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ПРОТИВОДЕЙСТВИЕ ТАМОЖЕННЫХ ОРГАНОВ НЕЗАКОННОЙ ТОРГОВЛЕ ОБЪЕКТАМИ ДИКОЙ ФЛОРЫ И ФАУНЫ

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COUNTERACTION OF CUSTOMS AUTHORITIES TO ILLEGAL TRADE IN WILD FAUNA AND FLORA

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Аннотация. Статья посвящена анализу основных причин контрабанды объектов дикой флоры и фауны. Отражая основные элементы таможенно-правового механизма борьбы с данным видом контрабанды, авторы отразили действующую систему международных и национальных правовых актов природоохранного законодательства по вопросу исследования, а также основные методы борьбы таможенных органов с незаконной международной торговлей охраняемых объектов дикой флоры и фауны.

Abstract. The article is devoted to the analysis of the main causes of the spread of illegal trade in rare protected objects of wild flora and fauna that are on the verge of extinction. The authors reflected the current principles of international trade, the system of international and national legal acts, as well as measures taken by customs authorities to combat illegal international trade in these biological objects

Ключевые слова: таможенные органы, объекты дикой флоры и фауны, контрабанда, конвенция СИТЕС, таможенный кодекс ЕАЭС, таможенный контроль.

Keywords: customs authorities, objects of wild flora and fauna, illegal trade, contraband, CITES Convention, customs control.

The system of customs authorities is an integral part of the organizational mechanism of state environmental management of foreign trade processes. Customs administration of compliance with environmental norms and requirements is formalized in the form of verification activities aimed at ensuring the legality of export and import operations with regard to various categories of goods, including goods that have risks of negative impact on environmental quality. Forms of environmental oversight over the legality of cross-border movement of a number of environmentally sensitive goods, in particular objects of wild flora and fauna, are implemented indirectly through measures of customs control over their import into the EAEU and export outside the Union. Thus, customs authorities and their officials, exercising their powers in the field of customs affairs, ensure the implementation of environmental policy in the field of biodiversity on a global, regional and national scale.

The problem of violation of the regime of foreign trade in objects of flora and fauna has a pronounced international character. The Convention on International Trade in Endangered Species of Wild Flora and Fauna (abbreviated CITES) was signed in 1973 in order to ensure the legality and reduce the environmental risks of their circulation. The Russian Federation acceded to the current Convention in 1992 [1, p. 75]. According to the principles of Article 2 of the document, transnational trade is considered an unfavorable activity for biological species whose populations are declining, and if their foreign trade turnover is not properly controlled, risks of their partial or complete extinction may develop.

Combating poaching and illegal trade in rare natural resource objects (CITES objects), as well as the organization of proper and effective control over their import and export were identified as priorities of the Convention [2]. The norms of the CITES Convention directly affected the provisions concerning the competence of customs authorities in the field of nature management and environmental security: the authority to conduct customs control and customs declaration of CITES objects transported across the EAEC customs border, customs operations with them, priority release procedure, application of customs procedures, checking compliance with environmental prohibitions and restrictions [3, p. 67].

Environmental regulation in this sphere of legal regulation is represented by acts of different levels of government. At the integration level of environmental regulation - acts of EAEU governing bodies, in particular the Decision of the Board of the Eurasian Economic Commission (EEC) of 21.04.2015 № 30 «On measures of non-tariff regulation», including «Rules of export of wild live animals, certain wild plants and wild-growing medicinal raw materials from the customs territory of the Eurasian Economic Union». At the national level - a range of federal laws and by-laws: Federal Laws No. 52-FZ of 24.02.1995 'On Wildlife' and No. 7-FZ of 10.01.2002 'On Environment Protection', Resolution of the Russian Federation Government No. 653 of 18.06.1999 which set some reservations on implementation of the Convention, Regulations on Federal State Control (Oversight) in the Field of Conservation, Reproduction and Use of Wildlife and their Habitats adopted by the Russian Federation Government Resolution of 30.06.

Thus, the main list of CITES objects located in section 2.7 of the Convention, in order to adapt it to the norms of national legislation, was approved by Order of Federal Service for Supervision of Natural Resources of June 12, 2013 Based on the current «Provisions on the Federal Service for Supervision of Natural Resource Use» of July 30, 2004. This executive authority is the national administrative body in the field of implementing obligations arising from the CITES Agreement [4]. With regard to sturgeon species and caviar, the Federal Agency for Fishery is the administrative body for implementing the provisions of the Convention [5].

Within the framework of their powers, customs authorities contribute to ensuring the current rules of transboundary movement of protected biological objects included in the CITES list [3, p. 68].

The basics of the environmental legal status of customs authorities are enshrined in the provisions of the integration legislation on customs affairs. According to Article 351 of the Customs Code of the Eurasian Economic Union (TC EEU) the tasks of customs authorities include the protection of national security of EEU member states, human life and health, flora and fauna, the environment [6, p.177]. Thus, in accordance with Article 351 of the Customs Code of the Eurasian Economic Union (hereinafter - EEU), customs authorities ensure compliance with restrictions on goods transported across the EEU customs border [7]. Currently, more than 1,000 species of animals and plants covered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, etc., are under the jurisdiction of customs authorities. [8, p. 100].

The possibility of moving protected wild flora and fauna objects is carried out only with CITES permits (export permits), issued by the national administrative authorities of the exporting country. The Convention provides for the importer's obligation to obtain a separate certificate for each new batch of transported objects. The signs of validity of this document are the presence of a security stamp, the signature of an authorized official and the presence of a seal of the national administrative body of CITES. The validity of the export permit is limited to six months from the date of issuance. Figure 1 shows an example of an invalid CITES certificate.

Analysis of non-compliance by participants in foreign economic activity with the current rules of international trade in biological resources - CITES objects, allows us to identify the following types of reasons for violations of transboundary movement of protected objects of wild flora and fauna.

First, contraband in this category of goods is due to the specificity of constant demand, their natural characteristics, scientific and public interest in exotic specimens of plants and animals, collecting and commercial purposes due to the high prices of natural objects and their derivatives [9]. Second, an indirect factor contributing to the phenomenon of illegal trade in CITES is the complicated rules and administrative barriers established for the legal involvement of this category of goods in foreign trade (difficulty in obtaining permits, compliance with veterinary and phytosanitary regulations, etc.) [10, p. 185].



Illustration 1 - Example of invalid CITES permits (certificates) [9, p. 35].

The procedure for obtaining a CITES certificate is quite complicated, and the permit is only valid for 6 months. The main suppliers of illegal products of animal and plant origin to the Russian market are Africa and South America - the main suppliers of exotic birds and animals such as parrots, monkeys, etc.; Southeast Asia, represented by the market of reptiles, amphibians and amphibians such as turtles, snakes, lizards, etc.; Europe - entomological collections of insects [11].

Russia is not only a place to sell exotic animals, but also, due to its own natural diversity, is subject to the risks of illegal export of rare and «red-listed» animals and plants. The main objects of illegal export are parts of bears, deer, musk deer, ginseng, and sturgeon, whose habitat is in the Far East. The caviar of sturgeon species is also a valuable prey for smugglers, both inside and outside the country. Falcons from the Siberian region (balabans, gyrfalcons), which are exported as game birds to the states of the Arabian Peninsula. Illustration 2 shows some ways to disguise the smuggling of fauna objects.

In addition to wildlife, protected plants are illegally exported from Russia. For example, on September 1, 2021, officers of the Far Eastern Operational Customs prevented the smuggling into China of 711 roots (8.5 kg) of wild ginseng, listed in the Red Book, worth about 14 million rubles. This strategically important resource was found in the possession of a Chinese citizen who was trying to cross the border without documents. The Far Eastern operational customs office initiated a criminal case based on the fact of attempted illegal trafficking of strategically important resources in large amounts through the customs border under Part 3 Article 30, Part 1 Article 226.1 of the Criminal Code. The Chinese citizen has been detained. The case is under criminal investigation.

The most important role in detecting and suppressing the illegal movement of objects of animal and plant origin is played by operative and investigative units of customs agencies and specialized departments for combating especially dangerous types of smuggling. The lack of a special federal law regulating the procedure for importing and exporting CITES objects leads to the fact that customs authorities are guided directly by the Convention on International



Illustration 2 - Methods of camouflage of objects of wild flora and fauna [9, p. 41].

Trade in Endangered Species of Wild Fauna and Flora, which complicates and slows down their work.

In order to improve customs control over objects of wild flora and fauna, customs authorities need to carry out a number of activities:

- Increase the level of professional training of customs officials performing customs control of objects of fauna and flora;
- Create an electronic information database with detailed descriptions of samples of wild flora and fauna with their images (photos);
- effectively apply a risk management system;
- simplify procedures for obtaining a CITES certificate and increase its validity;
- Adopt a special law on the legal regulation of transboundary movement of objects of wild flora and fauna [13].

In connection with the increase in the volume and methods of illegal trafficking in wild flora and fauna, customs officials must constantly fight the creation of new channels of smuggling, as well as the illegal extraction and movement of wild flora and fauna across the customs border. The maximum result of combating illicit trafficking of environmentally sensitive goods can be achieved with the interaction of customs authorities with other bodies performing environmental and law enforcement functions [1, p. 78]. The above-mentioned proposals to improve customs control of wild flora and fauna objects can reduce the volume of this type of smuggling, which will contribute to solving the issues of biodiversity and nature protection in the modern world.

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