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The Detailed Electronic Customs Declaration -From Administrative Control To Incrimination

Boutra Souhila , Messaoudi Hichem

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Abstract

Electronic customs declarations represent an applied system for the digitalization of customs administration, which the Algerian legislator has regulated through significant amendments under Law No. 17-04, emphasizing the corresponding control mechanisms. In light of the need to establish a scientific foundation for shaping and implementing customs policy in general, and customs control in particular, in Algeria, it has become crucial to study the development, structure, and execution of customs control. To date, the organization of customs control remains insufficiently analyzed. Moreover, the acceleration of globalization and technological change has intensified the need to revisit conceptual frameworks and align them with modern realities and instruments for protecting national interests. Accordingly, this study examines the detailed electronic declaration procedure as a practical application of this digital transformation, highlighting its legal, procedural, and operational challenges.

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The Detailed Electronic Customs Declaration -From Administrative Control To Incrimination

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Abstract:

Electronic customs declarations represent an applied system for the digitalization of customs administration, which the Algerian legislator has regulated through significant amendments under Law No. 17-04, emphasizing the corresponding control mechanisms. In light of the need to establish a scientific foundation for shaping and implementing customs policy in general, and customs control in particular, in Algeria, it has become crucial to study the development, structure, and execution of customs control. To date, the organization of customs control remains insufficiently analyzed. Moreover, the acceleration of globalization and technological change has intensified the need to revisit conceptual frameworks and align them with modern realities and instruments for protecting national interests. Accordingly, this study examines the detailed electronic declaration procedure as a practical application of this digital transformation, highlighting its legal, procedural, and operational challenges

Keywords: E-Customs; Customs Administration Digitization; Electronic Customs Control; Electronic Customs.

Introduction:

The integration of Algeria into the global economic space is closely linked to several challenges in regulating and monitoring foreign economic relations. These challenges necessitate the development of effective customs control mechanisms to enhance the role and efficiency of public institutions, achieve international standards of social and economic justice, foster a secure business environment, and protect the state's foreign financial and economic interests.

Customs control is defined as a system of legally prescribed measures implemented by customs authorities to ensure compliance with tax and customs legislation, safeguard national and public security, protect economic interests, and detect and prevent illegal activities committed by individuals or commercial entities. It constitutes a fundamental tool for the enforcement of customs affairs, comprising actions aimed at applying the law and fulfilling the statutory functions of the customs administration.

As customs control became a growing priority during Algeria's gradual reform process, it required significant legal updates. Beginning in 2017, Algerian customs entered a new phase characterized by the simplification and modernization of rules and procedures, with a focus on the development of electronic information exchange systems and the necessary technological infrastructure.

The control of customs declarations is one of the most complex tasks entrusted to the customs administration, particularly following Algeria's ratification of international agreements aimed at facilitating foreign trade. The administration is now required to strike a balance between trade facilitation and regulatory control to combat fraud and smuggling. Failure to maintain this balance may result in significant losses to the public treasury, given that customs duties and taxes represent a vital source of state revenue. Therefore, precision is essential, and effective control remains the only safeguard against costly errors.

In alignment with the evolving global economic environment, Algeria initiated efforts in the late 1980s to join the World Trade Organization (WTO), by developing a comprehensive plan to reform and modernize its customs administration in response to the conditions required by WTO agreements.

To achieve this objective, the customs administration must maintain a balance between procedural facilitation and effective regulatory control. While excessive control may hinder trade, excessive facilitation could undermine protective measures. Therefore, the administration faces the challenging task of striking this balance—especially after adopting new information systems, which have significantly improved customs operations but also revealed new vulnerabilities with the rise of electronic customs-related offenses.

These commercial operations are subject to legal procedures that economic operators must comply with, including the requirement to prepare a detailed customs declaration for each importation of goods. This declaration serves as the legal identifier of the goods; however, it is frequently subject to disputes at various levels. The introduction of the new digital information system has further transformed this process, necessitating a comprehensive examination of its legal, procedural, and operational dimensions.

The central research question addressed in this study is as follows: **in what ways are the legal and administrative mechanisms designed to mitigate disputes arising from electronic customs declarations?**

This study investigates how the customs legislator regulates oversight of detailed electronic declarations, balancing the obligation to combat customs fraud with the goal of facilitating international trade. This includes examining the procedural aspects of the electronic declaration process—from administrative control to criminalization—along with mechanisms for dispute resolution and the customs authority's role in identifying elements of criminal behavior and referring cases to the competent judiciary.

In addressing this topic, we adopted a descriptive, analytical, and deductive legal methodology. The study is structured into two main sections:

Section I :Strengthening the role of the Customs Administration in minimizing disputes related to electronic customs declarations in Algeria.

Section II : Modernizing administrative control over electronic customs declarations. The concluding section distills the main insights and advances practical recommendations supported by the research outcome.

Section I:Strengthening the role of the Customs Administration in minimizing disputes related to electronic customs declarations in Algeria

The legislator has granted a set of powers and privileges to the Customs Administration, requiring economic operators—whether importers or exporters—to declare their goods prior to entry or exit, as a safeguard for the national economy. The customs declaration is a

fundamental instrument and a key procedure recognized by the authorities, as all imported or exported goods must be declared with accurate and relevant information.

In light of the transition toward digitalization and reliance on new information systems, it is essential to begin our analysis by examining the legal nature of the customs declaration. As an official document used for the assessment and collection of customs duties and taxes, the declaration is governed by legal provisions that prescribe strict and precise procedures to be followed by declarants.

Accordingly, this section addresses the topic through three main subsections: First, the legal nature of the detailed customs declaration; second, the capacity to digitize the declaration process; and third, the evolution of customs control practices applied to electronic declarations

A) The Legal Nature of the Detailed Customs Declaration:

Article 75/02 of Customs Law No. 98-10 defines the detailed customs declaration as a document prepared in accordance with the legal forms prescribed by law, through which the declarant specifies the customs regime to be applied to the goods and provides the necessary elements for the application of duties, taxes, and customs control procedures¹. The concept of the detailed declaration is also defined in Chapter II of the Revised Kyoto Convention as follows:

"Goods declaration" means a statement made in the manner prescribed by the Customs, by which the persons concerned indicate the Customs procedure to be applied to the goods and provide the particulars required for its application ".²

Legal doctrine defines the customs declaration as:

"A statement submitted by the importer or their representative, detailing the identifying elements and quantities of the declared goods, in accordance with the provisions of applicable laws."³

The customs declaration is a mandatory legal document prepared by the declarant to indicate the applicable customs procedure for imported or exported goods, including vehicles.

Its primary purpose is to monitor the placement of goods under a specific customs regime, which enables the calculation of duties and taxes⁴. Additionally, it serves as a statistical tool for tracking external trade operations and for monitoring capital flows in and out of the country, a function typically overseen by the central bank.

The submission of both a summary and detailed customs declaration is mandatory. This requirement serves the national interest, and the entry or exit of goods without such a declaration constitutes a customs offense, such as smuggling. Therefore, the customs declaration must include the following information : the type, value, and price of the goods; the country of origin; the name of the importer or exporter; the number of packages; applicable tariffs; and other relevant details such as the name of the shipper, shipment reference, cargo description, destination, mode of transport, and all distinguishing characteristics of the goods. The declaration must be stamped and sealed by customs authorities to prevent forgery, tampering, or alteration.⁵

A detailed declaration that meets the legal requirements is considered valid evidence of the facts it contains. As an official legal document, it enjoys a presumption of absolute authenticity and can only be challenged through claims of forgery. It is important to note that one of the formal functions of such a document is to provide legally binding proof, although it does not constitute irrefutable evidence in every context. Furthermore, intent is not considered when

determining penalties under customs law in the case of violations—a principle that also applies to registered and digitized customs declarations.⁶

Article 89 of Law No. 17-04, which amends and supplements Law No. 79-07, provides that registered customs declarations may be exceptionally cancelled if they were submitted prior to the arrival of the goods, and only before the initiation of any investigation into their conformity with the information stated in the declaration.⁷

Customs declarations may also be cancelled in specific cases outlined in Decision No. 8 of February 3, 1999, which sets out the detailed procedures for implementing Article 89 bis of the Customs Code. This provision allows the declarant to request cancellation under the following conditions:

In the case of importation, if the declared goods were placed under an inappropriate customs regime or were found to be unfit for use and if the goods were listed in the Commission's statement but were not unloaded, or if the applied regime was unsuitable.

If the goods were permanently lost due to an accident or force majeure (provided that this is legally substantiated), or if the goods were sold at a public auction⁸; in the case of export, if it is proven that the goods did not leave the customs territory, that no export-related benefits were granted, or that the shipment or flight was cancelled.

To request the cancellation of a customs declaration, the declarant must submit a written, justified application to the competent Chief Inspector of Commercial Operations, accompanied by all supporting documents explaining the reasons for the request.⁹

Once the declaration is cancelled, customs authorities retain the so-called "bank copy" and return the remaining documents to the declarant, after marking them clearly with the label "cancelled".¹⁰

The cancelled declaration must be archived appropriately. In cases where the same goods are declared simultaneously at the customs office, such declarations—if deemed inadmissible—must also be cancelled.

The canceled declaration must be classified so it can be also cancelled if the same goods are declared at the same time at the customs office and obviously are unacceptable to register.

B) Capability to Digitize the Detailed Customs Declaration:

Smart customs declaration systems are currently under development to identify and process information related to cross-border e-commerce goods. These systems aim to enhance accuracy and operational efficiency. Moreover, the adoption of electronic transit declarations represents a promising tool for improving the overall quality of customs services, despite persisting challenges that still need to be addressed.

In recent years, Algeria—like many other countries—has shown increasing interest in integrating Information and Communication Technologies (ICT) into all procedures related to economic and administrative transactions and services, with the ultimate goal of transitioning towards a fully digitized customs system.

According to the World Customs Organization (WCO), the term "digital customs" refers to any automated or electronic activity that enhances the effectiveness and efficiency of customs operations. This includes coordination of activities such as automated customs clearance systems, the Single Window system, electronic data exchange, digital information portals to ensure transparency, and the use of smart devices.

Accordingly, the Algerian Customs Authority has implemented a digitization program, positioning itself as one of the state institutions most engaged in technological transformation. The program aims to facilitate administrative procedures and transactions, enhance public service delivery, and ensure the fulfillment of its duties in line with the expectations of both citizens and economic operators. This approach also responds to internal challenges, the need to secure both the economy and the public, and the imperative to align with international developments in modernization, advanced technologies, and their impact on economic mechanisms and global trade practices.

The digitization of customs procedures has become a top priority for the customs administration due to the rapid and continuous growth in communication and information technologies. The administration has made deliberate efforts, particularly in training and capacity building, to fully embrace this digital transformation.

However, this digital transformation must be conducted in full compliance with customs legislation, whether concerning economic operators or customs procedures related to revenue collection and control. This shift has led to the emergence of new regulatory and procedural features.

Article 50 bis 02 of the Customs Code states:

“...The customs administration shall endeavor, through the use of appropriate means, including electronic tools, to publish and disseminate all customs-related information that may be of interest to users or relevant to the applicable customs regulations” .

Accordingly, Algeria has adopted the electronic customs declaration system as part of the recent amendments to the Customs Code. These include the provisions of Articles 82, 86, 88, and 89, in addition to Section 3 titled “Electronic Filing of Declarations,” pursuant to Article 91 bis 1 and the subsequent articles, which cover the relevant procedures and dispute resolution mechanisms.

The Algerian legislator defines the Customs Information Management System in Article 2 of Executive Decree No. 18-63, which governs its use by economic operators, as follows: “An organized set of information systems, human and material resources, and procedures that enable the customs administration to collect, store, process, and disseminate information related to customs activities.”¹¹

In summary, the new customs information system relies on the use of information and communication technologies to automate the processing of customs data and the execution of clearance procedures. It employs several electronic tools and programs, including:

- e-declarations,
- e-invoicing,
- electronic payment of duties,
- e-certificates of origin,
- software for file selection and management,
- integrated risk management systems,
- services for import/export companies,
- automated clearance and release of goods,
- monitoring and control systems,

- passenger control modules, as well as other facilities provided to authorized economic operators.¹²

This new system has progressively replaced the former SIGAD platform and now encompasses all customs-related operations. One of its core components is the e-Customs module, which enables comprehensive electronic management. It ensures the reliability of data, facilitates the processing of applications for customs economic regimes, handles customs declarations, and oversees hydrocarbon-related operations.¹³

Accordingly, customs declarations submitted through the electronic system are accepted under the conditions stipulated by the General Director of Customs, as outlined below:¹⁴

- **Intangible declaration:** The adoption of information technologies and digital communication

systems has led the customs administration to abandon traditional paper-based procedures. Instead, it now relies on digitized data processing through an integrated system composed of interrelated components that support decision-making, coordination, and structured control.

The digitalization process has prompted the customs administration to move away from traditional physical inspection methods for goods, documents, and vehicles. Instead, it has adopted modern risk-based analysis tools supported by advanced digital systems, transitioning from the SIGAD platform to the new integrated customs information system.

- **Activating the role of digitizing customs declarations:** The use of electronic technologies

such as scanners, automated systems, and smart solutions for customs entities has contributed to tighten control and intensify inspection of all containers coming from abroad, cars, passengers, and their luggage to prevent fraud through false digital declarations, quantitatively and alleged capital value of customs rights and payment evasion.¹⁵

Algerian authorities have processed more than 1650 declarations at the level of the new customs information system, witnessing an upward trend since its launch and issuing a new information system gradually among users, including freight forwarders and declarants. That the number has increased from November 2023 to January 2024 to reach 1659 declarations:

- 33 declarations in November
- 196 declarations in December
- 1500 declarations recorded in January 2024.

As of February 1st, all declarations will be moved through a new system (AL-PASS).¹⁶

This new information system has facilitated administrative procedures through e-customs and e-payment, time savings in processing, as well as providing real information and enabling economic operators to follow up the status and destination of goods. This is on one hand. On the other, customs managed to achieve collections and contributions to the public treasury of more than 1,240 billion dinars in 2023, compared to 1,148 billion collected in 2022, representing an increase of 8.2 percent¹⁷.

Therefore, customs is working to strengthen the partnership chain sectors and ministerial bodies involved in logistics chains of external commerce nodes and activating a single window, as well as intensifying cooperation with regulatory bodies in suppressing fraud and smuggling, relying on information exchange mechanisms.

Section II: Modernizing Customs Administrative Control over e-declarations

Customs control is centered on goods, their movement and their authenticity, depending on the selection and customs officers' powers. The heart of which, the most important, is e-declaration. Customs control has taken modern trends as a result of the continuous developments and modernization of the administration, leading to rationalization of the contact and the emergence of new roles.

Important of which is smart by enhancing the role of the administration in light of agreements and implementing control so as to achieve protection, facilitation of trade movement equation.

This will be detailed into two subsections:

A) Smart monitoring over e-customs declarations

B) Customs Control Over Electronic Declarations

A) Smart monitoring over e-customs declarations :

Smart customs controls aim to optimize activities, reduce clearance time and costs, enable effective monitoring and tracking of goods and vehicles, and using innovative technologies such as smart glasses, artificial intelligence (AI), and internet of things devices. These technologies also enable other tasks such as wireless smart computing, improving display of video and photo information, document scanning, and automatic classification of goods.

The automation of customs procedures is a continuous process that necessitates the development of targeted strategies and the implementation of internationally recognized standards.

Moreover, the integration of smart computing technologies creates new opportunities for enhancing audit and verification services within the customs framework.

In general, smart customs control leverages digital technologies to streamline procedures, increase operational efficiency, and ensure access to accurate and reliable data for effective oversight and regulatory compliance.

Accordingly, smart customs control involves the use of innovative technologies and artificial intelligence to enhance the effectiveness of enforcement operations, documentary verification, goods classification, and the issuance of inspection notices.

The adoption of advanced technologies such as radio-frequency identification (RFID), blockchain systems, and unmanned aerial vehicles (drones), in conjunction with smart auditing tools, contributes to strengthening the reliability of customs services and enhancing operational performance.

These technological advancements aim to simplify customs procedures, improve information security, and facilitate faster and more efficient customs operations.¹⁸

The Algerian Customs Administration has introduced smart control units and adopted the concept of Authorized Economic Operators (AEOs), granting them accredited status in accordance with international best practices.

In support of this, the customs administration has been enhanced with running preventive centers to protect the information system from cyber-attacks.

The Algerian Lawmaker created the National Center for Signaling and Information Systems for Customs under decree 17/92¹⁹; The new system also will allow the electronic exchange of digitized data and documents (Single Window) as well as the real-time monitoring stage and the state of information operation system.

The Early Warning and Control System (EWACS) against cyber-attacks was used as a preventive mechanism, as well as banning the use of informatics,²⁰ stipulated in Article 340 bis 2 of the Customs Code, after repeated notices to economic operators for non-payment of rights, fees or fines, and non-response to the second notice sent to the authorized address.²¹

A comprehensive electronic management of the customs declaration, covering all regulations of imported and exported goods, has been amended with the launch of two electronic gates, one of which is dedicated to non-customs intervention, allowing declaring economic operators and transit agents real-time access to interesting information:

- Status of goods declaration
- Date and time of inspection of containers
- Result of liquidation²²

And the subsequent control through a system allowing post-clearance checks, that is, precise control of the taxation elements.²³

B) Customs Control Over Electronic Declarations:

Article 8(8) of Executive Decree No. 18-188, which defines the procedures for implementing deferred and post-clearance controls by the Customs Administration, provides: "The act by which the customs administration examines the books, records, accounting systems, and commercial data held by persons or entities directly or indirectly involved in the customs clearance of goods, with the aim of verifying the accuracy and validity of customs declarations."

The declarant bears full legal responsibility before the Customs Administration for the accuracy of the information contained in the customs declaration. This is a unilateral responsibility borne solely by the declarant and does not extend to the Customs Administration.

However, the declarant may request clarifications from the Customs authorities—such as verifying the tariff classification—if they are uncertain about specific elements when preparing the declaration.

The declarant is also permitted to inspect the goods prior to filing the declaration to avoid errors. However, before opening any parcels, they must submit a request for an "Inspection Permit" to the Customs Administration.²⁴

Due to the implementation of digital customs control mechanisms, including pre-arrival processing, automated release guarantees, and risk management tools, the declarant can submit declarations at their convenience and access the submitted information, as well as the results of processing, via the online customs system.

Thus, the Customs Administration is empowered to exercise various forms of control, including:

- Deferred control
- Post-clearance audit
- Right of access and internal oversight

1 - Deferred Customs Control on e-Declarations:

Electronic systems have improved the overall quality of operations carried out by the Algerian Customs Administration. By integrating a risk management system, they help ensure efficient service delivery through both preventive and control measures, while minimizing irregular

costs and operational inefficiencies, Accordingly, the Customs Administration seeks to establish an institutional environment that balances effective control with maximum procedural simplification, in order to facilitate operations for economic operators and business representatives.

First and foremost, customs control must be grounded in risk analysis supported by electronic data processing tools. This enables the identification and evaluation of risks and the formulation of appropriate countermeasures, in accordance with national standards and, where applicable, international benchmarks, Customs control is implemented within a unified risk management framework that relies on the systematic exchange of information and risk indicators.

Customs control is conducted in successive stages, making it both qualitative and selective. It is based on risk analysis and entails the examination of electronic declarations at customs offices to verify their compliance with the legal and regulatory framework, as stipulated in Article 4 of Executive Decree No. 18-188²⁵.

The adoption of customs e-business platforms in many countries has fostered a paperless environment, reduced operational costs and error rates, simplified procedures, and enhanced performance while accelerating the pace of international trade.

However, the Customs Administration may proceed with the inspection of goods based on risk analysis. Declarants are notified—either in writing or electronically—of the scheduled date and time for inspection and are required to attend accordingly., In such cases, the declarant must notify the owner of the goods via express courier with acknowledgment of receipt.

Customs offices are authorized to conduct unannounced inspections without prior notice. They may access all relevant documents, data, transportation contracts, books, and records under their right of access. This form of control constitutes an essential enforcement tool aimed at detecting customs violations and offenses.

2-Specificity of Customs Department Subsequent Control:

Previously, customs control was primarily limited to the monitoring of goods at border offices and the verification of documents submitted during clearance procedures. This limited scope often led to harm to the interests of importers, exporters, and the public treasury.

To streamline customs procedures, maintain the smooth flow of trade operations, and limit illegal practices or violations of applicable laws, the customs authorities have adopted modern methods and techniques consistent with the Revised Kyoto Convention on the simplification and harmonization of customs procedures.

They also conduct thorough legal investigations into the operations of economic operators in order to detect and sanction customs-related offenses.

Post-clearance control, as exercised by customs officers, is defined in article 5 of Executive Decree No. 18-188 (Article 92 bis 1)as follows:

"A control that consists in examining the books, records, accounting systems, and commercial data held by persons or institutions directly or indirectly involved in the movement of goods, in order to verify the accuracy and validity of the customs declarations."

Article 5 of Executive Decree No. 18-188 further defines post-clearance control as a scheduled and systematic audit rather than a random one. It extends beyond document verification to include the physical inspection of goods and investigation of all customs and

foreign trade-related offenses. Such control is determined by an annual inspection program established before December 31 of the preceding year, concerned with controlling persons and institutions, the customs operations to be controlled, and the risk indicators according to the annual programme²⁶.

Post-clearance audits conducted by customs officers are of a special nature, as they possess quasi-judicial authority, enabling them to investigate and detect customs violations²⁷.

Moreover, post-clearance audit is not merely a tool but also an objective in itself, as it is implemented directly by the customs administration and under its institutional oversight.

Each electronic customs declaration registered in the automated system and assigned a unique reference number constitutes an official legal document that establishes a binding obligation towards the public treasury. Accordingly, it may be used to recover due customs duties and taxes through enforcement procedures based on the detailed elements contained in the declaration.

From the above, the legal importance of the preparation of the e-declaration of goods and the obligations it entails mostly fall on the declarant, who is responsible for its preparation, and based on its control described above, the customs department prepares reports, either positive or negative, confirming the incorrectness and inaccuracy of such a document, and prepare an inspection report in accordance with Article 252 of the Customs Code. Should the findings confirm the existence of offenses, the matter may be referred to the competent judicial authorities for prosecution.

Conclusion:

The transition to a fully digitized customs system has become a strategic imperative for Algeria. In response, the Algerian State has enacted the necessary legislative and regulatory frameworks to establish a paperless customs administration, allowing procedures to be carried out beyond the traditional limitations of time and space.

To realize this objective, Algeria has prioritized the use of electronic licensing systems as a core mechanism for collecting, monitoring, supervising, and enforcing customs obligations—without impeding the flow of goods. This approach is supported by the development of modern logistical infrastructures for the entry and exit of goods.

In the context of a growing digital economy, both public and private actors are compelled to invest in technology to eliminate temporal and geographical barriers and to contribute to the fluidity of trade flows. In this regard, the Algerian Customs Administration is now equipped with technological tools capable of detecting fraud and intercepting prohibited goods.

The organization of customs control remains a key pillar in identifying and mitigating risks in the field of international trade. Hence, the electronic role of systems and digital services that enhance the efficiency and preventive capacity of customs operations must be emphasized and supported.

Modern customs control mechanisms require a robust and constantly evolving information technology infrastructure. Without such a foundation, the efficiency and effectiveness of customs enforcement would be substantially compromised.

Among the most significant reforms is the automated customs declaration, which represents not only the height of procedural formality, but also a practical and effective tool of compliance and enforcement.

Accordingly, the following recommendations are proposed:

- Study the feasibility of digitizing all customs procedures to achieve greater simplicity, transparency, and accessibility;
- Review and update the existing administrative decisions and memoranda to align with current technological and regulatory developments;
- Equip post-clearance audit units with advanced tools and software to support investigative functions and enhance customs intelligence, with the ultimate goal of implementing a comprehensive risk management system based on modern technologies and artificial intelligence²⁸.

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⁷Decision No. 279378, dated 6 September 2004, Criminal Chamber, Third Section, Fifth Classification.

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¹³*Ibid*, p. 334.

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