what was presented to refute the importer's claim of not having acted on the shipment due to its destruction, as was established in the investigation of the case facts. This is after it was confirmed through the attached report in the case file that the destruction of the shipment occurred, and there is no evidence to the contrary after confronting the authority with the document that the importer claims to prove the destruction with, which leads the



appellate committee to accept the appeal procedurally and on its merits and to annul the initial decision in all that it ruled against the appellant. As for his request for compensation for the value of the shipment on the grounds that he was not notified of the sample test result, which deprived him of the opportunity to re-export the goods to the seller and recover his money from him, it is noted that according to Article (186) of the Code of Judicial Procedures "new requests in the appeal are not accepted, and the court shall rule on its own not to accept them." Since it was established through the minutes of the hearings before the First Instance Committee that issued the decision subject to the appeal that the defendant did not raise this request, it is concluded that it is not accepted. Therefore, the appellate committee concluded the following report:

Decision

- 1- The appeal is accepted procedurally, submitted by / Institution ..., commercial registration number (...), owned by / Saad ..., national ID number (...), against the First Instance Decision No. (CTR-2022-1121) issued by the third First Instance Customs Committee in Riyadh.
- 2- Acceptance if the appeal on its merits, and the annulment of the initial Decision in all that it ruled, for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-187379
Case No. PC-2022-124138

Principle No. 56

- The violation relates to resistance to horizontal slipping, and through the laboratory report, the difference between the required specification and the condition of the sample under examination for the violating item was a slight difference of no more than (0.5%), which allows for the application of what has been customary in such discrepancies by considering this observation as a violation that the laboratory report classified among the non-essential observations that do not affect consumer deception and the safety of using the imported product, especially since the sample has passed other fields of testing.

Facts

This is to consider the appeal submitted by/ ..., attorney license number (...). And the date 29/10/1433 AH in his capacity as an agent for the director of the appealing company under the agency number (...). On the date 22/08/1444 AH, against the initial Decision No. (CFR - 2022 -1688), issued by the 1st First Instance Customs Committee in Riyadh, ruling as follows:

- 1- Condemnation of the importing company ... Commercial Register No. (...) In person with customs smuggling.
- 2- To impose a customs fine equivalent to the value of the violating item in the amount of (342,901) three hundred and forty-two thousand and nine hundred and one riyals.
- 3- Obliging him to pay an amount equivalent to the value of the violating item as a confiscation fee of (342,901) three hundred and forty-two thousand and nine hundred and one riyals, bringing the total amount claimed to (685,802) six hundred and eighty-five thousand and eight hundred and two riyals.

Since the appellant was notified of the Decision subject to the appeal on 22/02/2023, and submitted the appeal on 15/03/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established by Article (163) of the Unified Customs law.



As for the facts of the case, they are summarized by the arrival of a shipment (men's footwear) belonging to the importer through the customs of Jeddah Islamic Port under import declaration number (...). On the date 14/09/1438 AH, it was granted under a commitment not to act until it is approved by the competent authority, and upon presenting the sample to the laboratory; the response was received in report number (...) On the date 27/09/1438 AH, which included non-compliance in terms of horizontal slip resistance, the importer was addressed to return the shipment, but he did not respond. The First Instance Committee issued its Decision as previously mentioned, condemning the importer for customs smuggling and obliging him to the associated penalties, based on the importer's actions regarding the violating shipment, contrary to the commitment taken regarding it, which makes his actions in this regard constitute customs smuggling as stipulated in Article (142) of the Unified Customs law. Upon reviewing the objection list submitted by the appellant, the appellate customs committee found that its summary mentioned that the Decision subject to appeal was contrary to the provisions of the notification law for the parties, which resulted in the confiscation of the right to defense due to the lack of notification regarding the hearings and their meeting dates. Furthermore, the Decision subject to appeal relied on false statements and information, making the reasoning of the Decision contradictory and confused in its outcome clauses. Additionally, the goods subject to the lawsuit were damaged on 16/03/1440, after a year and six months of storing the goods, due to heavy rainfall on the warehouse, which led to damage to the Red Sea Mall building and resulted in the breaking of the main rainwater drainage pipe of the mall's roof located above the warehouse where the goods subject to the lawsuit were stored. A report from the Red Sea Mall management was attached, documenting the incident of rainfall on that date, including a picture showing the complete damage to the goods. The list concluded with a request to accept the objection procedurally for being submitted within the legal timeframe, and to overturn the appealed Decision in all its parts and annul it in its three paragraphs. The Automated System of the Secretariat received a response from the Zakat, Tax and Customs Authority regarding the appeal list dated 18/05/2023, which included a summary of what the concerned party claims as an error in the classification of the incident and that the act committed does not constitute a customs smuggling crime. Therefore, the importer violated the commitment taken upon him and acted without notifying the customs of the clearance permit. He was notified by customs to return the shipment through several notifications, the last of which was in 1438 AH, but he did not respond. Additionally, the company did not review customs to settle the commitment taken upon it, which indicates that its action regarding the non-permitted shipment violates the commitment taken upon it, as the commitment is still in effect and has not been settled. Paragraph (A) of Article 56 of the Unified Customs Law states that the customs authority has the right to analyze goods with the relevant authorities to verify the type of goods or their specifications or compliance with what is permitted by laws and regulations. This is what the authority did by referring samples of the shipment to accredited laboratories in accordance with Article (24) of the same law, to ensure their compliance with specifications or not. The result showed that the shipment did not comply with the horizontal slip resistance "technical violation affecting product quality," and thus its entry into the country



is prohibited according to the law. The incoming shipment was cleared according to what is stated in paragraph (B) of Article 56 of the Unified Customs Law by releasing the goods in exchange for providing a commitment not to dispose of the shipment in any form until the laboratory result appears. Since the result of the sample examination showed non-compliance with specifications and the company did not comply with returning the shipment to the customs area as stipulated in the commitment taken in this regard despite being notified, this means it violated the commitment registered with the authority. The act of disposing of the non-permitted shipment thereafter constitutes a customs smuggling crime according to Article 142 of the Unified Customs Law, as the commitment is still in effect and has not been settled. Regarding the claim of the concerned party that the shipment was damaged in the Red Sea Mall warehouse where the goods were located due to water leakage on 17/3/1440, it should be noted that the water leakage occurred on 25/11/2018, corresponding to 17/3/1440 AH, and customs notified the company several notifications to return the non-compliant shipment, but it did not respond. All notifications were before the date of the incident mentioned above without the company reviewing customs. The company was notified several times, the last of which was on 18/10/1438 AH, but it did not respond for about a year and a half from the date of the incident. The company did not provide evidence that the non-compliant goods mentioned in the above statement were the ones damaged due to water leakage, which implies the company's action regarding the shipment in question. The commitment is still in effect and has not been settled to date, and customs smuggling crimes are intentional crimes that require the material and moral elements to be present, which were present in the case at hand as the company acted regarding the shipment and breached the commitment taken and introduced goods whose entry into the country is restricted. The response memorandum concluded with a request to reject the appeal and uphold the initial Decision in all its provisions. The appellant company's response to the authority's answer was submitted in a supplementary memorandum dated 14/06/2023, which did not deviate from reiterating the statements previously made in its appeal and confirming that the plaintiff company exercised the usual care in preserving the shipment for delivery to the customs authority upon request in case the shipment was not approved. Thus, the plaintiff did not violate the commitment taken upon it, and the response concluded with the same requests as its appeal for the annulment of the initial Decision regarding the conviction of the importing company for customs smuggling and the penalties resulting from it. On Thursday, April 18, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted against the First Instance Decision No. (CFR – 2022 -1688), issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the Appeals Committee decided that the documents presented and the contents of the case file were sufficient to form its conviction and to rule on the matter in light of the Grounds on which the appeal was based and the response of the authority regarding it.



Grounds



Whereas it is established in the rules of litigation that the proper application of the law is an obligation on the authority examining the case, and it shall rule on its own without the need for a request from the parties, thus the authority examining the case has broad discretion in assessing the facts and giving them the appropriate description and correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and taking it as a basis for its ruling as long as the documents related to it within the case file do not contradict what has been inferred and established in its conviction and belief to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it has reached, which is consistent with what is stated in Article (153) of the Criminal Procedure law, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description it deserves, even if it contradicts the description in the indictment..."; and whereas according to the report of the sample examination result, the violation in question relates to resisting horizontal slipping, and whereas it has been established through the laboratory report that the difference between the required specification and the condition of the sample under examination for the violating item was a slight difference not exceeding (0.5%), which justifies applying what has been established in such differences according to the established rulings of the customs appellate court in such cases by classifying this observation as one of the non-essential observations that do not affect consumer deception and the safety of using the imported product, especially since the sample has passed other fields of testing, which results in the importer's action regarding the item in question, which is burdened with such an observation, being considered as an observation of a procedural nature that does not rise, in the case of the shipment's action with its existence, to classify the importer's action regarding the shipment as being burdened with that observation as constituting customs smuggling, which leads to the annulment of the initial decision in all that was ruled against the appealing company after the importing company violated the commitment taken upon it and acted with the shipment without notifying customs, which leads to considering the action of the importing company as a violation governed by Article (31/6) of the executive regulations of the customs law, and imposing a financial penalty on it in the amount of (1000) one thousand riyals, in application of what that article stipulates. This is not affected by what the appellant raises in terms of defenses, as they do not suffice to negate the established original act of the importer regarding the shipment contrary to the commitment taken upon it, which is not affected by his claim of damage to the shipment due to the rains that affected the warehouse where the shipment was deposited, considering that such damage to the shipment due to the rains, assuming the truth of its occurrence, does not prove that the shipment in question was present at the time of the incident claimed to have harmed the shipment, especially since the period between the import and the occurrence of that incident is long, during which it has not been proven that the usual trader was keen on following up on its clearance from customs, which confirms the trader's



responsibility and the validity of holding him accountable for his negligence in following up on its clearance and the report of the violation against him as concluded by this committee's investigation regarding it. Therefore, the appellate committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ Company ..., Commercial Registration No. (...), against the initial Decision No. (CFR – 2022 -1688) issued by the 1st First Instance Customs Committee in Riyadh.
- 2- Acceptance of the appeal on its merits, and the annulment of the initial Decision in all that it ruled regarding the importer, and that is for the Grounds and considerations stated in this Decision.
- 3-Considering the importer's action regarding the shipment violation as a basis for imposing a fine for customs procedure violations amounting to (1000) one thousand riyals, for the Grounds and circumstances stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-179270
Case No. PC-2022-125789

Principle No. 57

- The violation related to the non-compliance of the sample with the bending resistance and abrasion resistance of the outer sole is not considered one of the essential observations that affect the safety and quality of the product or deceive the consumer regarding its reality and material, especially since the sample has passed other testing fields. This implies that the importer's action regarding the item in question, which is burdened with such an observation, constitutes in reality a consideration of it as a remark of a procedural nature that does not elevate, in the case of handling the shipment with its presence, to classify the importer's action with the shipment as customs smuggling.

Facts

This is to consider the appeal submitted by/..., national ID number (...). As the owner of the institution..., commercial registration number (...), against the initial Decision number (CFR – 2022 - 2162), issued by the 1st First Instance Customs Committee in Riyadh, whose ruling states the following:

- 1-Condemnation of the importer/ institution ... Number (...), present at customs smuggling.
- 2-Obligating him to a customs fine equivalent to the value of the violating item, an amount of (85,000) eighty-five thousand riyals.
- 3- Obliging him to pay an amount equivalent to the value of the violating item as a confiscation fee of (85,000) eighty-five thousand riyals, making the total amount claimed (170,000) one hundred seventy thousand riyals.

Since the appellant was notified of the Decision subject to the appeal on 13/02/2023, and submitted the appeal on 20/02/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment (men's footwear) belonging to the importer through the Al-Batha customs under import declaration number (277453) dated 23/02/1436



AH, which was cleared based on a commitment not to dispose of it until it is approved by the competent authority. After presenting the sample to the laboratory, the report number (S-14-02573) dated 10/03/1436 AH indicated that the sample did not meet the standards for bending resistance and abrasion resistance of the outer sole. The importer was contacted, but he did not respond. The First Instance Committee issued its Decision based on the fact that the importer did not review the customs to return the shipment to the customs area, which implies his disposal of it, and it was confirmed that its clearance was not approved, contrary to the commitment taken regarding it, which constitutes customs smuggling according to Article (142) of the Unified Customs law. Consequently, penalties were imposed on the importer as stated in the Decision subject to appeal. Upon reviewing the objection list submitted by the owner of the importing institution, the customs appellate committee found that its summary mentioned that the shipment consists of slippers, and the observation made is considered minor and not a technical observation. Additionally, there is a certificate of conformity to specifications and standards under the supervision of the specifications and standards authority in the country of origin. There are also differences in specifications between internal laboratories and the specifications set in the country of origin, considering that the specifications in internal laboratories are the same for all types, while in the country of origin, each type has its own specific specifications. Furthermore, no customs smuggling crime was committed according to the findings of the initial Decision subject to appeal, and the fine is deemed unfair as the shipment was cleared by customs and met all procedures. The list concluded with a request to refer the case to the appellate committee. A response memo from the authority was received via the Automated System of the Secretariat dated 02/05/2023, which summarized that the importer had been notified of the result through several notifications, but he did not respond. The violations mentioned in the laboratory report are technical violations that affect the quality of the product, and therefore their entry into the country is prohibited. Additionally, the importer has violated the Bond Commitment taken from him regarding the handling of the shipment without being notified by customs of its clearance. The commitment is still in effect and has not been settled. Moreover, customs smuggling crimes are intentional crimes that require the presence of both their material and moral elements, which were present in the case at hand. The memorandum concluded with a request to reject the appeal and uphold the initial Decision in all its provisions. On Monday, February 26, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision (CFR – 2022 - 2162), issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority thereto.



Grounds



Whereas it has been established in the rules of litigation that the authority reviewing the case has broad discretion in assessing the facts and giving them the appropriate description in light of its established conviction and the state of the evidence and inferences drawn from it, relying on them and using them as a basis for its ruling, as long as the documents related to it within the case file do not contradict what has been inferred and established in its conviction and belief to resolve the dispute, and that its inference is sound, reasonable, and leads to the conclusion it reached. Whereas, according to the report on the sample examination results, the violation in question relates to the non-compliance of the sample with the bending resistance and abrasion resistance of the outer sole. The appellate committee did not consider this observation, as stated in the laboratory report, to be among the substantial observations that affect the safety and quality of the product or deceive the consumer regarding its reality and material, especially since the sample passed other testing fields. This leads to the conclusion that the importer's action regarding the disputed item, which is burdened with such an observation, constitutes, in fact, a consideration of it as a procedural observation that does not rise, in the case of dealing with the shipment with its existence, to qualify the importer's action regarding the shipment as being burdened with that observation as customs smuggling. Therefore, it is decided to annul the initial decision in all that was ruled against the appealing company. However, since the importing company violated the commitment taken upon it and dealt with the shipment without notifying customs, it is decided to consider the importing company's action a violation governed by Article (31/6) of the executive regulations of the customs law, and to impose a financial penalty of (1000) one thousand riyals, in application of what that article stipulates. Accordingly, the appellate committee concluded to report the following:

Decision

Acceptance of the appeal procedurally, submitted by / Institution ..., Commercial Registration No. (...), against the initial Decision No. (CFR - 2022 - 2162), issued by the 1st First Instance Customs Committee in Riyadh.

2- Acceptance of the appeal on its merits, and the annulment of the initial Decision in all that it ruled, for the Grounds and considerations stated in this Decision.

3- Considering the actions of the importing entity as a violation governed by Article (31/6) of the executive regulations of the customs law, and imposing a financial penalty of (1000) one thousand riyals on it, for the Grounds and justifications stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024- 189970
Case No. PC-2022-126482

Principle No. 58

- The dispute between the importer and the authority is considered resolved based on the customs certificate as stated in the response memorandum confirming that the importer has fulfilled the commitment.

Facts

This is to consider the appeal submitted by/ Company ..., Commercial Registration No. (...), against the initial Decision No. (CFR-2022-2370), issued by the 1st First Instance Customs Committee in Riyadh, which ruled as follows:

- 1-Conviction of the importer company ..., commercial registration number (...), in person for customs smuggling.
- 2-Obligating him to a customs fine equivalent to the value of the violating item, an amount of (76,912) seventy-six thousand nine hundred and twelve riyals.
- 3- Obliging him to pay an amount equivalent to the value of the violating item as a confiscation fee of (76,912) seventy-six thousand nine hundred and twelve riyals, making the total amount claimed (153,824) one hundred and fifty-three thousand eight hundred and twenty-four riyals.

Since the appellant was notified of the Decision subject to the appeal on 07/03/2023, and submitted the appeal on 20/03/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its execution as stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment (mixtures of grain flour with flour) belonging to the importer through the customs of Jeddah Islamic Port according to import declaration number (...). On the date 11/07/1438 AH, it was granted based on a commitment not to act until it is



approved by the competent authority, and after examining the sample by the Food and Drug Authority, the response was received in letter number (...) On the date 05/08/1438 AH, which included non-compliance due to the presence of the word "poppy" in the data card, which is one of the harmful substances to health and is prohibited from being imported. The importer was contacted, but he did not respond. The First Instance Committee issued its Decision as stated in its ruling, based on the fact that the importer did not review the customs and return the violating item, thus violating the commitment taken according to the text of Article (56) of the Unified Customs law. This is one of the technical violations that affect the quality of the product and the safety of the consumer according to the Food and Drug Authority's letter, which makes his action a customs smuggling according to what was stated in Article (142) of the same law, and it arranged the application of penalties against the importer as stated in its Decision.

Upon reviewing the objection list submitted by the appellant, the appellate customs committee found that its summary mentioned that the goods were re-exported under a declaration issued with the number (...). On the date 18/09/1438 AH, in addition to the fact that the importer has fulfilled the commitment with the number (...), it follows that the Decision subject to appeal was based on an incorrect reason and should be overturned due to the absence of the importer's evasion. The petition concluded with a request to accept the appeal procedurally, overturn the Decision subject to appeal, and rule to dismiss the case.

A response memo from the authority was received through the Automated System of the Secretariat dated 11/05/2023, which summarized that after inquiring with the customs, the information was received regarding the return of the violating item with a return statement issued under number (...) and linked to the import statement number (...) Accordingly, the commitment is settled and completed.

On Thursday, May 9, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision number (CFR-2022-2370), issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority thereto.

Grounds

And whereas, upon reviewing the appellate committee on the case file and its attachments, and since it has been established that the importer has paid the commitment according to the customs statement attached to the case file, and since the authority's statement in its response memorandum to the appeal mentioned that upon referring to the Automated System, it was found that the violating item was returned with a return statement issued under number (...) and linked to the import statement number (...) Thus, the commitment is considered fulfilled and terminated, which leads this committee to determine that the conviction established by the First Instance Committee against the appellant is not valid based on a correct



understanding of the facts. Since the matter is as stated, the appellate committee concludes that the dispute between the importer and the authority is resolved based on the customs statement included in its response memorandum, indicating that the importer has fulfilled the commitment, which necessitates the annulment of the primary decision as will be detailed in the ruling. Therefore, the appellate committee concluded to report the following:

Decision

- 1-Acceptance of the appeal procedurally, submitted by/ Company ..., Commercial Register No. (...), against the initial Decision No. (CFR-2022-2370), issued by the 1st First Instance Customs Committee in Riyadh.
- 2- Acceptance of the appeal on its merits, and the annulment of the initial Decision in all that it ruled, and considering the dispute between the importer and the authority regarding the shipment subject to the lawsuit as concluded, for the Grounds and justifications stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-190472

Case No. AC-2022-101465

Principle No. 59

- The correction of the goods subject to the lawsuit proves that the importer has committed to the customs as promised, and thus the matter of his conviction is no longer based on a valid foundation of reality.

Facts

This is to consider the appeal submitted by/..., national ID number (...), in his capacity as the owner of the ... institution, commercial registration number (...), against the initial Decision number (CFR-2022-3080), issued by the 1st First Instance Customs Committee in Riyadh, ruling as follows:

- 1-Condemnation of the importer (Institution ...) Commercial register number (...), present at customs smuggling.
- 2-Obligating him to a customs fine equivalent to the value of the violating item in the amount of (63,036) sixty-three thousand and thirty-six riyals.
- 3- Obliging him to pay an amount equivalent to the value of the violating item as a confiscation fee amounting to (63,036) sixty-three thousand and thirty-six riyals, making the total amount claimed (126,072) one hundred twenty-six thousand and seventy-two riyals.

Since the appellant was notified of the Decision subject to the appeal on 20/03/2023, and submitted the appeal on 21/03/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the arrival of a shipment consisting of (electrical tools) belonging to the importer through the customs of Jeddah Islamic Port under import declaration number (...). On the date 24/04/1440 AH, I was granted permission with a commitment not to act until the results appear from the competent authority, and after presenting the sample to the laboratory, the report number (...) was received. On the date 06/05/1440 AH, which included non-compliance regarding the electrical durability test, the importer was notified to return the shipment to the customs area through several letters, but he did



not respond. The first instance committee issued its Decision as stated in its ruling, based on the fact that the importer's failure to return the unauthorized shipment to the customs area implies his handling of it, thus violating Article (56) of the Unified Customs law. It is also considered customs smuggling according to Article (142) of the same law, and penalties were imposed on the importer as stated in the text of its Decision.

Upon reviewing the objection list submitted by the owner of the importing institution, the customs appeal committee found that its summary mentioned that the Decision was issued against the importer in absentia, as he was not aware of the hearings held automatically because he had never dealt with remote court hearings before. Additionally, the goods subject to the lawsuit have not been disposed of and are present in the warehouse, and the customs committee can inspect them and ensure their safety. The importer cannot be convicted and punished for an act he did not commit. Furthermore, Article (154) of the Unified Customs law states that anyone who proves that he did not commit any of the acts that constituted the violation or smuggling crime is exempt from liability. Therefore, the crime here is not established due to the presence of the goods. Moreover, the reason for removing the goods from the port and storing them in the warehouse is the high cost of ground space in the port, as one day costs (800) riyals, which the importer cannot bear. The list concluded with a request to overturn the initial Decision, reconsider the case, and rule to release the institution from the charge of customs smuggling and the confiscation of the goods held in the warehouse.

A response memo was received through the Automated System of the Secretariat from the authority dated 28/05/2023, summarizing that the shipment was inspected and the appellant's statements were verified, and the goods were corrected on 23/05/2023.

On Monday, February 19, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party regarding Decision number (CFR-2022-3080), issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the Grounds on which the appeal was based and the response of the authority.

Grounds



After reviewing the case file and the documents and papers it contained, as well as the defenses included in the appeal, and since the appellant attached the inventory report of the goods number (...). On the date of 23/05/2023, the Zakat, Tax and Customs Authority stated in its response memorandum that the goods subject to the lawsuit had been corrected, which confirmed that the importer had complied with the customs obligations he had undertaken. Therefore, the matter of his conviction is no longer based on a valid foundation in reality. Consequently, the appellate committee decided to overturn the initial decision in all that was ruled against the appellant. Thus, the appellate committee concluded with the following report:



Decision

1- Acceptance of the appeal procedurally from the applicant/ institution ..., commercial registration number (...), owned by/ ..., national ID number (...), against the initial Decision number (CFR-2022-3080), issued by the 1st First Instance Customs Committee in Riyadh.

2- Acceptance of the appeal on its merits, and the annulment of the initial Decision in all that it ruled regarding the appellant, and that is for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-230453
Case No. PC-2024-230453

Principle No. 60

- The statement from the Food and Drug Authority indicates that it does not mention the phrase (sample non-compliance) and that all that the letter concluded is, in fact, (the final result is incomplete due to the merchant's review not being completed), and that such a phrase cannot definitively indicate the existence of a technical violation in the sample.

Facts

This is to consider the appeal against the initial Decision number (CFR-2023-111673) issued by the 1st First Instance Customs Committee in Riyadh, submitted by the Zakat, Tax and Customs Authority.

The facts of this case are summarized by the arrival of a shipment (biscuits and sweets) through the customs of Jeddah Islamic Port under import declaration number (...). On the date 29/08/1431 AH, it was allowed under a commitment not to act until it was approved by the competent authority, and upon presenting the sample to the competent authority, a response was received in letter number (...) On 18/09/1431 AH, which included the non-completion of the final result due to the merchant's failure to review, the first instance committee issued its Decision not to convict the importer of customs smuggling, while obliging him to pay a fine for violating customs procedures amounting to five thousand riyals, as stated in the text and Grounds for the Decision subject to appeal, which is referred to in order to prevent repetition.

Upon reviewing the objection list submitted, the customs appellate committee found that it included a summary stating that the violation was technical and thus classified as prohibited goods. Furthermore, "the administration prohibits, under the provisions of this law (law) or any other law (law) or Decision, the entry, exit, or transit of prohibited or violating goods, and also prohibits the entry, exit, or transit of restricted goods except with approval issued by the competent authorities in the state." Article (142) of the Unified Customs law stipulates that: "Smuggling is the introduction or attempted introduction of goods into the country or their exit, or attempted exit from it, in violation of the applicable legislation, without paying the customs duties in whole or in part, or contrary to the provisions of prohibition."



or the restrictions contained in this "law" and other regulations and laws, therefore, the action taken by the importer by introducing foodstuffs without approval from the competent authority is considered an attempt at customs smuggling; as it poses a threat to the safety and health of consumers. It concluded with a request to convict the importer of customs smuggling and to impose a customs fine equivalent to three times the value of the goods, and to confiscate the goods or rule for an amount equivalent to their value if they are not seized.

And I request the response from the appellant against her on 10/01/2024 and enabling her to exercise her right to respond for a period of (45) days, and she did not submit the required answer. Based on paragraph (1) of Article (35) of the rules of operation of the Zakat, tax, and customs Committees, the committee decided to rule on the case in light of the documents available thereto.

After reviewing the case file and the appeal submitted by the authority, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.

Grounds



After reviewing the unified customs law of the Gulf Cooperation Council countries approved by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the relevant regulations and laws.

Since the appellant was notified of the initial Decision on 25/12/2023, and filed the appeal against the Decision on 10/01/2024, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period set for its execution as stipulated in Article (163) of the Unified Customs law.

Since there is no reproach against the reviewing authority for taking the reasons of the decision subject to the appeal without addition whenever it sees in these reasons what suffices to avoid presenting anything new, because in its support, based on its reasons, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. This is not affected by what the appellant argued that the violation mentioned in the shipment subject to the lawsuit is of the same kind as technical violations, as it became clear upon reviewing the letter from the Food and Drug Authority that it did not mention the phrase (non-compliance of the sample) and that all that the letter concluded was, in fact, (the final result was not completed due to the merchant's review not being conducted). Since such a phrase cannot definitively assert the existence of a technical violation in the sample, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal



without supporting evidence, necessitating its rejection. Accordingly, the committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant / the General Authority of Zakat and Tax and Customs, against the initial Decision No. (CFR-2023-111673), issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: Dismissal of the appeal on its merits, and this is due to the reasons and circumstances mentioned in this decision. This decision is considered final; in accordance with the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-193968

Case No. PC-2023-193968

Principle No. 61

- The violation related to the shipment, represented by its non-compliance with specifications regarding the establishment of the origin indication, is considered a type of procedural violation that does not affect the quality of the product or harm consumer safety, and does not rise to the level of convicting the importer of customs smuggling.

Facts

This is to consider the appeal against the initial Decision No. (CTR – 2023 - 667) issued by the Third First Instance Customs Committee in Riyadh, submitted by the agent/..., Civil Registration No. (...), under the agency No. (...), and since the appellant was notified of the initial Decision on 30/03/2023, and submitted the appeal against the Decision on 30/04/2023, this entails accepting the appeal procedurally as it was submitted by a person with standing within the prescribed period for its submission as stipulated in Article (163) of the Unified Customs law.

The facts of this case summarize the arrival of a shipment (adhesive stickers) through the dry port customs in Riyadh under import declaration number (...) dated 20/09/1432 AH, which was allowed based on a commitment to establish the origin and settle the registered commitment. The importer was contacted by customs with the result, but he did not respond. The first instance committee issued its Decision to convict the importer of customs smuggling and impose the associated penalties, as stated in the text and Grounds for the Decision subject to appeal, which is referred to in order to avoid repetition.

Upon reviewing the objection list submitted, the appellate customs committee found that it included a summary indicating that the criminal intent...

The component for the crime of customs smuggling is not available in the case at hand, and the shipment arrived for the first time from a company in Korea, and a certificate of origin was attached. The company was not aware of the obligation to place stickers on the cartons, and there is still part of the shipment in the warehouses. It concluded with a request to accept the appeal and cancel the initial Decision in all that was ruled.



Upon reviewing the response memorandum submitted by the appellant, the appellate customs committee found that it included a summary stating that the importer had been addressed to return the shipment and comply with the commitment made, but it did not respond. It also did not establish the origin of the goods or fulfill the commitment made, as the commitment is still in effect and has not been settled. Furthermore, the shipment violates the commercial data law and the anti-commercial fraud law. The memorandum concluded with a request to reject the appeal and uphold the initial Decision in all its provisions.

After reviewing the case file and the appeal submitted by the appellant and the response of the committee regarding it, the committee found that the case is ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and to rule on it in light of the reasons on which the appeal was based.

Grounds



After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws.

Whereas the appellate customs committee, upon reviewing the case file and its attachments, found that the violation related to the shipment was due to its non-compliance with specifications regarding the indication of origin, and whereas this violation is considered a procedural violation that does not affect the quality of the product or compromise consumer safety, and does not rise to the level of convicting the importer of the crime of customs smuggling as described in Articles (142/143) of the Unified Customs law, it is therefore decided to annul the initial decision in all its provisions and to consider the incident a customs procedural violation governed by Article (31/6) of the executive regulations of the Unified Customs law, and to impose a financial penalty of (1000) one thousand riyals in accordance with what that article stipulates. Accordingly, the appellate customs committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant/ Institution ..., Commercial Registration No. (...), owned by/ ..., Civil Registration No. (...), against the initial Decision No. (CTR – 2023 - 667), issued by the Third First Instance Customs Committee in Riyadh.

Secondly: The appeal is accepted on its merits, and the initial Decision is annulled in all that it ruled, obliging the importer to pay a customs violation fine of (1000) one thousand riyals, for the Grounds and considerations stated in this Decision.

This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-231532

Case No. PC-2024-231532

Principle No. 62

- The trader's act of re-exporting the goods subject to the commitment is considered part of his obligation to the commitment not to dispose of them.

Facts

This is to consider the appeal against the initial Decision number (CFR-2024-204473) issued by the 1st First Instance Customs Committee in Riyadh, submitted by the agent/..., National ID number (...), Law license number (...), in the capacity of

He is an agent for the legal representative of the company/..., national ID number (...), under the agency number (...). Issued on 08/10/1445 AH.

The facts of this case are summarized by the arrival of a shipment (tires) belonging to the appellant company through the customs of Jeddah Islamic Port under import declaration number (...). On 15/02/1443 AH, it was allowed under a commitment not to act until the result of the competent authority appeared, and after presenting the sample to the laboratory, the response indicated non-compliance regarding rolling resistance. The first instance committee issued its Decision convicting the company of customs smuggling and imposing the associated penalties as stated in the Decision subject to appeal, based on the fact that the laboratory result indicated that the item did not comply with the specifications due to failing the (rolling) tests, which are technical violations that affect the quality and safety of the product. Considering that the company did not respond to the customs administration and did not return the item, this indicates its action with it, which constitutes the company's behavior as a crime of customs smuggling as stipulated in Article (142) of the Unified Customs law.

Upon reviewing the objection list submitted, the appellate customs committee found that it included a summary stating that the company committed to the Bond Commitment not to dispose of the shipment by re-exporting it immediately after the laboratory result showed non-compliance.

According to the fixed dates in the customs re-export declaration issued on 07/11/2021, this customs declaration includes all the data of the re-exported item, its type, quantity, and all necessary data that



matches the customs release statement under which the goods were imported. The Appeal concluded with a request to accept the appeal procedurally, and on its merits, directing whoever is concerned to set a date for a hearing in this case for pleading and overturning the Decision issued by the 1st First Instance Customs Committee regarding what it ruled, and ruling again to dismiss the public prosecution's claim.

And I request the response from the appellant against her on 07/02/2024 and to enable her to exercise her right to respond for a period of (45) days, and she did not submit the required answer. Based on paragraph (1) of Article (35) of the rules of operation of the Zakat, tax, and customs Committees, the committee decided to rule on the case in light of the documents available thereto.

After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.

Grounds



After reviewing the unified customs law of the Gulf Cooperation Council countries approved by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the relevant regulations and laws.

Since the appellant was notified of the initial Decision on 22/01/2024, and submitted the appeal on 07/02/2024, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

After reviewing the case file and its contents, and considering the defenses presented by the parties, and since the subject of the case is based on the handling of the shipment subject to the commitment, and since the importing company has argued for the re-export of the shipment according to re-export statement number (...). On 08/11/2021, the customs judiciary has established that the trader's act of re-exporting the goods subject to the commitment is considered part of his obligation to the commitment not to dispose of them, which leads to the collapse of the basis on which the company was convicted of customs smuggling. Therefore, this committee decides to annul the initial decision and rule that the importer is not guilty of the crime of customs smuggling.



Decision

First: Acceptance of the appeal procedurally, submitted by / Company ..., Commercial Registration No. (...), against the initial Decision No. (CFR-2024-204473) issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: On the merit of the appeal, the cancellation of the initial Decision, and the ruling of not convicting the importer of the crime of customs smuggling, for the Grounds and considerations stated in this Decision. This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-227731

Case No. PC-2023-227731

Principle No. 63

- The non-compliance of the item (henna) in the lawsuit "due to the high ash content, and it is noted that the sample is not henna but a mixture of plants including indigo," these observations mentioned in the laboratory report are considered substantial technical violations that cannot be rectified or corrected, which means that the importer's action with the shipment, which is laden with the observations mentioned in the laboratory report, constitutes a customs smuggling crime.

Facts

This is to consider the appeal submitted by the Zakat, Tax and Customs Authority, against the initial Decision No. (CFR-2023-111495) issued by the 1st First Instance Customs Committee in Riyadh.

The facts of this case are summarized by the arrival of a shipment (henna) through the Islamic Port of Jeddah customs under import declaration number (...). On the date 17/07/1433 AH, it was allowed based on a commitment not to act until the result of the competent authority appeared. Upon examining the sample by the Food and Drug Authority, the response indicated non-compliance due to the high ash content and that the sample was not henna but a mixture of plants, including kohl. The customs authority communicated with the importer, but he did not respond. The first instance committee issued its Decision not to convict the importer of customs smuggling, imposing a fine of one thousand riyals, based on the lack of submission of the analysis result by the prosecution, and that one of the conditions for conviction is the presence of conclusive evidence that leaves no room for doubt. Due to the importer's failure to adhere to the commitment taken against him, the first instance committee deemed the incident a violation of customs procedures and decided to limit itself to what was stated in the text of the appealed Decision.

Upon reviewing the appeal list submitted, the appellate customs committee found that it includes a summary stating that what the First Instance Committee mentioned in its reasoning about the absence of a result from the competent authority for analyzing the sample is incorrect, as the result from the Food and Drug Authority number (...) On the date 19/08/1433 AH, it was indicated that the item (henna) in the



lawsuit does not match "due to the high ash content, and it is noted that the sample is not henna but a mixture of plants, including the indigo plant." Attached in the case file.

Page number (11), which shows the result of the competent authority indicating that the item contains technical violations affecting the quality of the product and the health and safety of the consumer, which necessitates a conviction for customs smuggling. Therefore, it requests the acceptance of the appeal procedurally and on its merits and the conviction of the defendant for customs smuggling according to the provisions of Article (142) of the Unified Customs law, and obliging her to pay a customs fine equivalent to three times the value of the goods, and obliging her to pay an amount equivalent to the value of the goods as a confiscation substitute.

And I request the response from the appellant against her on 11/12/2023 and enabling her right to reply for a period of (45) days without submitting the required answer, and based on paragraph (1) of Article (35) of the rules of operation of the Zakat, tax, and customs Committees, the committee decided to rule on the case in light of the documents available thereto.

After reviewing the case file and the appeal submitted by the authority, the committee found that the case is ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and to rule on it in light of the reasons on which the appeal was based.

Grounds

After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws.

Since the appellant was notified of the initial Decision on 16/11/2023, and submitted the appeal on 11/12/2023, this entails the acceptance of the appeal procedurally for being submitted by a party with standing within the prescribed period for its conduct as stipulated in Article (163) of the Unified Customs law.

It is established that the importer committed not to dispose of the shipment and was requested to return it according to the laboratory results from customs without any response from him, which indicates his disposal of the shipment. Furthermore, the laboratory result attached to the case file issued by the Food and Drug Authority under number (...) On the date 19/08/1433 AH, it was indicated that the item (henna) in the case did not match due to the high ash content, and it was noted that the sample is not henna but rather a mixture of plants, including indigo. These observations in the laboratory report are considered substantial technical violations that cannot be rectified or corrected. Therefore, the importer's action with the shipment,



which is laden with the observations mentioned in the laboratory report, constitutes a crime of customs smuggling according to Article (142) of the Unified Customs law, which states that: "Smuggling is the act of introducing or attempting to introduce goods into the country or exporting them or attempting to export them in violation of the applicable legislation without paying the taxes."

Customs duties, either wholly or partially, or contrary to the provisions of prohibition or restriction contained in this "law" and other regulations and laws, which leads to the acceptance of the appeal on its merits and the annulment of the initial decision as concluded, and ruling again to convict the appellant of customs smuggling in accordance with Article (142) of the Unified Customs law, and imposing a customs fine equivalent to the value of the violating item in accordance with Article (145/2) of the Unified Customs law, and obliging it to pay a confiscation equivalent to the value of the violating item in accordance with Article (145/5) of the same law, based on the import statement which indicates that the violating item (henna) has a value of (8,868) eight thousand eight hundred and sixty-eight riyals, and is subject to a customs duty of (5%). Accordingly, the appellate committee concluded the following report:

Decision

First: Acceptance of the appeal procedurally, from the applicant / Zakat, Tax and Customs Authority, against the initial Decision No. (CFR-2023-111495) issued by the 1st First Instance Customs Committee in Riyadh.

Secondly: On the merit of the appeal, the cancellation of the initial Decision, and ruling again to convict the importer of customs smuggling, and punishing him with a confiscation equivalent to the value of the contraband item, and imposing a customs fine equivalent to the value of the contraband item, for the Grounds and considerations stated in this Decision.

This decision is final; according to the provisions of paragraph (Second) of Royal Order No. (25711) dated 08/04/1445 AH.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-231028

Case No. CF-2024-231028

Principle No. 64

- The importer not loading the customs error in the notification, as long as his action with the shipment after being notified by the authority of its clearance shows the good faith of the importer and the absence of any criminal intent on his part according to what the law requires to hold the importer criminally liable.

Facts

This is to consider the appeal against the initial Decision number (CTR-2023-164226) issued by the Third First Instance Customs Committee in Riyadh, submitted by the Zakat, Tax and Customs Authority.

As for the facts of this case, they are summarized by the arrival of a shipment (electric heater) through the customs of Jeddah Islamic Port under import declaration number (...). On the date 19/12/1432 AH, I was granted permission based on a commitment not to act until the results of the examination by the competent authority appeared, and upon examining the sample by the laboratory, the report number (...) was received. On 22/04/1435 AH, since the sample is compliant, and based on this result, it was found that the relevant customs authority sent a notification to the defendant stating that she has the right to dispose of the shipment. However, the plaintiff argued that the result mentioned in the referred notification is incorrect, and that the correct result according to report number (...) On 11/01/1433 AH, which included the non-compliance of the sample in terms of the source connection and the external flexible cords, the first instance committee issued its Decision not to convict the importer of customs smuggling, obliging him to pay a fine for violating customs procedures amounting to one thousand riyals, as stated in the text and Grounds for the Decision subject to appeal, which is referred to in order to avoid repetition.

Upon reviewing the appeal committee's objection list, it became clear that it included a summary stating that the committee justified its Decision by asserting that the original assumption is that any notifications sent to the importer are considered valid, and that the importer acted on the shipment according to the notification received from the authority. Therefore, the authority indicates that the shipment consists of (heaters) that arrived in more than one model, and five analysis requests were issued. The first laboratory



report indicated that one of the models did not comply on 13/01/1433 AH. Consequently, the defendant was notified at that time not to act on the shipment and to return it according to the commitment signed by him. Regarding the notification of compliance for the other model, which the defendant relies on, the report was issued on 22/4/1435 AH. Therefore, it is evident that the importer did not respond to the customs authority in a timely manner regarding the non-compliance of the sample and did not adhere to the signed commitment, which clearly indicates the defendant's actions regarding the shipment and his violation of the signed commitment. What the importer did constitutes an attempt at customs smuggling according to Article (142) of the Unified Customs law. It concluded with a request to convict the importer of customs smuggling and to impose a customs fine equivalent to the value of the violating shipment and to obligate him to pay an amount equivalent to the value of the violating shipment as a confiscation substitute. And I request the response from the appellant against her on 28/01/2024 and enabling her to exercise her right to respond for a period of (45) days without submitting the required answer, and based on paragraph (1) of Article (35) of the rules of operation of the Zakat, Tax, and Customs Committees, the committee decided to rule on the case in light of the documents available thereto. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.

Grounds

After reviewing the unified customs law of the Gulf Cooperation Council countries approved by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the relevant regulations and laws. Since the appellant was notified of the initial Decision on 28/12/2023, and submitted the appeal against the Decision on 25/01/2024, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established for its conduct as stipulated in Article (163) of the Unified Customs law. Since there is no blame on the reviewing authority for accepting the reasons for the decision subject to appeal without adding anything whenever it sees in these reasons what suffices to omit any new arguments, because in its support of the decision based on its reasons, it implies that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. This is not affected by what the appellant argued that the shipment consists of (heaters) that came in more than one model, and accordingly, five analysis requests were issued, and the first laboratory report stated that one of the models did not comply, and another report was issued for one of the models confirming compliance with the specifications. The importer acted with the shipment based on the letter sent to him from the Jeddah Islamic Port Customs attached to the case file, which stated that the shipment was cleared and that the importer could dispose of the goods. Since the rulings of conviction



are based on certainty and assurance, not on doubt, suspicion, and conjecture, it cannot be held against the appellant the customs error in the notification. Moreover, the importer's action with the shipment after being notified by the authority of its clearance indicates the good faith of the importer and the absence of any criminal intent on his part, as required by the law to hold the importer criminally liable. Therefore, it is necessary to conclude that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and necessitates its rejection. Accordingly, the committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant / the General Authority of Zakat and Tax, against the initial Decision No. (CTR-2023-164226), issued by the Third First Instance Customs Committee in Riyadh.

Secondly: Rejection of the appeal on its merits and that is for the reasons and considerations stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-226729
Case No. PC-2023-226729

Principle No. 65

- The non-compliance of the item (fitness coffee blend) with the labeling of the phrase "coffee blend for fitness," which is one of the promotional phrases, is considered one of the non-essential observations that do not affect consumer deception and the safety of using the mentioned product.

Principle No. 66

- The non-compliance of the item (Original Coffee Blend) due to the lack of the item's name written in Arabic on the packaging is considered one of the non-material observations that do not affect consumer deception and the safety of using the product in question.

Facts

This is to consider the appeal against the initial Decision number (CSR-2023-112048) issued by the 2nd First Instance Customs Committee in Riyadh.

As for the facts of this case, they are summarized by the arrival of a shipment (various coffee) through the Islamic Port of Jeddah Customs under import declaration number (90222) dated 11/06/1436 AH corresponding to 01/04/2015 AD. It was released based on a commitment not to dispose of it until the result of the competent authority appears. Upon examining a sample of (fitness coffee blend), the response indicated non-compliance with the phrase (fitness coffee blend) as it is a promotional phrase. Upon examining a sample of (original coffee blend), the response indicated that the sample did not pass the specification related to writing the product name in Arabic on the package. The importer was contacted by customs to return the shipment, but he did not respond. The first instance committee issued its Decision to convict the importer of customs smuggling and impose the associated penalties, as stated in the text and Grounds for the First Instance Decision subject to appeal, which is referred to in order to avoid repetition.



Upon reviewing the appeal list submitted, the appellate customs committee found that it includes a summary indicating that the result of the report shows that the sample did not pass. The report clarifies that the violation is procedural and not substantive, as handled by customs and the committee, noting that it can be corrected in the product data card. As for the other tests of the product, they have been passed, and the test that was not passed is one of the procedural tests that do not rise to the level of a crime or an attempt at the crime of customs smuggling. The appealing institution demands the application of the circular regarding the mechanism for dealing with goods that do not meet specifications and the application of the procedures taken as long as the violation is procedural and does not affect the health or safety of the consumer nor impact the quality of the product. Based on the above, the appealing institution requests the cancellation of the contested Decision.

Upon reviewing the response memorandum submitted by the authority, the appellate customs committee found that it summarizes that the institution's claim is entirely incorrect because the institution initially did not respond to the customs upon receiving notifications sent to it via the officially registered addresses it provided. It is not possible for any shipment to exit through the customs outlet and be temporarily cleared without taking a commitment not to act until the laboratory results are received. Therefore, denying those notifications and claiming their invalidity is rejected considering that the document exists and was previously presented in the case file before the First Instance Committee. As for what the appellant claims that the violation is procedural and not technical, the authority indicates that the product in question is food (coffee), which is a material that has a direct connection with the consumer as it affects their health and financial resources due to the purchase of goods that do not comply with the approved specifications and standards. This confirms that it is a technical and substantive violation that directly affects the health of its consumers and cannot be considered merely a procedural violation as the institution mentioned. The authority confirms that the Grounds justified by the appellant do not exempt it from imposing a penalty on it, especially since the items in question do not comply with the specifications and standards. Based on the above, the authority requests the committee to reject the appeal and uphold the initial Decision in all that it ruled. After reviewing the case file and the appeal submitted by the appellant and the authority's response to it, the committee found that the case is ready for a Decision in its current state after informing the committee of the facts of the case and the sufficiency of what has been presented to form its conviction and rule on it in light of the Grounds on which the appeal was based.



Grounds



After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws.

Since the appellant was notified of the initial Decision on 24/10/2023, and submitted the appeal against the Decision on 23/11/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law. Whereas it is established in the rules of litigation that the proper application of the law is an obligation on the authority examining the case, and it shall rule on its own without the need for a request from the parties, thus the authority examining the case has broad discretion in assessing the facts and giving them the appropriate description and correct classification without being bound by the classification of the prosecution or its opponent, in light of what it is convinced of and the state of the evidence and the inferences drawn from it, relying on it and taking it as a basis for its ruling as long as the documents related to it within the case file do not contradict what has been inferred and what its conviction has settled on to resolve the dispute, and that its inference is sound, reasonable, and leads to the result it has reached, which is consistent with what Article (153) of the Criminal Procedure law states, which stipulates that "the court is not bound by the description contained in the indictment and must give the act the description it deserves, even if it contradicts the description in the indictment..."; and whereas according to the report of the result of examining the sample (Fitness Coffee Blend), the violation in question relates to the recording of the phrase (Slimming Coffee Blend), which is an advertising phrase, and the result of examining the sample (Original Coffee Blend) was linked to the failure to record the name of the product in Arabic on the package. Since these violations have been established by the customs appellate court's practice as non-essential observations that do not affect consumer deception and the safety of using the imported product, especially since the samples have passed other fields of testing, it follows that the importer's action regarding the product in question, which is burdened with such an observation, constitutes in reality a consideration of it as a procedural observation that does not rise, in the case of dealing with the shipment with its existence, to classify the importer's action with the shipment as being burdened with that observation as constituting customs smuggling. Therefore, it is decided to annul the initial Decision in all that it ruled against the importer. However, since the importer violated the commitment taken from him and acted with the



shipment without notifying customs, it is decided to consider the importer's action a violation governed by Article (31/6) of the executive regulations of the Customs law, which results in imposing a financial penalty on the importer of (500) five hundred riyals for each violating item, making the total amount demanded from the importer (1,000) one thousand riyals, in application of what Article (31/6) of the executive regulations of the Customs law stipulates. Accordingly, the committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant/ Institution ..., commercial registration number (...), against the initial Decision number (CSR-2023-112048) issued by the 2nd First Instance Customs Committee in Riyadh.

Secondly: On its merits, the cancellation of the initial decision, and the ruling of not convicting the importer of the crime of customs smuggling, and imposing a fine for violating customs procedures in the amount of (500) five hundred riyals for each violating item, making the total amount claimed by the importer (1,000) one thousand riyals, according to Article (6/31) of the executive regulations of the unified customs law.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-222711

Case No. PC-2023-222711

Principle No. 67

- There is no blame on the reviewing party of the appeal to take the Grounds for the Decision subject to the appeal without addition, as long as it sees that these Grounds are sufficient to avoid presenting anything new, because in its support, based on its Grounds, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those Grounds contained.

Facts

This is to consider the appeal submitted by the General Authority for Zakat and Tax, against the initial Decision No. (CSR-2023-104444) issued by the 2nd First Instance Customs Committee in Riyadh.

The facts of this case can be summarized by the arrival of a shipment (17 types of candy) through the Jeddah Islamic Port Customs under import declaration number (189229) dated 05/09/1436 AH, which was allowed under a commitment not to dispose of it until the results from the competent authority were revealed. After examining the sample by the Food and Drug Authority, a report was issued (number 201509092726106) dated 25/11/1436 AH, indicating that the following items did not comply: (Nerds candy with watermelon and cherry flavor - Wonka Nerds candy with grape and strawberry - Wonka Rants candy - Wonka fruit-flavored powder candy - Gobstoppers candy - Nerds Beach Wildberry candy - Wonka candy with apple, watermelon, lemon, and cherry flavors - Original Wonka Spree candy - Bottle Caps candy) due to the lack of flavor specification and type, and for not completing the required information. The report also indicated that the following items did not comply: (Wonka fruit-flavored candy - Gobstoppers candy - Wonka Rainbow candy - Wonka Sweetarts Roll candy) due to the mismatch between the Arabic and English labels regarding flavors and types, the presence of the phrase "does not contain artificial flavors," and for not completing the required information. Additionally, the Food and Drug Authority's report indicated that the following items did not comply: (Snickers chocolate with milk - Snickers almond and caramel covered



in chocolate - Twix chocolate wafer bars) due to changes in natural properties caused by poor storage and transport, as they were placed in a non-refrigerated container. The report also stated that the item (Pepsi soft drink) did not comply due to containing calcium citrate, and there was no evidence provided to prove the safety of the product containing this substance, and for not completing the required information. The importer was contacted by customs to return the shipment, but he did not respond. The first instance committee issued its Decision not to convict the importer of customs smuggling, obliging him to pay a fine for violating customs procedures amounting to (17,000) seventeen thousand, based on classifying the violations mentioned in the report as procedural violations that do not amount to smuggling, and fining the importer one thousand riyals for each non-compliant item, as stated in the ruling and Grounds for the Decision subject to appeal to prevent repetition. Upon reviewing the appeal list submitted, the customs appellate committee found that it includes a summary indicating that the attached report from the Food and Drug Authority in the case file showed that the violating items in the case (various foods) do not comply due to several different violations as stated in that report. All these violations are considered technical and affect the quality of the product, posing a risk to the health and safety of the consumer, which necessitates a conviction for customs smuggling. Additionally, the shipment consists of prohibited goods according to Article (24) of the Unified Customs law, and the handling of the released shipment under a guarantee is considered a violation of Article (56) and constitutes a customs smuggling crime under Article (142) of the Unified Customs law. Therefore, the authority requests the conviction of the institution for customs smuggling and obliges it to pay a customs fine equivalent to three times the value of the goods and to pay an amount equivalent to the value of the goods as a confiscation substitute. After reviewing the case file and the appeal submitted by the authority, the committee found that the case is ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what has been presented to form its conviction and rule on it in light of the Grounds on which the appeal was based.

Grounds

After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws. Since the appellant was notified of the initial Decision on 13/09/2023, and submitted the appeal on 05/10/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.



Since there is no reproach against the reviewing authority for taking the Grounds of the Decision subject to the appeal without adding anything whenever it sees that these Grounds are sufficient to negate the need for any new arguments, because in its support, based on its Grounds, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those Grounds contained. And since the Grounds for the Decision subject to the appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the Decision, which makes the appeal without any supporting basis, thus necessitating its rejection. Therefore, the appellate committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, submitted by the General Authority of Zakat and Tax and Customs, against the initial Decision No. (CSR-2023-104444) issued by the 2nd First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on the merits, and the initial Decision is upheld in all that it ruled, for the Grounds and considerations stated in this Decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-170612
Case No. PC-2022-123521

Principle No. 68

- The mere breach of the duties of inspecting the vehicle is not sufficient on its own to prove involvement in the completion of the customs smuggling operation and to consider the individual as an active participant or partner in it, as long as the prosecution has not provided strong evidence or indications that establish the defendant's connection to the arrangement for the smuggling operation as an active participant or partner with the other person involved in the circumstances of the case.

Facts

This is to consider the appeal submitted by/..., national ID number (...), against the initial decision number (89/1) for the year 1439 AH, issued by the 1st First Instance Customs Committee in Riyadh, whose ruling is as follows:

- 1- Condemnation of the citizen ... Under passport number (...), in absentia for customs smuggling, and the employee..., civil registration number (...). In person regarding the customs smuggling as stated in the facts and Grounds for the Decision.
- 2-Obligating the mentioned parties to jointly pay a customs fine equivalent to the value of the seized items, an amount of (54,650) fifty-four thousand six hundred and fifty riyals.
- 3-To obligate the mentioned parties to jointly pay the value of the confiscated items, an amount of (54,650) fifty-four thousand six hundred and fifty riyals as a substitute for confiscation, in accordance with the provisions of Article (145/5) of the Unified Customs law, and for the customs to return the confiscated items to their source, making the total fines demanded from the mentioned parties (109,300) one hundred nine thousand three hundred riyals.
- 4- Not confiscating the means of transport of type (...) Plate No. (...) As explained by the Grounds.

Since the appellant was notified of the Decision subject to the appeal on 22/06/2020, and submitted the appeal on 13/07/2020, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time period established by Article (163) of the Unified Customs law.



As for the facts of the case, they can be summarized as follows: On 24/03/1435 AH, a car of type (...) was brought to the Kingdom. The board number (...) is led by ... Accompanying him is the citizen ... The nationality according to the passport with the number (...), through the modern customs, and the car was automatically transferred to the customs supervisor ... The one who took the customs clearance card for the car found that it was referred to the live animals department for inspection and crossed out the referral to the animals and signed the clearance card without inspecting the car, handing the card to the driver in preparation for the car's departure to the customs yard. At that point, the gate inspector noticed that there was a crossing out on the clearance card and saw cages (birds and dogs) inside the car and reported it to the shift supervisor, and the car was returned. Upon inspection, a total of (4750) birds, (20) parrots, (30) pigeons, and (17) dogs were found, and a seizure report was issued with the number (...). On the date 24/03/1435 AH, and upon investigating the parties involved in the case, it became clear that the cages and the birds and animals they contained were not hidden, as they were placed in an open manner, and the citizen acknowledged ... with the proceeds of the seized items and that he purchased them from ... For the purpose of trade, the customs authority has returned the seized items to their source after collecting a fine for violating procedures and obtaining a commitment from the driver not to repeat this in the future. The first instance committee issued its Decision as stated in its ruling based on the fact that the customs officer ... The cancellation of the transfer on the referral form to the live media department for inspection, and signing it upon completing the car procedures constitutes a breach of his job duties, which makes his action a participation in the criminal responsibility stipulated in Article (144) of the Unified Customs law. His action is also considered customs smuggling according to the provisions of Articles (142) and (143) of the same law, and it has led to the application of penalties against the defendant as stated in the ruling of the Decision.

Upon reviewing the objection list submitted by the appellant, the customs appeal committee found that its summary mentioned that the procedure followed in the customs during times of heavy traffic of vehicles allows for the approval of the cancellation of the conversion form to live means to prevent congestion and accumulation of vehicles, with the approval of the head of the shift. In many previous cases, when such a situation is discovered, the customs administration is notified, and it then directs the specialists to apply a violation of customs procedures by returning the seized items to their source after paying the financial fine and obtaining a commitment not to repeat this in the future, in accordance with Article (31) of the executive regulations of the unified customs law, which was done in this case. It is inconceivable that a violation of customs procedures would be applied, the fine collected, and the seized items returned to their source with a commitment taken from the perpetrators, and then a Decision is issued convicting the appellant of customs smuggling. The appellant also stated that he is willing to confront the owner of the seized items and confirm that there is no relationship between them and no interest that would require facilitating the entry of the seized items, as the First Instance Committee did not request the owner of the seized items to attend the hearing to confront the appellant and verify his relationship with the appellant, despite the presence of addresses clarified in the seizure report. He also stated that he is neither a partner nor an



assistant in the smuggling of the seized items, and none of the actions stipulated in Article (154) of the unified customs law apply to him, and thus the criminal liability stipulated in Article (144) of the same law has not been established against him. Furthermore, following this case, he was convicted of the crime of customs smuggling, and the customs conducted an investigation with him, and a Decision was issued to transfer him from the Al-Haditha customs to the General Administration of Auditing at the Customs Authority headquarters in Riyadh, as his actions were in good faith and did not involve any intent to facilitate the entry of the seized items, and he did not commit any of the acts of customs smuggling. The list concluded with a request to accept the appeal procedurally for being submitted within the legal period, and to rule that the appellant is not guilty of the crime of customs smuggling according to the Grounds he mentioned.

A response memo from the authority was received via the Automated System of the Secretariat dated 07/03/2023, which summarized that the customs employee had breached his job duties by canceling a transfer on the referral form to the live means department for inspection and signing off on the vehicle's clearance procedures. Investigations also indicated that the cages were not hidden but were exposed, in addition to the fact that the case is fundamentally about customs smuggling, represented by the defendants' attempt to introduce goods in violation of the necessary customs procedures as stipulated in Article (142) of the Unified Customs law, and Article (143) in paragraph (6) of the same law. Based on what has been mentioned, customs smuggling penalties outlined in Article (145) in paragraphs (5-4) of the same law must be applied. It has also been established that the elements of the crime of customs smuggling exist against the defendants due to their attempt to introduce goods whose entry into the country is restricted. The memo concluded with a request to reject the appeal submitted by ... And support for the initial Decision in all that it ruled. On Thursday, April 18, 2024, the Customs Appeals Committee in Riyadh held its hearing to consider the appeal submitted by the concerned party against decision No. (89/1) for the year 1439 AH, issued by the 1st First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based and the response of the authority thereto.

Grounds

Whereas the appellate committee, upon reviewing the appeal submitted by the concerned party and the contents of the case file, found that the reasons stated in the initial decision for convicting the appellant of customs smuggling were based on the employee's failure to fulfill his duties and the instructions communicated to him regarding the completion of the vehicle inspection procedures. The response of the authority to the submitted appeal confirmed what the initial decision concluded regarding the appellant,



referring to the reasons stated in the initial decision for convicting the appellant by mentioning his failure to follow the necessary duties during the vehicle inspection, especially since the investigation results showed that the cages were exposed and not hidden; thus, what the defendant did was an attempt to smuggle goods as indicated in the authority's response. It is established that for the conviction of the appellant for customs smuggling to be valid, it is necessary to clarify the appellant's involvement in the smuggling operation as either a perpetrator or an accomplice by explaining the relationship that connects him with the owner of the seized goods claimed to be smuggled. Merely failing to fulfill the duties of inspecting the vehicle is not sufficient on its own to prove the appellant's involvement in completing the customs smuggling operation and to consider him a perpetrator or accomplice, as long as the prosecution has not provided strong evidence or indications that prove the appellant's relationship in arranging the smuggling operation as a perpetrator or accomplice with the other person involved in the circumstances of the case. The authority did not provide with its response any evidence that confirms the appellant's relationship with the smuggling operation as previously established, and it merely reiterated what was included in the reasons for the initial decision regarding the conviction of the employee, considering his failure to fulfill his duties, which proved insufficient to establish the conviction against the appellant. The authority is responsible for holding its employees accountable disciplinarily and behaviorally if it sees their failure to perform their duties and follow its instructions. Therefore, the appellate committee concluded the following report:

Decision

- 1- The acceptance of the appeal procedurally, submitted by/ ..., national ID number (...), against the initial decision number (89/1) for the year 1439 AH, issued by the 1st First Instance Customs Committee in Riyadh.
- 2- Acceptance of the appeal on its merits, and the annulment of what was decided by the initial ruling against the appellant, without anything else, for the reasons and considerations stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-227629
Case No. PC-2023-227629

Principle No. 69

- Hiding the seized items inside the cavity is nothing but a confirmation that they are materials that are not allowed to be imported.

Facts

This is to consider the appeal against the initial Decision number (CTR-2023-121158) issued by the Third First Instance Customs Committee in Riyadh.

The facts of this case can be summarized as follows: while the defendant was approaching King Fahd Bridge, on a vehicle of type (...). The vehicle with plate number (...) was subjected to inspection, which resulted in the discovery of (618) canaries whose entry into the kingdom was restricted. They were found hidden inside the vehicle's roof cavity after it was dismantled, and their presence was not declared by the defendant before the inspection of her vehicle. She also acknowledged that the seized items belong to her personally, and there is a previous seizure report numbered (...). On the date 23/09/1438 AH, a report was prepared regarding the incident with the number (...). On 27/06/1441 AH, the First Instance Committee issued its Decision to convict the importer of customs smuggling and to impose the associated penalties, as stated in the text and Grounds for the Decision subject to appeal, which is referred to in order to avoid repetition. Upon reviewing the objection list submitted, the appellate customs committee found that it included a summary stating that based on Article (142) of the Unified Customs law, it does not apply to the incident in question because the aforementioned article did not mention the importation of live birds, as the birds were not initially prohibited, but rather due to a temporary reason, and the prohibition would cease once the reason is removed, which necessitates the cancellation of the Decision under appeal. Additionally, the quantity mentioned in the Decision is incorrect as the quantity is close to a hundred birds; the vehicle in which the quantity was seized cannot accommodate all that quantity of birds, and the appellant did not intend to smuggle the seized items, and that their inclusion in the vehicle was to ensure the safe arrival of



the birds. It concluded with a request to cancel the initial Decision in paragraphs (2, 3, and 4), and to apply paragraph (145/3) instead of paragraph (145/4). And I request the response from the appellant against her on 10/12/2023 and to enable her right to respond for a period of (45) days without submitting the required answer, and based on paragraph (1) of Article (35) of the rules of operation of the Zakat, tax, and customs Committees, the committee decided to rule on the case in light of the documents available thereto. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.

Grounds

After reviewing the Unified Customs law of the Gulf Cooperation Council countries issued by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the Zakat, Tax, and Customs Committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the related regulations and laws.

Since the appellant was notified of the initial Decision on 12/11/2023, and submitted the appeal against the Decision on 10/12/2023, this entails the acceptance of the appeal procedurally for being submitted by a party with standing within the prescribed period for its conduct as stipulated in Article (163) of the Unified Customs law. Furthermore, there is no reproach against the authority reviewing the appeal for adopting the Grounds for the Decision subject to the appeal without addition whenever it finds in these Grounds sufficient justification to refrain from introducing anything new, as its support is based on its Grounds indicating that it did not find in the objections raised against it anything that warrants a response beyond what those Grounds contained. Moreover, the argument presented by the appellant in its appeal that the seized items are not prohibited materials is rejected, considering that the Unified Customs law has defined the crime of customs smuggling in Article (142) as follows: ". Smuggling is the act of bringing or attempting to bring goods into the country or taking them out, or attempting to take them out in violation of the applicable legislation, without paying the customs duties "fees" in whole or in part, or contrary to the provisions of prohibition or restriction contained in this law "law" and other laws and laws, and Article (143) of the same law which states that: "The following is specifically included in the definition of smuggling: 6 - The smuggling of goods in the entry or exit of the customs circle without declaring them, which proves that what the appellant has done is considered customs smuggling under the law. As for the claim that the



quantity mentioned in the Decision is incorrect and that the actual number is approximately one hundred birds, this is an unsupported statement as the appellant initially acknowledged in the seizure report that the number of seized items is (618). Regarding the claim that hiding the birds inside the vehicle's cavity was for their protection and not for smuggling, hiding the seized items inside the cavity only confirms her knowledge that they are materials not permitted for import. The committee, upon reviewing the case file and the seizure reports and the investigation with the importer, found that the First Instance Committee imposed a prison sentence and confiscation of the means of transport used in the smuggling. Considering the type of shipment and its value, and since this is the first time the importer has been convicted of customs smuggling, the committee decided to disregard the prison sentence and cancel the paragraph related to the confiscation of the means of transport from the Decision. Since the Grounds for the Decision under appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the Decision, which makes the appeal unsupported and necessitates its rejection. Accordingly, the committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant/ ... , ... Nationality, residence number (...), against the initial Decision number (CTR-2023-121158), issued by the Third First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on its merits and upheld the initial decision regarding the conviction for customs smuggling, the imposed customs fine, and the confiscation of the seized items in the case, while dismissing the prison sentence, and canceling the fourth paragraph of the initial decision related to the confiscation of the means of transport, for the reasons and considerations stated in this decision.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-178932
Case No. PC-2022-94544

Principle No. 70

- The fact that the appellant mentions his request for the shipment in a regular manner through an external site does not affect the validity of the decision, as it does not contradict the established principle of importing those prohibited items.

Facts

This is to consider the appeal submitted by/ ..., national ID number (...), against the First Instance Decision number (CTR - 2022 - 1884), issued by the third First Instance Customs Committee in Riyadh, which ruled as follows:

- 1-Condemnation/ ..., Saudi nationality, ID number: (...) In person with customs smuggling, according to Article (142) of the Unified Customs law.
- 2-Obligating him to a customs fine of (1,000) one thousand riyals for each pen, totaling (10,000) ten thousand riyals according to Ministerial Decision No. (2597) dated 24/07/1439 AH.
- 3-Confiscation of the seized items subject to the lawsuit, in accordance with Article (145/5) of the same law.

Since the appellant was notified of the Decision subject to the appeal on 05/04/2023, and submitted the appeal on 02/05/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the prescribed period for its conduct as stipulated in Article (163) of the Unified Customs law.

As for the facts of the case, they can be summarized as follows: a postal package arrived from (...) Through the carrier (...) In the name of the defendant, and while the customs inspector was inspecting the shipment under bill number (...) and listed in the import statement number (...) and it is reported that it consists of (marker pens) with a total of (10) pens containing cameras and storage units, and a seizure report was prepared with the number (...). On 16/04/1443 AH, the First Instance Committee issued its Decision as stated in its ruling, based on the fact that the seized items are considered prohibited from entering the



Kingdom, and attempting to smuggle them in unlawfully is considered customs smuggling under Article (142) of the Unified Customs law. Upon reviewing the objection list submitted by the appellant, the appellate customs committee found that its summary mentioned that the committee issued its Decision in absentia without hearing his statements and allowing him to defend himself. It was noted that he attended the hearing, but the members of the panel were not present, and that the crime of customs smuggling is absent in the incident subject to the lawsuit due to the lack of both its material and moral elements, considering that the shipment was from the site (...) and which he requested in an orderly manner through the website. The appellant also points out that there is no crime or punishment except by text, and that the original assumption about a person is good faith. The memorandum concluded with a request to accept the objection procedurally, and to reconsider the Decision and rule again of non-conviction for the crime of customs smuggling and to cancel the imposed fine, and to suffice with the confiscation of the order. On Thursday, January 4, 2024, the Customs Appeals Committee in Riyadh held a hearing to consider the appeal submitted by the concerned party regarding Decision (CTR - 2022 - 1884), issued by the Third First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a Decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it.

Grounds



Since there is no reproach against the reviewing authority for taking the reasons of the decision subject to the appeal without addition whenever it sees that these reasons suffice to avoid presenting anything new, because in its support, based on its reasons, it implies that it did not find in the objections raised against it anything that deserves a response beyond what those reasons contained. Moreover, the appellant's mention in his statement that the decision was issued in absentia against him does not detract from this, as it is established through the narration of the facts of the initial decision that he was notified of the dates of the two hearings held on Wednesday, 11/02/1444 AH, and Sunday, 20/03/1444 AH, without his attendance at those hearings. Additionally, the appellant's request for the transmission in a regular manner through the website (...) does not undermine the validity of the decision. This is because it does not contradict the established principle of importing those prohibited items for which he was convicted in the decision under appeal. Since the reasons for the decision under appeal are sufficient to support its ruling, it is necessary to state that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and therefore must be rejected. Accordingly, the appellate committee concluded to report the following:



Decision

- 1- Acceptance of the appeal procedurally, submitted by/ ... National ID number (...), against the initial Decision number (CTR – 2022 - 1884), issued by the Third First Instance Customs Committee in Riyadh.
- 2- Rejection of the appeal on its merits and the support of the initial Decision in all that it ruled, for the Grounds and considerations stated in this Decision.



Customs duties



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-231386
Case No. PC-2024-231386

Principle No. 71

- The difference in my lab results is not considered, as both results came in significantly above the allowed limit.

Principle No. 72

- The customs are the qualified technical administration to determine the value of diesel.

Facts

This is to consider the appeal against Decision number (CTR-2024-226611) issued by the Third First Instance Customs Committee in Riyadh, submitted by/..., National ID number (...). License to practice law number (...), in his capacity as the agent of the owner of the institution/ ..., national ID number (...), based on the agency number (...). issued on 29/05/1445 AH.

As for the facts of this case, they can be summarized as follows: The institution exported a shipment through the Al-Batha customs, declaring it as (preparations added to cement, tiles, or concrete "construction material treatment chemicals"). Samples were referred to the laboratory, and the result was positive, with the first sample containing (diesel) at a rate of (63.81%), and the second sample containing (diesel) at a rate of (54.93%). This percentage exceeds the permissible limit of (5%). The First Instance Committee issued its Decision to convict the institution of customs smuggling and impose the associated penalties as stated in the Decision subject to appeal, based on the fact that diesel is considered one of the items restricted for export outside the Kingdom with the approval of the Ministry of Petroleum and Mineral Resources at that time and Saudi Aramco according to the royal order No. (355/M B) dated 25/04/1429 AH, and that attempting to export this material without obtaining the approval of the relevant authorities constitutes customs smuggling according to articles (142) and (143) of the unified customs law.



Upon reviewing the objection list submitted, the appellate customs committee found that it includes a summary indicating that there is a contradiction in the results of the laboratory analysis of the samples. The report issued by the (Compliance) laboratory confirmed that the percentage of diesel in the sample is (63.81%), while the report issued by the (...) laboratory confirmed that... The percentage of diesel in the sample is (54.93%), and these results prove the difference in the samples sent to the laboratories and their non-affiliation to a single importer. It is known that the technical guide does not differ from another technical guide except in the case of differing samples subject to analysis. The institution also argues against the specialized committee's violation of the General Director of Customs Circular No. (553/43/M) dated 20/07/1433 AH, as it only withdrew the two conflicting samples and did not analyze a weighted sample. Additionally, the customs authority violated the technical procedures in sampling as stated in the General Director of Customs Circular No. (317/11/M) dated 09/04/1435 AH, titled "Controls for Preventing the Export of Petroleum Derivatives," as the sample was taken from the shipment while it was loaded, leading to an incorrect result. Furthermore, the institution exported hundreds of trucks from the same source, which were approved except for the statement subject to this lawsuit, and this is considered evidence of the non-affiliation of the samples sent to the laboratory to the shipment in question. In addition, the customs authority violated the Principles of value calculation by estimating it arbitrarily and did not indicate any result relied upon in determining the percentage of diesel. The regulation concluded with a request to overturn the initial Decision in all its provisions and to rule that the institution is not guilty of customs smuggling.

And I request the response from the appellant against her on 06/02/2024 and to enable her right to respond for a period of (45) days, and she did not submit the required answer. Based on paragraph (1) of Article (35) of the rules of work of the Zakat, Tax, and Customs Committees, the committee decided to rule on the case in light of the documents available thereto. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.

Grounds

After reviewing the unified customs law of the Gulf Cooperation Council countries approved by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the relevant regulations and laws. Since the appellant was notified of the initial Decision on 29/01/2024, and submitted the appeal on 04/02/2024, this entails the acceptance of the appeal procedurally as it was submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.



After reviewing the case file and the documents it contained, and considering the defenses presented by the appellant, it is noted that there is no reproach against the reviewing authority for adopting the reasons for the decision subject to appeal without adding anything new, whenever it finds in these reasons sufficient justification to refrain from introducing any new evidence. This is because its support is based on its reasons, indicating that it did not find in the objections raised against it anything that warrants a response beyond what those reasons included. The appellant's claim regarding the inaccuracy of the laboratory analysis results does not undermine this, given that it is established that all samples exceeded the permissible limit of (5%) based on the royal order No. (355/M B) dated 25/04/1429 AH. Furthermore, the discrepancy between the two laboratory results is not significant, as both results were significantly above the permissible limit, which necessitates disregarding the appellant's argument in this regard. As for the appellant's mention in her statement regarding the customs not adhering to the principles of value calculation, this is refuted considering that the pricing of diesel was set at (2.8 Saudi Riyals) per liter, which is the price approved by the producing company after excluding the value of support. Moreover, customs is the competent technical authority to determine the value of the imported item, which is not affected by mere objections sent. Since the reasons for the decision subject to appeal are sufficient to support its ruling, it is necessary to conclude that the defenses presented do not affect the outcome of the decision, rendering the appeal unsupported and necessitating its rejection. Accordingly, the committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant/ institution ..., commercial registration number (...), owned by/ ..., national ID number (...), against the initial Decision number (CTR-2024-226611) issued by the third First Instance Customs Committee in Riyadh.

Secondly: The appeal is rejected on the merits, and the initial decision is upheld in all that it ruled, for the reasons and considerations stated in this decision.

Similar Decisions:

- Decision of the Appeals Committee in Riyadh No. (PC-184554-2023) dated 26/09/2024.
- Decision of the Appeals Committee in Riyadh No. (PC-171145-2023) dated 04/06/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-231722
Case No. PC-2023-231722

Principle No. 73

- It is unacceptable for a gold trader in the kingdom to be unaware of the obligation to disclose the amount of gold they possess, as in this capacity, they are subject to the information required by the laws and regulations related to the gold trade.

Facts

This is to consider the appeal against the initial Decision number (CTR-2024-171106) issued by the Third First Instance Customs Committee in Riyadh, submitted by/..., Civil Registration Number (...).

The facts of this case can be summarized as follows: during the arrival of the defendant, accompanied by the vehicle driver named/..., Nationality, Civil Registry Number (...) At the Al-Batha customs, during a personal search, (748) grams of gold jewelry were found, distributed inside their personal pockets, and were not declared. The defendant admitted that the ownership belongs to him personally. A seizure report No. (305090) was prepared on 05/12/1443 AH. The first instance committee issued its Decision to convict the defendant of customs smuggling and impose the associated penalties, as stated in the text and Grounds for the Decision subject to appeal, to avoid repetition.

Upon reviewing the appeal committee's objection list, it became clear that it included a summary of the argument that there was no intent or criminal purpose on his part, and that he did not hide the seized items in a concealed place but rather placed them in his personal pockets in good faith; due to his lack of knowledge of the regulations and laws. He also argued that the library employee who was with him had the intention to accept the settlement by pressing the icon for not agreeing to the settlement. The appeal concluded with a request to overturn the ruling and revert to the customs dispute settlement Decision No. (4270). And I request the response from the appellant against her on 12/02/2024 and to enable her right to respond for a period of (45) days, and she did not submit the required answer. Based on paragraph (1) of Article (35) of the rules of operation of the Zakat, tax, and customs Committees, the committee decided to rule on the case in light of the documents available thereto. After reviewing the case file and the appeal submitted by the appellant, the committee found that the case was ready for a decision in its current state after being informed of the facts of the case and the sufficiency of what was presented to form its conviction and rule on it in light of the reasons on which the appeal was based.



Grounds



After reviewing the unified customs law of the Gulf Cooperation Council countries approved by Royal Decree No. (M/41) dated 03/11/1423 AH, and after reviewing the rules of operation for the zakat, tax, and customs committees issued by Royal Order No. (25711) dated 08/4/1445 AH, and the relevant regulations and laws. Since the appellant was notified of the initial Decision on 24/01/2024, and submitted the appeal on 12/02/2024, this entails the acceptance of the appeal procedurally as it was submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

Whereas there is no reproach against the reviewing authority for taking the Grounds of the Decision subject to appeal without addition whenever it sees in these Grounds what suffices to avoid presenting anything new, because in its support, based on its Grounds, it implies that it did not find in the objections raised against it anything that deserves a response beyond what those Grounds contained. This is not undermined by what the appellant mentioned in his appeal statement that he had no intention of smuggling gold, evidenced by the fact that it was not concealed. Therefore, Article (23/8) of the executive regulations of the Anti-Money Laundering Law states: "If a traveler carries gold bars, precious metals, or gemstones or jewelry and the like upon exiting or entering the Kingdom, with a value of (60,000) sixty thousand riyals or more, he must refer to customs at the port to declare it and present the purchase invoice to verify its value. If it is found to be for commercial purposes, the unified customs law and its executive regulations shall apply to him." Additionally, Article (142) of the unified customs law states that: Smuggling is the introduction or attempt to introduce goods into the country or to remove them, or an attempt to remove them in violation of the applicable legislation, without paying the customs duties "fees" in whole or in part, or contrary to the provisions of prohibition or restriction contained in this law "law" and other laws and laws." Article (143) of the same law states that: " The following falls under the definition of smuggling in particular: 5 - Failure to declare in the customs circle the incoming or outgoing goods without a "competing" cargo statement, including what travelers carry of goods with a commercial nature. Therefore, the appellant's failure to disclose the amount of gold he was carrying is considered a form of customs smuggling. It is unacceptable for a gold trader in the Kingdom to be unaware of the obligation to disclose the amount of gold he possesses, as this knowledge is required by the laws and regulations related to the gold trade. As for the appellant's claim in his appeal that he intended to accept a settlement, it is rejected, considering that according to Article (151) of the Unified Customs law, which states that: A - The General Manager or his delegate, based on a written request from the concerned party, may conclude a settlement agreement in smuggling cases, whether before filing the lawsuit or during its consideration and before the issuance of the preliminary ruling, by substituting for the penalties and customs fines stipulated in Article (145) of this law "law". Therefore, upon the issuance of the committee's decision, the appellant cannot return to the amicable settlement as it has lapsed with the issuance of the First Instance Decision. Since the reasons for the decision



subject to appeal are sufficient to support its ruling, it is necessary to determine that the defenses presented do not affect the outcome of the decision, which makes the appeal unsupported and must be rejected. Accordingly, the committee concluded to report the following:

Decision

First: Acceptance of the appeal procedurally, from the applicant/ ..., Civil Registry No. (...), against the initial Decision No. (CTR-2024-171106), issued by the Third First Instance Customs Committee in Riyadh.

Secondly: The Committee dismissed the appeal on its merits and upheld the initial decision in all that it ruled, and that is for the reasons and grounds stated in this decision.

Similar Decisions:

- Decision of the Appeals Committee in Riyadh No. (PC-204059-2023) dated 12/02/2024.
- Decision of the Appeals Committee in Riyadh No. (PC-171145-2023) dated 04/06/2024.



The Customs Appeals Committee in Riyadh

Decision No. CR-2024-203054

Case No. PC-2022-127403

Principle No. 74

- The basis for the conviction report should be based on credible evidence and indications that confirm the attribution of the smuggling crime to the importer, thereby ensuring a departure from the presumption of innocence.

Facts

This is to consider the appeal submitted by/..., national ID number (...). As an agent for/..., national ID number (...), under the power of attorney number (...). On 24/12/1444 AH, issued by the electronic services of the Ministry of Justice, against the First Instance Decision No. (CSR-2022-4464), issued by the 2nd First Instance Customs Committee in Riyadh, ruling as follows:

- 1- Conviction of the defendant/ ..., national ID number (...), in absentia for customs smuggling.
- 2-Obligating him to a customs fine equivalent to twice the value of the customs duties on tobacco (17,128,500) seventeen million one hundred and twenty-eight thousand five hundred riyals.
- 3- Seizure of the quantity of (cigarettes) confiscated in the case.

Since the appellant was notified of the Decision subject to the appeal on 21/06/2023, and submitted the appeal on 16/07/2023, this entails the acceptance of the appeal procedurally for being submitted by a person with standing within the time frame established by Article (163) of the Unified Customs law.

As for the facts of the case, they are summarized by the receipt of a letter from the Director General of the Jeddah Islamic Port Customs No. (18862) dated 22/07/1443 AH, which includes that the institution ... For selling products, commercial registration number (...) The property belonging to the defendant submitted a request for the re-export of (3) containers for which no customs declaration was submitted. Upon reviewing the bill of lading for the containers, it was found that the item listed was spare parts for machines. Upon



inspecting the shipment, it became clear that it consisted of (cigarettes). Additionally, the owner of the establishment submitted different invoices regarding the actual quantity, and the type of cigarettes that were seized did not carry tax stamps or numerical codes on the packets, nor did they have the usual packaging. A seizure report was prepared with customs declaration number (280132) dated 08/06/1443 AH. The value of the contraband item amounted to (8,564,250) eight million five hundred and sixty-four thousand two hundred and fifty riyals. The first instance committee issued its Decision as previously mentioned, convicting the importer of customs smuggling and obliging him to the associated penalties based on the fact that the importer attempted to introduce restricted goods with the approval of the competent authorities without paying their customs duties, which constitutes customs smuggling according to Article (142) of the Unified Customs law.

Upon reviewing the objection list submitted by the appellant's agent, the customs appeals committee found that its summary mentioned that his client did not import the shipment mentioned in the case (cigarettes) but rather received an incorrect shipment labeled (ice cream cone machine), which he did not request or even pay for. Following this, his client authorized a customs clearance office to complete the procedures for receiving the incorrect shipment and returning it to its country of origin, where his client followed all legal procedures for the return of the incorrect shipment. The goods are present in visible and clear containers, and there is no indication of an attempt to hide them or evade their display. His client's actions are considered a procedural "violation" and not a crime of customs smuggling, and the violation here is procedural and not substantive as dealt with by customs and the customs committee, and it does not rise to the level of a crime or an attempt at customs smuggling. Furthermore, the criminal intent is absent in this incident, and the assessment of the fine in a lump sum is not in accordance with any Principles or conditions. The list concluded with a request to accept the appeal, annul the contested Decision, and acquit his client of the charges against him.

On Monday, 08/07/2024, the Customs Appeals Committee in Riyadh held its hearing to consider the submitted appeal against the initial Decision No. (CSR-2022-4464) issued by the 2nd First Instance Customs Committee in Riyadh. After reviewing the case file and the appeal submitted by the appellant, and noting the lack of response from both the customs and the public prosecution after the public prosecution was requested to respond to the submitted appeal and to inquire from the public prosecution and the authority as the enforcement body on 15/08/1445 regarding (whether the three containers had not left the customs area at all or if they had been released previously and the importer then wanted to re-export them?



And when did the re-export procedures for the three containers begin? And was this request made after the customs authorities discovered the actual contents of the containers?) They were given a period of (14) days to respond without any answer from them until the date of this hearing, which leads the appeals committee to determine that the case is ready for a Decision in its current state after the committee was informed of the facts of the case and the sufficiency of what was presented to form its conviction and decide it in light of the reasons on which the appeal was based and the conduct of the public prosecution and the authority as the customs enforcement body in failing to respond to the plaintiff's appeal and answer the questions raised after they were enabled to exercise their right to respond and failed to do so.

Grounds



Where the appellant seeks to annul the initial Decision issued against him for customs smuggling on the grounds of smuggling a quantity of cigarettes and to acquit him of that charge and the consequences of his conviction, and that the most that can be held against the importer is to consider his conduct as constituting a violation of customs procedures, which consists of requesting the re-export of three containers for which no customs declaration was submitted, based on the claim that the shipment received under the documents is (an ice cream cone machine) and that it is a shipment that does not belong to him, and therefore he requested its re-export through the customs broker. The facts of the case do not indicate any attempt to conceal the true nature of the goods received for smuggling, and that what indicates the absence of intent to smuggle is the importer's non-receipt of them and his initiation of re-export procedures for the shipment to its source without benefiting from it. In order to achieve what the appellant claims regarding his lack of involvement with the seized cigarette shipment and his involvement in an attempt to smuggle it, the appellate committee, on (25/02/2024) corresponding to (15/08/1445), communicated with both the Public Prosecution and Customs as the authority responsible for the seizure to provide information regarding what the appellant mentions, especially what he argues about his request for re-export before the incident was discovered by the customs authority. Since there was no response from the Public Prosecution or the customs authority after giving them time to respond to what the appellant claims to clarify the invalidity of his conviction for customs smuggling as stated in the initial Decision, it is established that the authority reviewing the case has the power to understand the facts to achieve the case brought before it. The Public Prosecution and the customs authority did not provide anything that negates what the appellant argues regarding the non-ownership of the shipment by him, as evidenced by his request to re-export the shipment that does not belong to him, especially since this occurred – apparently – before the incident was



discovered, which leads to the conclusion that the importer did not intend to attempt to smuggle the seized goods (cigarettes). The principle in establishing a conviction is that it should be based on credible evidence and indications that confirm the validity of attributing the crime of smuggling to the importer, which leads to the disregard of the presumption of innocence. Since the Public Prosecution and the customs authority did not provide anything that would justify disregarding the presumption of innocence as previously established, this committee concludes that the evidence is insufficient to establish the validity of attributing customs smuggling to the importer and rules not to convict the importer of the charge against him of customs smuggling for the shipment of (cigarettes). It was established through what the appellant mentions that the shipment does not belong to him because he did not pay for it and that what was specifically his instead, without it reaching him, is (an ice cream cone machine); this leads to treating the seized cigarettes according to what is stipulated in the provisions of Chapter Fourteen of the Unified Customs law under Article (168). Since the matter is as mentioned, the appellate committee concluded to report the following:

Decision

- 1- Acceptance of the appeal procedurally from the applicant/ ..., national ID number (...), against the initial Decision number (CSR-2022-4464) issued by the 2nd First Instance Customs Committee in Riyadh.
- 2- Acceptance of the appeal on its merits, and the annulment of the initial Decision in all that it ruled against the appellant, and this is for the Grounds and considerations stated in this Decision.
- 3- The action taken by the Customs Authority regarding the seizures in accordance with the provisions of Chapter Fourteen of the Unified Customs law under Article (168).

Similar Decisions:

- Decision of the Appeals Committee in Riyadh No. (PC-2023-170615) dated 21/01/2024.



Detailed Principles Index

Principle No.	The subject	The principle
My appearance		
1	Lack of jurisdiction	The claim that the record of the incident was prepared before the issuance of the Royal Decree stating that: "The application of the penalties prescribed in the unified customs law related to drug and alcohol smuggling cases shall be by the criminal court," is not valid as long as the decree pertains to the procedure for accepting the lawsuit.
2	The case has been decided.	It is not permissible to reconsider a case that has already been decided and has gained the authority of the judgment; therefore, the case cannot be heard again.
3	Customs lawsuit initiation	The unified customs law requires a written letter from the (Director General) to initiate the customs case.
Prohibitions		
4	Sexual medications	The determination of the amount of customs fines for smuggling prohibited materials is governed by Ministerial Decision No. (2597) dated 24/07/1439 AH.
Constraints		
5	Bond Commitment – Hair cream – Non-compliance with specifications – pH	The customs procedure related to the completion of the entry of the shipment into the country requires the importer to take into account the general duty imposed by the customs law on the importer when dealing with the incoming shipment, which is embodied in compliance with all that the customs law and other related regulations require for the clearance of the shipment, necessitating that no action be taken regarding it in any form until it is approved and permission is granted to act upon it.
6	Camels and livestock - the death of camels	The death of camels, in light of a commitment to return them, results in the impossibility of the importer returning the camels, which undermines the apparent indication of the document submitted to prove their death.
7	Electronic shisha - not approved	The law relied upon for determining the confiscation of the means of transport is linked to the extent to which the means



		of transport itself is prepared for smuggling the seized materials, such as arranging hiding places or pockets within the means of transport for use in smuggling.
8	Bond Commitment - Footwear - Counterfeit Items	The difference in the customs declaration number mentioned in the facts of the Decision subject to appeal and what was stated in the public prosecution's indictment and the motion submitted by the Zakat, Tax, and Customs Authority does not affect the Decision subject to appeal, as the Decision referred to the public prosecution's letter, which correctly included the customs declaration and the seizure report, and this was followed by the committee's reasoning in accordance with what was mentioned in both in terms of description and value.
9	Bond Commitment - Handheld flashlights - Registered trademark	The customs inspection of the violating item, and the lack of a remark regarding the establishment of the origin indication while agreeing to release the shipment without requiring the importer to establish the origin indication before handling, results in the absence of the smuggling crime considering that the origin indication is one of the requirements for customs clearance that customs address during inspection without the need to refer the sample to the laboratory.
10	Bond Commitment - frames - non-compliance with specifications - speed test	The evidence relied upon for a conviction of smuggling does not need to be based on the competence of each piece of evidence to conclusively address every detail of the case, considering that the original premise in proving those facts is that the evidence regarding them should be supportive of one another, collectively forming the conviction of the adjudicating body.
11	Bond Commitment – Dried cake – Non-compliance with specifications – The name of the item does not indicate the nature of the product	The mismatch of items due to the name of the items not indicating the nature of the product, the difference in components between Arabic and English, and the absence of a country of origin falls under the rule of customs smuggling.
12	Bond Commitment – Scooter – Non-compliance with specifications –	The shipment has been released with a commitment not to dispose of it, which means that the importer is aware of the



	Explanatory data, instructions, and precautions	prohibition on disposing of the shipment before its approval, and violating this by the importer indicates his disregard for the commitment taken and his intention to dispose of the shipment without considering the condition of its release.
13	Bond Commitment - screens and computer - non-compliance with specifications - explanatory data and plug shape	The non-compliance of the two items (screens, computer) with the specification of the explanatory data and the shape of the plug is considered a non-essential observation that does not affect consumer deception and the safety of using the product.
14	Bond Commitment – Lighting – Non-compliance with specifications – Prevention of accidental contact	The non-compliance of a shipment of lighting supplies with the specification for preventing accidental contact with live parts is considered a technical observation, and the importer’s action regarding that item, while burdened with that violation, is deemed to constitute customs smuggling.
15	Bond Commitment - Lantern - Non-conformity - Grounding	The failure of a fixed lantern shipment to comply with grounding standards is, in fact, a technical and substantive violation that affects the quality of the product and its safe use. Therefore, the importer’s action regarding that item, while burdened with that violation, is considered to be an act of customs smuggling.
16	Bond Commitment - Lighting scout - Non-compliance with specifications - labelling	The item represented by (lighting fixture) did not include the laboratory report regarding it, except for its non-compliance in terms of labeling, which results in considering the importer's action with that item as being burdened with that violation, constituting a violation of customs procedures.
17	Bond Commitment – perfume filling machines – non-compliance with specifications – regulated frequency	The non-compliance of the shipment of perfume filling machines and their accessories due to failing the specified frequency test is considered a type of technical violation related to the quality, specifications, and safety of the product. Therefore, the importer's action regarding that item, which is burdened with that violation, is deemed to constitute customs smuggling.
18	Bond Commitment - Accessories - Non-	The importer is not exempt at the time of payment from being notified by customs about the result of the clearance of



	compliance with specifications - Symbols and composition	the shipment, given his responsibility to follow up on the clearance procedures of the shipment, which involves the usual care and diligence of a merchant in managing his business affairs.
19	Bond Commitment – perfumes – non-compliance with specifications – essential oil	If the incoming goods are not prohibited in their type and nature, but the prohibition of their entry is due to non-compliance with certain required specifications, then paragraph (2) of Article (145) of the Unified Customs law shall be applied.
20	Bond Commitment - lamps - non-compliance with specifications - electrical durability and moisture resistance testing	The status of the importer in the customs claim is linked to the person for whom the import declaration has been prepared.
21	Bond Commitment – DVD operator – non-compliance with specifications – mechanical durability and fire resistance	The importer is not authorized to determine the extent to which the shipment is related to a procedural or technical violation, and it is his duty to follow up on the matter of its approval without considering himself a judge by deciding to act on it, regardless of whether it is approved or not.
22	Bond Commitment – Nail polish – Non-compliance with specifications – Toxic metals	The failure of the importer to prove the re-exportation after being notified of the non-approval of the clearance of the shipment through the customs broker results in the conclusion of the importer's action regarding the shipment.
23	Bond Commitment - Heater - non-compliance with specifications - Labeling and instructions	In the event that the violation is related to the importer's action regarding the violating shipment contrary to the commitment taken regarding it, without it being considered as customs smuggling, it is decided to apply what is stipulated in Article (31/6) of the Executive Regulations of the Unified Customs law.
24	Sandi Covenant - Electric Stoves - Non-compliance with specifications - Labeling and explanatory data	The claim of destruction of the shipment is not valid without presenting the destruction report or any document that can verify the validity of the destruction.
25	Bond Commitment – electrical connections – non-compliance with	The non-compliance of the type of electrical connectors with the required specifications due to the flexible cable and



	specifications – flexible cable and cross-sectional area	cross-sectional area is considered a type of essential observation.
26	Bond Commitment - electrical keys and plugs - non-compliance with specifications - absence of labeling and instructions	The mismatch of items such as electrical switches and plugs due to the lack of labeling data, instructions, shape, dimensions, characteristics, and assembly is considered a type of procedural observation.
27	Bond Commitment - cosmetics - non-compliance with specifications - failure to review the concerned party in the laboratory	Customs have no concern when applying the customs law regarding the relationship between the importer and the customs clearance agent, as long as the shipment documents are prepared in the name of the importing entity, and the importer is responsible for claiming from anyone who claims to have suffered damage due thereto.
28	Bond Commitment - brake cloth and air filter - non-compliance with specifications - the sample is free of asbestos.	The release of goods with a commitment not to dispose of them requires the importer not to dispose of them in any way until they are approved and permission is granted to dispose of them.
29	Bond Commitment - Chilled fish - Non-compliance with specifications - cholera-free certificate	The laboratory report did not contain any indication that the shipment was unfit for consumption or that it contained an offence related to the safety of its consumption, but only that a cholera-free certificate was not attached to the shipment.
30	Bond Commitment – feed – ornamental fish – non-compliance with specifications – indication of origin	The assumption of proving personal use of the incoming items and not engaging in commercial transactions does not negate, as the essence of preventing the entry of materials and restricting their clearance is not related to whether they are introduced into the commercial transaction circle or not.
31	Bond Commitment - peanuts - non-compliance with specifications - failure to record the country of origin and weight in Arabic	The claim of destruction under the supervision of a government entity does not change, in light of the lack of notification to customs by the importer of the desire to destroy the shipment in question by another party. -I hope to refer to the Principles code for that-
32	Bond Commitment – Clothing – Sample does not match specifications	The uncertainty about the existence of evidence from the laboratory regarding the non-approval of the shipment, given the absence of the types' jurisdiction in the case



		documents, implies a lack of certainty about the prohibition of its approval.
33	Bond Commitment - tea - non-compliance with specifications - unfit for human consumption	The claim that other quantities have been previously imported and approved without issue does not negate the fact that the shipment in question is not sound.
34	Bond Commitment – Electric knife – Non-compliance with specifications – Input power and current and visual inspection	The non-compliance of the electric knife type regarding input power, current, and visual inspection is considered one of the essential observations that affect the health and safety of the consumer and the safety of using the imported product.
35	Bond Commitment – Electric knife – Non-compliance with specifications – Input power and current and visual inspection	The importer's claim that a long time has passed since the violation and that the customs did not inform him of the result does not align with the usual behavior of a trader who does not act on the shipment contrary to the commitment made regarding it until he has consulted with customs and knows what has been done regarding its clearance.
36	Bond Commitment - in the middle with this extra - non-compliance with specifications - the presence of aflatoxin	The request for mercy and appeal to exempt the importer from the fines imposed by the decision is outside the jurisdiction of the customs committees.
37	Bond Commitment – black tea – non-compliance with specifications – presence of coliform bacteria	The importer's claim that he still retains the shipment and is about to destroy it is not valid, as long as he did not respond to the customs in a timely manner to return the shipment according to the commitment taken regarding it.
38	Bond Commitment - lighting bulbs - non-compliance with specifications - labeling of rated power	The non-compliance of the item (lighting bulbs) with specifications regarding the labeling of rated power is considered a procedural non-essential observation that does not affect the health and safety of consumers.
39	Bond Commitment - Food products - Non-compliance with specifications - Product contamination with plastic pieces	The conviction against the importer is not established until the Grounds for not allowing its clearance are verified.



40	Bond Commitment - Damper - non-compliance with specifications - rated power factor	The appellant's argument that its handling of the shipment under the commitment was for the purpose of export outside the Kingdom is not valid, considering that the delivery of the shipment to the importer temporarily for safekeeping until it is approved by the competent authority does not constitute a clearance for it, but rather it was released in exchange for a commitment from him not to dispose of it.
41	Bond Commitment - metal rolls - non-compliance with specifications - lead in paint	The non-compliance of metal roll types due to exceeding the permissible limit of lead in the coating by more than double is considered a technical observation that affects the quality of the product.
42	Bond Commitment - metal rolls - non-compliance with specifications - lead in paint	No certificate of conformity issued by an unauthorized entity shall be recognized.
43	Sandy Covenant - Men's Footwear - Non-compliance with specifications - Horizontal slip resistance	The royal pardon is related to the nature of the penalty described by the penal description, which is represented by imprisonment, excluding penalties of a financial criminal nature.
44	Bond Commitment - batteries - non-compliance with specifications - rated capacity	The claim that a fire occurred in a warehouse adjacent to the company and that the company's warehouse and its contents, including the shipment in question, were damaged cannot be relied upon as long as the report issued regarding the fire does not prove its connection to the shipment in question.
45	Bond Commitment - batteries - non-compliance with specifications - rated capacity	The non-compliance of the item (batteries) with the rated capacity is considered a type of procedural observation.
46	Bond Commitment – Alcohol swab – Non-compliance with specifications – Violation of medical device regulation requirements	The failure of the item (alcohol swab) to comply with the requirements of the medical devices and products control regulations and the lack of a clear statement regarding the nature of the violation makes it impossible to definitively conclude that the item in question does not meet the specifications, and it is considered that the non-compliance refers to technical observations.



47	Bond Commitment – cable and power supplier – does not meet the required specifications.	The failure of the category (cable) and (power supply) to meet the required specifications is considered a technical observation that affects the safety and security of the product.
48	Bond Commitment - batteries - non-compliance with specifications - electrical capacity	The invalidity of filing a lawsuit against the importer to rule on customs smuggling after it has been established that the violation is considered to involve a procedural violation that resulted in the approval of the importer's action regarding the shipment.
49	Bond Commitment - Hotel supplies - Non-compliance with specifications and standards	The refusal to approve the clearance due to the failure to complete the requirements for the clearance of cosmetics, without the report confirming the existence of a violation in the received item or indicating that it is not permissible to act on it, or that the refusal to clear it is related to a defect in it that harms the consumer, is considered one of the procedural observations.
50	Bond Commitment - fan dynamo - non-compliance with specifications - labeling and instructions	The statement from the Ministry of Commerce regarding the shipment did not include any confirmation or certainty that the received samples are counterfeit or adulterated; rather, the ministry's observation regarding them is that they bear registered trademarks. Furthermore, what governs the handling of goods bearing registered trademarks is Article (38) of the Gulf Trademark law, approved by Royal Decree No. (M/51) dated 26/7/1435 AH.
51	Bond Commitment – Electrical tools – Non-compliance with specifications - Labeling and moisture resistance	The handling of goods is contingent upon the commitment, and as long as the commitment is not proven by acknowledgment or document, there is no crime.
52	Bond Commitment – frames – non-compliance with specifications – failure to record heat resistance rating	The failure of the category (frames) to pass due to the lack of recording the heat resistance grade without ensuring that the result includes the percentage or degree of measured heat resistance and the extent of the sample's non-compliance with the required standard is considered a procedural observation.



53	Bond Commitment - honey - non-compliance with specifications - sucrose specification - at a rate of (18.4)	The non-compliance of the item (white honey) with the sucrose specification of (18.4) without specifying that this observation renders the shipment unfit for consumption. It is considered one of the non-essential notes that do not affect consumer deception and the safety of using the product mentioned.
54	Bond Commitment - Clothing - Non-compliance with specifications - Raw material components	The non-compliance of the item (clothing) with its association with pH without stating the nature of this violation and its extent, and without attaching the detailed laboratory result, is considered one of the procedural observations.
55	Bond Commitment - Frozen chicken shawarma - Non-compliance with specifications - Containing salmonella bacteria	The absence of any indication in the prosecution's response that contradicts the validity of the destruction report submitted by the importer leads to the presumption of innocence and the fulfillment of the commitment.
56	Bond Commitment - Men's footwear - Non-compliance with specifications - Horizontal slip resistance	The violation relates to resistance to horizontal slipping, and through the laboratory report, the difference between the required specification and the condition of the sample under examination for the violating item was a slight difference of no more than (0.5%), which allows for the application of what has been customary in such discrepancies by considering this observation as a violation that the laboratory report classified among the non-essential observations that do not affect consumer deception and the safety of using the imported product, especially since the sample has passed other fields of testing.
57	Sandy Covenant - Men's Footwear - Non-compliance with specifications - Bend resistance and abrasion resistance of the outsole	The violation related to the non-compliance of the sample with the bending resistance and abrasion resistance of the outer sole is not considered one of the essential observations that affect the safety and quality of the product or deceive the consumer regarding its reality and material, especially since the sample has passed other testing fields. This implies that the importer's action regarding the item in question, which is burdened with such an observation, constitutes in reality a consideration of it as a remark of a procedural nature that



		does not elevate, in the case of handling the shipment with its presence, to classify the importer's action with the shipment as customs smuggling.
58	Bond Commitment - mixtures of grain flour with flour - non-compliance with specifications - the presence of the word "poppy"	The dispute between the importer and the authority is considered resolved based on the customs certificate as stated in the response memorandum confirming that the importer has fulfilled the commitment.
59	Bond Commitment - electrical tools - non-compliance with specifications - electrical durability	The correction of the goods subject to the lawsuit proves that the importer has committed to the customs as promised, and thus the matter of his conviction is no longer based on a valid foundation of reality.
60	Bond Commitment - biscuits and sweets - non-compliance with specifications - no review by the merchant	The statement from the Food and Drug Authority indicates that it does not mention the phrase (sample non-compliance) and that all that the letter concluded is, in fact, (the final result is incomplete due to the merchant's review not being completed), and that such a phrase cannot definitively indicate the existence of a technical violation in the sample.
61	Bond Commitment – adhesive stickers – indication of origin and the registered commitment on it	The violation related to the shipment, represented by its non-compliance with specifications regarding the establishment of the origin indication, is considered a type of procedural violation that does not affect the quality of the product or harm consumer safety, and does not rise to the level of convicting the importer of customs smuggling.
62	Bond Commitment - tires - non-compliance with specifications - rolling resistance	The trader's act of re-exporting the goods subject to the commitment is considered part of his obligation to the commitment not to dispose of them.
63	Bond Commitment - Henna - Non-compliance with specifications - High ash content	The non-compliance of the item (henna) in the lawsuit "due to the high ash content, and it is noted that the sample is not henna but a mixture of plants including indigo," these observations mentioned in the laboratory report are considered substantial technical violations that cannot be rectified or corrected, which means that the importer's action



		with the shipment, which is laden with the observations mentioned in the laboratory report, constitutes a customs smuggling crime.
64	Bond Commitment – Electric heater – Non-compliance with specifications – Source connection and external flexible cords	The importer not loading the customs error in the notification, as long as his action with the shipment after being notified by the authority of its clearance shows the good faith of the importer and the absence of any criminal intent on his part according to what the law requires to hold the importer criminally liable.
65	Bond Commitment – Fitness coffee blend – Non-compliance with specifications – Note the phrase fitness coffee blend	The non-compliance of a coffee blend type with the fitness statement (the coffee blend for fitness), which is one of the promotional phrases, is considered one of the non-essential notes that do not affect consumer deception and the safety of using the mentioned product.
66	Bond Commitment – Original coffee blend non-compliance with specifications – failure to record the item name in Arabic	The non-compliance of the Original Coffee Blend type due to the absence of the product name written in Arabic on the packaging is considered one of the non-essential observations that do not affect consumer deception and the safety of using the product in question.
67	Bond Commitment - candy - non-compliance with specifications - unspecified flavor type	There is no blame on the reviewing party of the appeal to take the Grounds for the Decision subject to the appeal without addition, as long as it sees that these Grounds are sufficient to avoid presenting anything new, because in its support, based on its Grounds, it indicates that it did not find in the objections raised against it anything that deserves a response beyond what those Grounds contained.
68	Dogs - No authorization	The mere breach of the duties of inspecting the vehicle is not sufficient on its own to prove involvement in the completion of the customs smuggling operation and to consider the individual as an active participant or partner in it, as long as the prosecution has not provided strong evidence or indications that establish the defendant's connection to the arrangement for the smuggling operation as an active participant or partner with the other person involved in the circumstances of the case.



69	Birds - No declaration	Hiding the seized items inside the cavity is nothing but a confirmation that they are materials that are not allowed to be imported.
70	Visa pens - pens that contain cameras and storage units - have not been authorized	The fact that the appellant mentions his request for the shipment in a regular manner through an external site does not affect the validity of the decision, as it does not contradict the established principle of importing those prohibited items.
Customs duties		
71	Petroleum derivatives - diesel - the percentage exceeds the permissible limit	The difference in my lab results is not considered, as both results came in significantly above the allowed limit.
72	Petroleum derivatives - diesel - the percentage exceeds the permissible limit	The customs are the qualified technical administration to determine the value of diesel.
73	Gone - Non-disclosure	It is unacceptable for a gold trader in the kingdom to be unaware of the obligation to disclose the amount of gold they possess, as in this capacity, they are subject to the information required by the laws and regulations related to the gold trade.
74	Re-export - Tobacco - Not declared	The basis for the conviction report should be based on credible evidence and indications that confirm the attribution of the smuggling crime to the importer, thereby ensuring a departure from the presumption of innocence.