

**TURKEY ENFORCEMENT COMPETENCE
AND THE INTERNATIONAL LAW OF THE SEA
TERRITORIAL SEA**

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Abstract

The main objective of this essay is to present the framework of the current Turkey domestic law on enforcement of custom matters under the auspice of international law. Bearing in mind that the law of the sea recognises the freedom of navigation, yet limits in varying degrees the operation of vessels in the maritime areas of a coastal State. Therefore the enforcement competence and its implementing policy vested to the coastal state as an sole executive power. As a matter of fact, the unique feature of the Turkish LEP (Law Enforcement Competence) and the relevant Turkish legislation given in detail as a screening motive to shed light on the matter.

All the assesment done under the light of the existing legal regime, and the United Nations Convention on the Law of the Sea (1982) as well as maritime customs.

To shed light upon the matter the International Co-operation of Turkey on the law enforcement and its platform also given related with the practical implemantation of the international and domestic laws.

Abbreviations

ASL : Anti Smuggling Law

CL : Custom law

CER : Custom enforcement regulation

EEZ : Exclusive Economic Zone

FAR : Feasibility Analysis Report

IMO : International Maritime Organization

IOM : International Organization for Migration

TCC : Turkish Criminal Code

TCPL : Turkish Criminal Procedural Law

LEP (Law Enforcement Competence)

MBD : Ministerial Board Decision

LOS : Law of Sea

TTL : Turkish Trade Law

TC : Turkish Customs

TTW : Turkish Territorial Water

PART I

INTRODUCTION

The legal investigation I propose to undertake the concerns first of all the framework under the United Nations Convention on the Law of the Sea (hereinafter LOS Convention 1982) and its relevant parts. In this context I will analyse the coastal State's right of enforcement power under the international law.

The Territorial jurisdiction gives a State full legal competence over activities taking place within the territory of a State. It is the most traditional form of jurisdiction and it is in principle unqualified.

Additionally, territorial jurisdiction is exclusive from all part of it. Third parties and States have in principle no jurisdiction within another State's territory.

As it is known Jurisdiction that is not territorial is often referred to as extraterritorial. In fact, jurisdiction is then exercised over legal subjects beyond a State's own territory and is consequently only allowed under the conditions set by international law and usual this action will lack of sanction.

Extra-territorial legislative jurisdiction can be exercised under the personality principle or the universality principle. On the basis of the universality principle, a State may invoke jurisdiction irrespective of the nationality of the criminal or victim and regardless of the locus of the offence. Such offences are however limited for many aspects. Moreover, the personality principle allows a State to exercise jurisdiction over its own nationals in territories beyond its own sovereignty such as open sea.

Extra-territorial enforcement jurisdiction is only allowed under the consent of the State in the territory of which the enforcement is carried out. This is a deflection of a State's sovereignty over its own territory. To give an example to this matter, the right of hot pursuit under Article 111 of the LOS Convention ceases as soon as the pursued vessel enters the territorial sea of the State whose flag the vessel flies or a third State. The consent of the other State may be given *ad hoc* or by treaties.

Under any circumstances a vessel needs to be associated with a State, since a ship in itself is no international legal subject. Part XII of the LOS Convention differs between jurisdiction by flag State, coastal State and port State but those are could not not be constitute of this essay.

Feasibility of the Introduction of New Technologies in Support of IBM

It is feasible for Turkey to introduce all of the aforementioned technologies, which will assist in enabling the introduction of the EU IBM Guidelines, and allow the Border Agencies to become more efficient and effective as a result. However, before introducing these new technologies Turkey needs to consider the issues of coordination and interoperability between national /

international systems and networks. In this regard it can draw on its experience both as a NATO member, and additionally in its role in the coordination of maritime surveillance information for the Black Sea. ¹

Sources of law ²

Running through the law of the sea is a tension between exclusive coastal State rights and inclusive (or universal) rights: e.g. sovereignty in the territorial sea vs freedom of the high seas.

- Treaties
- Customary international law
- Major treaties

Convention on the High Seas 1958 (this has few MEDA parties: Israel, Tunisia)

Convention on the Territorial Sea and Contiguous Zone 1958 (has few MEDA parties: Israel)

UN Convention on the Law of the Sea 1982 ('UNCLOS')

- Maritime zones and interception

¹ TR0702.15-02/001 Technical Assistance for Development of the Border Management Roadmap and Execution of a Border Gate Survey in Turkey Feasibility Analysis Report October 2011

1. Dr. Douglas Guilfoyle, International Law of the Sea and Maritime Interception, <http://www.EUromed-migration.EU/e1152/e3411/e3427/e3870/e3898/prsntIntLawofSeaMaritimIntercep.pdf>

- Internal waters (ports, bays, harbours, rivers)
- Territorial sovereignty: full law enforcement powers.
- Generally, may only exercise jurisdiction over ships for acts at sea where a rule of international law allows.
- No duty to allow ships to enter port, except for vessels in distress.

Territorial sea (up to 12 nautical miles from baselines), UNCLOS Articles 2-32;

- A 'sovereignty minus' jurisdiction: full sovereignty, subject to limitations.
- A right of 'innocent passage' for vessels passing through en route elsewhere. Must be continuous, expeditious and not prejudicial to the peace, good order and security of the coastal State. Coastal State laws may pass laws regulating safety of navigation, the environment, fishing, and marine scientific research.
- The coastal State may pass criminal laws to prevent infringement of customs, fiscal, immigration or sanitary laws.
- Coastal State generally should not exercise criminal law enforcement jurisdiction aboard a ship passing through territorial waters unless the consequences of its acts extend to the coastal State or disturb the good order of the territorial sea.
- The coastal State may suspend innocent passage in certain defined areas of the territorial sea 'without discrimination' where this is 'essential for the protection of its security': Article 25(3), UNCLOS.

The contiguous zone (up to 24 nautical miles from baselines)

Article 33(1) UNCLOS:

In a zone contiguous to its territorial sea ... the coastal State may exercise the control necessary to:

(a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea;

(b) punish infringement of the above laws and regulations committed within its territory or territorial sea.

In (a), how much 'control' is needed to prevent? Could this involve arrest? In (b), how much control is needed to punish?

The Exclusive Economic Zone (up to 200 nautical miles from baselines)

A unique (*sui generis*) zone of jurisdiction. Exclusive jurisdiction is given to the coastal State over a limited number of subjects. To the extent that they do not conflict with coastal State rights, other States may exercise the freedoms of the high seas in an EEZ (Article 58). The coastal State has (under Article 56):

- sovereign rights over natural resources,
- jurisdiction over installations and structures,
- jurisdiction over scientific research, and
- jurisdiction over the protection and preservation of the marine environment.

The High Seas:

Waters beyond the territorial sea are treated as high seas in all cases where the coastal State does not have a power of regulation.

Only the high seas all vessels are subject to the exclusive jurisdiction of their State of nationality ('flag State'). A vessel does not need to be flying a flag to enjoy nationality, it only needs to be registered in a State or have a right to fly a flag. In many States small boats will automatically have the nationality of their owner.

Under UNCLOS Article 110, vessels on the high seas may only be visited and inspected on suspicion of:

(1) piracy;

(2) the slave trade;

(3) unauthorised broadcasting; and

(4) being without nationality ('stateless vessels').

- Visit and inspection for any other reason can only occur: (1) under a relevant treaty,

or (2) with the consent of the flag State.

- Note that a power of visit and inspection is not a power of arrest. UNCLOS only expressly allows the arrest of pirate vessels or unauthorised broadcasting vessels.
- Stateless vessels. Some States take the view that a Stateless vessel and its crew can be subject to the laws of any intercepting State because it enjoys the protection of no flag. Others require a 'link' between the conduct of the vessel and national interests before they will assert jurisdiction over it.

Irregular Migration By Sea

A treaty or other agreement may allow:

- State A to intercept the national vessels of State B on the high seas;
or
- State A to enter State B's territorial or contiguous zone to intercept migrant vessels.

Such treaties may require: (1) specific consent to each visit and inspection from the flag or coastal State; and (2) a second flag/coastal State decision

about arrest or detention. Sometimes, treaties will grant permission in advance to step (1).

Such treaties often recognise a right to visit and inspect suspected stateless vessels.

Examples of treaties or other agreements allowing the interception of irregular migrants:

Article 8, Protocol against the Smuggling of Migrants Supplementing the UN Convention on Transnational Organized Crime 2000

PART II

DEFINITION VESSEL :

UN Convention United Nations Convention Against Transnational Organized Crime And The Protocols Thereto

“(d)“ Vessel” shall mean any type of water craft, including non displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a Government and used, for the time being, only on government non-commercial service.”

FLAG STATE JURISDICTION

Flag State legislative jurisdiction is provided for in Article 211(2) of the LOS Convention, which calls for the flag State to adopt laws and regulations for the

Under customary international law, the flag State has unrestricted legislative and enforcement competence over vessel source pollution from ships hoisting their flags. But when the ship enters a maritime zone where another State exercises jurisdiction under international law, there may exist concurrent jurisdiction as noted above.

The reason for the exclusive flag State jurisdiction was in earlier days that the vessel was considered a part of the State's territory. Today, the reason is rather that the flag State is presumed more suitable to exercise jurisdiction over the ship. As a matter of fact that There exists a factual link between the ship and the State in which it is registered.

The principle that the flag State has the primary responsibility for the regulation of the ship carrying its flag is still intact. With regard to navigation on the high seas, this is reflected in Article 92 of the LOS Convention, the relevant parts of which stipulated as follows:

'Ships shall sail under the flag of one State only and... shall be subject to its exclusive jurisdiction on the high seas'.

'...prevention, reduction and control of the marine environment from vessels flying their flag or of their registry. Such laws and regulations shall at least have the same effect as that of generally accepted international rules and standards established through the competent international organization or general diplomatic conference'.

Together with Article 94, Article 211(2) redefines in stronger terms the principle of flag State jurisdiction. The provision applies to all types of pollution standards, which at a minimum shall have 'the same effect' as that of generally accepted international rules and standards.

Consequently, the flag State has legislative and enforcement jurisdiction over the ship and other States must respect this right. Some exceptions are nevertheless provided for. This count, *inter alia*, with regard to the coastal State's right of hot pursuit as provided for Article 111 of the LOS Convention.

FLAG STATE ENFORCEMENT JURISDICTION

The flag State is obliged to enforce its regulation under Article 217(1) of the LOS Convention. This includes both national and international regulations. Additionally, Article 94(1) imposes on the flag State a duty to exercise effective jurisdiction over its vessels. This obligation includes the responsibility to

'... maintain a register of ships containing the names and particulars of ships flying its flag ...' and to '...assume juris++

,diction under its internal law over each ship flying its flag...'

COASTAL STATE AND PORT STATE

Though the primary responsibility of the flag State, a ship will also be subject to coastal State jurisdiction. As ports usually lie within the territory of the coastal State, the concept of port State jurisdiction is only relevant when the coastal State exercise jurisdiction in relation to its ports. When a State exercises jurisdiction over foreign ships navigating in the different maritime zones adjacent to its coastline, the State acts in the capacity of coastal State.

COASTAL STATE JURISDICTION IN INTERNAL WATERS

Foreign ships in the internal waters of a coastal State fall within the territorial jurisdiction of that State. The internal waters of a coastal State is the sea on the landward side of the baselines from which a territorial sea is measured. This is a part of its territory, where a State is recognised full sovereignty and jurisdiction as codified in Article 2(1) of the LOS Convention. This implies that the coastal State is free to regulate vessel activity in its internal waters in the same way as on its land territory. Consequently, there are not many international rules limiting coastal State jurisdiction here.

Enforcement jurisdiction within internal waters is in principle also unlimited. Enforcement though takes place only in cases where the coastal State's interests to any extent are threatened. Internal affairs onboard a ship, are most often left to the jurisdiction of the flag State. to this fact, in cases where the marine environment is threatened by pollution, the coastal State will have good reasons to intervene.

LEGISLATIVE JURISDICTION

Article 2(1) of the LOS Convention acknowledges the coastal State unrestricted legislative competence within internal waters. Port State legislative jurisdiction is also provided for in Article 25(2) of the LOS Convention, stating:

'In the case of ships proceeding to internal waters or a call at a port facility outside internal waters, the coastal State also has the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to internal waters or such a call is subject'.

PORT STATE ENFORCEMENT

Prompted by the need to cope with substandard vessels, new approaches emerged in the early 1980s to solve the problems for the marine environment. The maritime authorities of the Western European States agreed by the 1982 Paris Memorandum of Understanding on Port State Control to maintain a system with a view to ensure that foreign vessels comply with the standards on ports laid down in a number of important conventions. The optimistic vision was that world wide with environmental and safety regulations could gradually be enhanced. Legal efforts made also radical changes with regard to the enforcement jurisdiction by port States under the LOS Convention. Port State jurisdiction is provided for in Article 25(2) and Article 218 (1).

Article 25(2) gives a port State the right to take 'necessary steps' to prevent breach of the conditions for entry. 'Necessary steps' indicates the full range

of enforcement powers but, importantly, these should be pro-portioned to the breach involved.

The port State may undertake investigations in respect of any discharge from the ship *outsidethe* internal waters, territorial sea or the EEZ when vessels are voluntarily within its ports. The criterion is that the pollution is a violation of applicable international rules and standards, see Article 218 of the LOS Convention.

The same provision regulates the situation when a vessel within ports has polluted *another*State's EEZ, territorial sea or internal waters. Proceed-ings may only be instituted when requested by the flag State, or the State damaged or threatened by discharge. However, if the maritime zones of the port State itself is polluted or threatened by pollution, proceedings may be effectuated. Investigations with respect to Article 218 (1) can take place in both cases.

Consequently, Article 218 of the LOS Convention contains an important jurisdictional tool: a flag State have no longer exclusive competence over discharges on the high seas. There is no evidence that port States have resorted to this extended method of enforcement, however, it is clearly a novel development.

The right to inspect violations of marine pollution standards is also con-tained in MARPOL 73/78. Article 6(2) reads that a ship may, in any port of a Party, be subject to inspections for the purpose of verifying whether the ship has discharged any harmful substances in violation of the provi-sions of MARPOL 73/78. Furthermore, with legal basis in Article 6(5) such inspections may be

undertaken if a request is received from another Party, supported by sufficient evidence.

COASTAL STATE ENFORCEMENT JURISDICTION

Article 220(1) of the LOS Convention states:

‘When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may...institute proceedings in respect of any violation of its laws and regulations adopted in accordance with this Convention or applicable international rules and standards for the prevention, reduction and control of pollution from vessels when the violation has occurred within the territorial sea or the exclusive economic zone of that State’.

Similar to Article 218(1), enforcement competence is recognised only over vessels that are ‘voluntarily’ within ports. Vessels forced to port are obviously not present voluntarily. Whether the same counts for ships in distress is not clear. ‘Distress’ is not defined in the LOS Convention, neither is the term of *force majeure*.

Different than Article 218, Article 220 of the LOS Convention does not explicitly provide for the right to conduct investigations. However, Article 226 implies that such a right exists also under Article 220(1). Additionally, there seems to be no good reasons why the right to conduct investigations should be excluded from the coastal State’s jurisdiction.

Remarkably, the Convention has no provision for coastal State enforcement jurisdiction within internal waters. However, due to the State's sovereignty, this is not necessary either.

COASTAL STATE JURISDICTION IN THE TERRITORIAL WATER

Part II of the LOS Convention largely codifies the regime of the territorial sea. The coastal State sovereignty extends beyond its land territory and internal waters to that adjacent belt of sea measured from the base-lines to the maximum of 12 nautical miles (miles). This rule reflects general customary international law, and thus applies to every coastal State, whether Party to the LOS Convention or not.

THE RIGHT OF INNOCENT PASSAGE

The meaning of 'passage';

Article 18 of the LOS Convention defines the meaning of 'passage'. Ships must traverse the sea 'without entering internal waters' or 'port facility outside'. Passage shall also be 'continuous and expeditious'. Ships that merely cruise around in an area are obviously not 'in passage' and can consequently not claim the right of innocent passage.

To the coastal State, the criterion in Article 18(1) is not very easy to approach. Thus, the most important element to the coastal State, determining whether or not the passage is innocent, is the requirement of 'continuous and expeditious' navigation as laid down in Article 18(2).

Passage may indeed include stopping and anchoring, but only related to ordinary navigation, necessary by *force majeure* distress or for the purpose of assistance to persons, ships or aircraft in danger or distress, in order to remain 'expeditious'.

Article 18(2) is exhaustive. Consequently, vessels stopping on other grounds are not protected by the rules of innocent passage and the coastal State will have full powers. Whether or not the stay is illegal will, however, depend on domestic regulations.

The meaning of 'innocence'

The passage must also fulfil the requirements of Article 19 of the LOS Convention, explaining the meaning of 'innocent'. Passage is innocent;

'...so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with this Convention and with other rules of international law'.

A clear definition of the term 'innocence' did not exist for a long time. Traditionally it was not necessary that coastal laws and regulations had been violated in order to remove the character of innocence. It was enough that vital interests of the coastal State were threatened. The 1930 League of Nations Conference for the Codification of International Law in Hague adopted this text:

'Passage is not innocent when a vessel makes use of the territorial sea of a coastal State for the purpose of doing any act prejudicial to

the security, to the public policy or to the fiscal interests of that State' .

No violation of a coastal law was necessary, however, there is a requirement of some act other than merely passing through the area. The defectiveness of the term 'innocence' in international law lead to the adoption of Article 14(4) of the 1958 Convention on the Territorial Sea and the Contiguous zone, the EU upon of Article 19 of the LOS Convention.

Article 19(1) quotes Article 14(4) of the Territorial Sea Convention, but Article 19(2) of the LOS Convention provides further a number of particular activities for judging objectively whether passage is 'innocent' or not. A ship not taking part in any of the activities mentioned in Article 19(2) is presumed to be in innocent passage.

However, there is an open clause in Article 19(2)(l), allowing that any other activity, not having a direct bearing on passage, may be considered as not 'innocent'. Hence, the coastal State is recognised a certain margin of appreciation in determining the innocent character of passage.

Of key importance relating marine pollution is Article 19(2)(h), stating that 'any act of wilful and serious pollution' contrary to the LOS Convention, is not 'innocent'. The coastal State has power to apply national law with regard to innocent passage. Actual violation of regulations will, however, not necessarily deprive the vessel of its right of innocent passage, as discharges

must be both 'wilful' and 'serious'. 'Wilful' implies intention. However, the type of intent required is not defined. Neither is the term 'serious'. It is important to note that 'wilful' discharges seldom are 'serious' when looked upon as isolated cases. Operational discharges from ships are most often intentional, but individually small. Subsequently, a discharge done with intent will not necessarily remove the innocent character of passage. Contrary, accidents will often meet the criterion of 'serious', but seldom 'wilful'.

Perhaps could small discharges in already heavily polluted or vulnerable areas be considered 'serious'. The term could be stretched so that almost any discharges were a breach to the peace, good order or security of the coastal State. Additionally, 'pollution' is defined in a very general sense in the LOS Convention, contributing to a larger measure of discretion.

THE COASTAL STATE'S RIGHT OF HOT PURSUIT

One of the few exceptions to the primacy of flag State jurisdiction is the coastal State's right of hot pursuit, as provided for in Article 111 of the LOS Convention. This provision implies possible enforcement jurisdiction within the territorial sea.

A number of conditions must be present before the right of hot pursuit can be initiated. The coastal State must have good reasons to believe that laws and regulations have been violated. 'Good reason to believe' implies something more than a vague presumption. Concrete evidence is of course sufficient, but probably not necessary.

The pursuit must then be commenced when the foreign ship is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State. This does not mean that the *pursuing*ship have to be within one of these zones. By giving the ship a visual or auditory signal to stop, pursuit is begun. Furthermore, the pursuit can't be interrupted and must be carried out hot and continuously. If the pursuit is, it can't be undertaken again. However, it may be taken over by other ships.

The right of hot pursuit ceases as soon the pursued ship enters the territorial sea of the flag State or a third State. This is a deflection of the coastal State's sovereignty over its own territory.

PART III

SCOPE OF TURKISH CUSTOM ZONE

General Background

640 numbered, Ministerial Board Decision, published on the date of 8/6/2011 Article 2nd sub-paragraph f-g is framed the general competence of the Turkish Customs. According to those provision TC has the absolute competence to undertake and execute the all enforcement and administrative duties and to make uni or multilateral cooperation or collaboration for combatting customs crimes and fight against smuggling.

There is a clear definition for internal and territorial water of the Turkey which consistent with the LO Article 8. Post authority regulation define the extent of the port area on land and sea. This in turn effectively becomes the customs zone which is defined as follows (and includes the land side port area and the sea area within immediate confines the port) : “places which are surrounded or separated by any physical means under the power and control of the customs administration where customs clearance is to be made for persons, goods and vehicles.” (Article 2nd of the Customs procedure Law).

There is no need for judicial or prosecutorial authority for searches and exercising of the other power within customs zone. In contrast, in the territorial seas outside the customs zone, judicial authority must be sought for exercising a number of customs enforcement powers (e.g deep rummage, diversion of vessel for the purpose of deep rummage in port, detention of suspects. The first authority to be consulted is the judge. If he/she cannot be available the prosecutor will be the decision maker on the case. In the case of the none of the judicial authority would be available the enforcement chief

would be the decision maker on to the various stages of the operations. Usually officials felt the administrative burdens of these systems due to their hindering their responsiveness and conduct.

In addition the legislative principle (Article 8-1/c of the MBD on establishing the Customs and Trade Ministry) is as follows: Those in charge of the Ministry and Customs have to prevent smuggling, observe and investigate it. They are the only authority in the customs zone. In the customs territory they operate with exclusive mandate but if it necessitates a task will be undertaken in co-ordination with the other agencies to suppress the smuggling.

The definition of customs territory includes whole Turkey including internal water and territorial sea and air space.

There are three general categories of officers working in customs law, but only two categories are permitted to exercise the law enforcement powers which are delegated to them by the Prosecutorial Office.

Requirement to seek judge/prosecutor/commanding officer authorisation for exercising certain enforcement powers as listed within the bullet point.

- power of search (includes containers, homes, vessels, etc. to be done by warrant order)

- Power of detention (which means arrest for the English Criminal Code)

- Power to search the individuals

- Power to seize (this is same for goods and criminal evidence)—includes seizure of vessels used for smuggling

- Power of questioning after apprehension (custody)

- Power to examine all documentation

Besides all those mentioned topics the customs enforcement has the mandate of using violence in a proportionate manner and marked up, lock up or secure or take under control the vessel, persons and the goods.

DEFINATION OF THE CUSTOM ZONE :

ARTICLE2-The Customs Territory of the Republic of Turkey shall comprise the territory of the Republic of Turkey. The Customs Territory shall include the territorial waters, the inland maritime Waters and the air space of Turkey.

For the purposes of this Law, "The Customs Territory of Turkey "and" The Customs Territory" Shall mean the Customs Territory of the Republic of Turkey. (CUSTOMS LAW No.4458 of 27/10/1999 (as last amended by LawNo:5911))

COMPETENCE

The competence of the Customs Enforcement power laid down with the 2nd Article of the 640 numbered, Ministerial Board Decision, published on the date of 8/6/2011. According to it Customs has the sole power to execute the customs matter and persecute the customs crimes and all kind of smuggling.

Article 12 – The measures to be taken for preventing entering the air, road and sea vehicles Customs zone of Turkey, sea and air vehicles until the completion of customs control and the vehicles from the time of leaving of the Turkey Customs Zone after the audit in question, loading all kinds of

goods onto the vehicles, or unloading the vehicles, passenger vehicles, passenger's going in or going out of the vehicles. Customs control of goods and passengers in these vehicles to be left outside the customs surveillance operations, Customs Enforcement Administrations are carried out. (*Undersecretariat of Customs; 07.11.2003 date, 25282 and referenced Turkish Official Gazette*)

Ship in the Turkey Customs Zone supervised until they leave the Turkish territorial waters. It should be noted that to have completed procedures of customs does not impede the intervention to the ship.

In the territorial sea in a miscallenEUos manner there is a competence authorites. Customs and the Ministry of Trade and the Coast Guard and naval units of the Turkish national police maritime unites under authority of the Ministry of Interior. Ship's cargo, fuel, and stores the information can be examined by the Customs Authority, the Customs Administration of questionnaire is presented before the ship turkey territorial waters, the ship anchored in line with the only knowledge of the customs authorities are obliged to act.

TERRITORIAL WATERS

According to the article 1 of the sea of Law No. 2674 dated 20.05.1982 which is in force today, According to Turkish territorial waters, in principle, the width of 6 miles. However, "the Council of Ministers for certain seas, seas that take into consideration all relevant circumstances and equitable basis characteristics and subject to with the six marine shaft above is authorized to determine the width of territorial waters (Art. 1 last paragraph). Now, more than 6 miles to the actual reciprocity fairness of a width determined as a factor to be considered while the weight of the law adopted on the basis of

the said board of to be accepted. Board of Minister decision dated 29.05.1982 and 8/4742 of a decision of the 1982 Act stipulated that "before the entry into force with respect to the width of territorial waters in the Black Sea and the Mediterranean ' the continuation of the existing situation to remain as adopted, namely 12 mph. (Official Gazette dated 29.05.1982, No. 12208, bis) That's why today, the width of the Turkish territorial waters in the Aegean Sea, 6 miles, Black Sea and the Mediterranean, 12 miles. [46] Then the Turkish territorial waters for at least 6 is only five kilometers, and this limit is being applied effectively in the Aegean. In the Mediterranean and Black Seas, reciprocity (reciprocity) basis, 12 miles wide is applied. 3-mile (approx. 5500 m) (8-4742No. Ministerial Board Decision)

LEGISLATIVE JURISDICTION IN THE TERRITORIAL SEA

Coastal State legislative jurisdiction in the territorial sea is dealt with in Parts II and XII of the LOS Convention. Article 211(4) affirms the coastal State 'sovereignty' and thereby the competence to adopt laws and regulations for the 'prevention, reduction and control' of the marine environment. The laws and regulations shall however not hamper the right of innocent passage as laid down in Part II of the Convention. The most important jurisdictional provision in this respect is Article 21.

Paragraph 1 merely confirms the legislative competence of the coastal State with regard to innocent passage. If such rules are adopted they shall only give effect to generally accepted international standards. Consequently, the coastal State may not adopt more stringent regulations.

With regard to the legislative jurisdiction, despite the seemingly wide legal basis for it relating innocent passage in Article 21, Article 24 restricts the coastal State, both with regard to adoption and the practice of laws.

The obligation of Article 24(1)(b) not to discriminate 'in form or fact against the ships of any State' seems clear enough. However, the obligation not to 'hamper the innocent passage', when this is not in accordance with the LOS Convention, is legally more complex. Hampering the passage is obviously something less than totally denying access to the territorial sea. The accepted level of regulation could vary from case to case, depending on methods of interpretation.

Given that the coastal State adopts national regulations that foreign ships must comply with, the key problem is enforcement. Since the coastal State shall not 'hamper' the innocent passage of foreign ships, not every violation of coastal laws will justify interference with the passage of the vessel. Interference seems nevertheless authorized in some cases. Article 24(4) of the LOS Convention provides that foreign ships exercising the right of innocent passage through the territorial sea 'shall comply with all such laws and regulations and all generally accepted international regulations relating to the prevention of collisions at sea'.

This is no explicit legal basis for enforcement, but it surely implies that coastal States shall be able to secure the compliance of laws and regulations adopted on the national level. With regard to vessel source pollution, Article 22 of the LOS Convention is of importance. It provides the coastal State competence to require that foreign ships in innocent passage use specific sea lanes and traffic separation schemes. This is only permitted where the safety of navigation so requires. Straits or heavy maritime traffic are examples of navigational circumstances that may invoke such measures.

ENFORCEMENT JURISDICTION IN THE TERRITORIAL SEA

With regard to ships in passage through the territorial sea, Article 220(2) provides the coastal State enforcement competence over vessels that have violated laws and regulations adopted through Article 220(1). The enforcement shall, however, take place ‘... without prejudice to the application of the relevant provisions of Part II, section 3 ...’. The relevant provisions in this respect are Articles 24 and 27.

As mentioned above, Article 24 of the LOS Convention provides an obligation for the coastal State not to hamper the innocent passage of foreign ships. There is a delicate balance with regard to which measures are considered to hampering the transit and which are not. Criminal jurisdiction onboard a ship may very well be considered as the former. However, the coastal State has powers to exercise such jurisdiction with basis in Article 27.

The provision authorizes arrest or investigation onboard a ship in innocent passage in three different situations. The first one concerns ships within the territorial sea that have violated criminal jurisdiction. This is provided for in paragraph 1, which stipulates four situations when the interests of the coastal State weigh more than those of the flag State. With regard to vessel source pollution, enforcement jurisdiction under subparagraph a, would be allowed, obviously because the crime would ‘extend to the coastal State’. The same counts with regard to subparagraph b if the ship violates obligatory routing systems. In such cases one could say that the navigation is prejudicial to the good order within the territorial sea.

The second situation (paragraph 2) concerns ships within the territorial sea that have committed violations in internal waters. The coastal State may take 'any steps', indicating unrestricted powers.

The third situation is provided for in paragraph 5 and concerns violations committed *before* the vessel enters the territorial sea. Criminal jurisdiction is excluded, however, exceptions are made with regard to enforcement with legal basis in Part XII of the LOS Convention, that is in Article 220 (2) and (3).

Contrary to the limited measures provided for in Article 27, Article 220(2) gives the coastal State a number of measures and allows enforcement to a more extensive category of violations, including violations of 'international rules and standards'. The coastal State may with legal basis in Article 220(2), inspect, detain or institute proceedings towards the ship. It must however have 'clear grounds for believing' that a vessel during passage has violated laws and regulations. Evidence originating from aerial surveillance may be enough to constitute 'clear grounds'. Under any circumstances there must be a concrete evaluation from the coastal State.

The enforcement jurisdiction of the coastal State is possible in the territorial sea concerning violations committed in the EEZ. The geographical position of the ship is in this respect not decisive for the competence. According to Article 220(3) the vessel may be within the EEZ or the territorial sea when enforcement takes place. Hence, the essential criterion is the *locus* of the violation, not the ship.

Ships not in 'innocent passage'

b) of this country against the laws and rules of the territorial sea that may occur on disobedience will be punished.

c) territorial waters based on the width of the lines began to , contiguous zone . can not go beyond the sea 24 be measured from the shaft (L 1982aw of Sea convention)

“Article 1 – Duties of protecting and securing our borders, coasts and territorial waters and preventing, surveilling and investigating smuggling acts in the customs region shall be transferred to the Ministry of Internal Affairs. Such duties shall be fulfilled by the Ministry through the agency of Gendarme General Command. “

However, customs protection duties as well as prevention, surveillance and investigation of smuggling activities at the border gates and check pass gates at our borders, and air and sea ports where customs offices exist, and free zones and several warehouses and internal customs areas, and Marmora Sea and Çanakkale and Black Sea straits and customs areas in such places shall be fulfilled by the Ministry of Customs and Monopolies, without prejudice to other entitlements of the Ministry of Customs and Monopolies and its organization, as laid down in customs and smuggling legislation.

In this context the Law On Assignment Of The Duties Of Protecting And Securing Our Borders, Coasts And Territorial Water, And Of Preventing And Investigating Smuggling Acts To The Ministry Of Internal Affairs highly important text for the elaboration of the Turkish territorial Competence. Adopted (Law No : 6815, Adopted on : 16/7/1956, Published in the Official Gazette No. 9363 Dated 24/7/1956)

VESSEL

TTL Article 823 - (Amended article: 20/04/2004 - Article 2, number of law 5136) For every Turkish ship, which is the property of Turkish citizens of Turkish flag ships hoist. Together property according to the principles of Turkish ships that belong to more than one person, the share provided that the multitude of Turkish citizens in accordance with the established laws of the Turkish ships considered. Turks; Which is a legal entity, organizations, establishments, associations and foundations, the majority of the people who constitute a body of government-owned ships to be a Turkish citizen, 2 Which is owned by the Turkish trade ships, manage the company and authorized to represent the majority of shareholders to be Turkish citizens and Turkish partners to make the majority of votes according to the company agreement, joint stock and limited partnership capital divided into shares of the shares of the multitude of companies, also the transfer of registered shares and the company to another depending on the permission of the board of directors to make , provided that the equipment of the Turkish ship shall be registered in and considered as Turkish. Turkish ships owned subsidiaries, more than half of the shares of a subsidiary of the Turks and the Turkish government and authorized to represent the majority of the joint owners shall be a citizen of the Turkish ship, are considered. (TTL, Article - 830)

III - EXEMPTION: Article 829 - the gross tonnage less than eighteen certificate ship and the flag certificate, without the need for small vessels may find the Turkish flag. TTL Article 829)

I - SHIP, SHIP TRADE: Article 816 - Allocation purposes, in accordance with the use of which, connected with the movement of the sea and many small craft of all kinds which do not "ship" is counted. (2) Although he came from foreign countries without valid reason, the route shown by documents found in territorial waters or from Turkey down to the

volume of the gross tonnage of two hundred vehicles apprehended load. Although there are no load, load, or another port if the ship captain or the agency could not establish that the extract or the general average, the tonnage per hundred Turkish Liras shall be imposed (Anti smuggling Law Article 7)

International Convention on Exemptions of Vessels of State and Unification of its Certain Provisions, done at Brussels, Signature Date: 4/10/1926, Date of Approval Certificates: 2/14/1955, RG Number: 8937, R.G. Release Date: 2/22/1955) in accordance to it shipsclassified as ;
1 - Government ships operated for commercial purposes
2 - Battleships
3- Public service vessels (These are non-commercial vessels except warships)

and 3 Article 4 of the Hague Agreement Dated October 8, 1907, warships;
1 - To be naval vessel
2 - Military fleet to be controlled by an officer in the service
3 – Under the crew of military having the discipline and qualification (Turkish Custom and Trade Ministry, Legal Opinion OF Legal Department on vessel, 14/11/2011 date, B.21.0.HUK-45.02-723 ref. number)

Although a clear definition is missing, these provisions are "small vessel" is thought to have referred to.

SEARCH

Searches

CER 25-26th articles and law of judicial search and prevention article 18th and also TCPL regulated the searches for exercising the enforcement power. According to the article 72nd of the CER in all searches the law of judicial search and prevention is to be respected (*amended on the date of 16.12.2005, by 26025 officila gazette*).

As the general directorate of custom mandated to handle, CER Article 6 - (dated 16.12.2005, as amended by Gazette No. 26025), "The Directorate General of Customs in Turkey; 18/12/1940 dated and 3944 numbered Law on Organization of Customs Enforcement, and Treatment of Class Officers, dated 19/7/2003 and No: 4926 Anti-smuggling Act, No. 485, dated 07/02/1993 the Decree Law on the Organization and Duties of the Undersecretariat of Customs, dated 12/6/1933 and the Law on Control of Narcotic Drugs of 2313, dated 19/4/1926 and No. 815 Carriage of Turkey coasts Within the Navy and Ports Chief Executive of Arts and Trade Law on the territorial sea, the Fisheries Law No. 1380, dated 22/3/1971, 10/7/1953, dated and numbered 6136 Law on Firearms, Knives and Other Tools, dated 13/11/1996 Law No. 4208 on the Prevention of Money and Black, No. 2863 dated 21/7/1983 and the Law on Protection of Cultural and Natural Heritage, No. 5271 dated 4/12/2004 and the Criminal Procedure Law and other laws, rules and regulations, the Directorate General of Customs Enforcement Carries out the duties" we may assume that the search can be carried out under the auspice of this limit.

Searches shall be conducted in containers, packages or other means of transportation which are suspected to contain smuggled articles, any kind of gun, ammunition, explosives and drugs.

Searches in business firms, workplaces, recreational facilities, etc. and their annex buildings and confiscation of articles therein shall be made upon a court order duly given to prevent the offences foreseen in this Act, and upon a search warrant of the highest ranking local administrator or the Public prosecutor where delay causes adverse situations due to this reason. Search warrant issued by the local administrator or the Public prosecutor shall be submitted for the approval of the judge having jurisdiction within twenty four hours. The judge shall announce his/her decisions within forty eight hours at the latest. Otherwise, the confiscation shall be automatically abolishes. However, searches may not be made in private dwellings and its annexes

without a court order.

If documents indicating that the offence is perpetrated or documents in evidence of the offence are found during the search, they shall be sealed before the owner or his/her mentally sound relatives, or in their absence, before two persons present at the concerned place. Then, they shall be taken by the persons making the search and be forwarded to investigators together with a written report.

Documents indicative and in evidence of the perpetration of the offence shall be separated from such documents and be sent to the Public prosecutor as accompanied by investigation documents. Others shall be returned immediately against a signature. Opposing parties may file their objections against the confiscation in accordance with the Criminal Procedures Law.

Those who are suspected to hide smuggled articles in customs halls and customs stations may be searched by customs officials for customs check purposes.

The powers as regards Judges or Public prosecutors as well as the security forces in charge of enforcing their orders shall be reserved.

Those who contravene the Act during searches for smuggled articles shall be subject to the provisions of the Turkish Penal Code.

In the event that guns, ammunition, drugs, which concern general security of the State, are smuggled, or smuggling events, which are possible within or outside the country, are informed or take place in customs region, customs and customs supervision organizations shall take action and track the smuggling and inform the security force having jurisdiction over the location of the event accordingly. A joint operation shall be carried out and other security organizations shall be informed of

DOCUMENT EXAMINATION

Customs Procedures and Customs Administration has the authority to

receive information of all kinds of smuggling crimes. For example, the Customs Administration does not process a passport, but the controls are done pasaport'a been made on the required procedures.

- Ship
- Cargo
- Person

Trafficking prevention, monitoring and investigating those responsible for the customs of naval vessels approached each kind of goods and documents shall be authorized to examine. Turkish ports of vessels coming from foreign ports, or rivers, which will lead to customs inspection or about to be cut in certain places, stops. CPLArt.22 / 2 9-16th article of CER).

Smuggling investigations, Information and Documentation Required
ZorunluluğuMadde 69 - Trafficking of prevention, monitoring and investigating those responsible for crimes within the scope of the Anti-smuggling Act requests for information and documents, public or private, real and legal persons, without prejudice to the provisions concerning the right of defense must be covered completely. (CER 69th Article)

ARTICLE 11- Only for the purposes of applying customs legislation, any person directly or indirectly involved in the customs operations concerned shall provide the Undersecretariat for Customs or the customs administrations with all the requisite documents, information and assistance at their request and by any time limit prescribed. CER

According to the IMO Revised Guidelines For The Prevention And Suppression Of The Smuggling Of Drugs, Psychotropic Substances And Precursor Chemicals On Ships Engaged In International Maritime Traffic the search could be done the below enumerated items.

Shipboard search planning

Types of shipboard search

Reactive search

Fast search

Preventive search

Methods of searching

Physical searching

X-ray systems and detection technology

Use of dogs

Additional considerations

The searching of freight and vehicles before boarding is difficult and expensive but there are times when the security levels warrant such measures to be taken. In high risk areas careful examination of:

- external packaging,
- container and vehicle infrastructure,
- paperwork,
- the screening of drivers,
- coupled with good intelligence

HOT PURSUIT

Under the given legislation it could be clearly inferred that the customs enforcement has the mandate of hot pursuit beyond the territorial sea but must be limited within EEZ.

1982 Law of the Sea Convention as provided for in hot pursuit of law enforcement authority may use at sea. Territorial waters in hot pursuit of follow-up to start this on text can be provided. However, this arrangement does not exist on the subject of domestic law. “2.The right of hot pursuit shall apply mutatis mutandis to violations in the exclusive economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with this Convention to the exclusive economic zone or the continental shelf, including such safety zones. 3.The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or of a third State.” (Law of Sea 11-2 Article)

Article 12 - Customs of Turkey entering the land, sea and air vehicles until the completion of customs control, Turkey Customs Zone to the vehicles to leave the area until after the audit in question, taking all kinds of goods vehicles, or removal of vehicles, passenger vehicles, passenger vehicles to be downloaded, or to prevent load measures are taken. Customs control of goods and passengers in these vehicles to be left outside the customs surveillance operations, Customs Enforcement Administrations are carried out.

(Customs Enforcement Execution Regulation)

Article 18th of the anti smuggling law, “Those who are in charge of preventing, monitoring and investigating smuggling activities shall be entitled to approach any sea vessels in customs region and check their loads and documents. Any sea vessels which do not allow the officials to approach and escape or attempt to escape shall be warned by means of radio, flag, Morse code and similar signs according to international maritime signs. A warning gunfire shall be made for sea vessels not responding to this warning. If they do not respond to it as well, guns shall be fired at them so as to force them to stop.”

Article 47 - Customs procedures and areas of the bonded surveillance, monitoring and maintenance of Customs Administrations in charge and responsible for ensuring the security of the public. As for the fulfillment of this duty of Customs Administrations and the areas referred to in the entry-exit points and other points required by the seizure of the task areas are established, should the need arise also create field patrols. Must be created when deemed illicit goods, warehouses and Customs Enforcement headquarters.

(Customs Enforcement Execution Regulation Article)

USE OF VIOLENCE

will judicial power of measures taken over the event Gendarme Article 168 - (1) starting operations at the scene of the judicial duty law enforcement officer, they should definitely not be, or acts in violation of the measures within the competence of the people, processes, and by force if necessary before the conclusion of this banned. (CPL, Article 168) According to the TCPL of Article 164 "Turkish customs has the Custom enforcement Power"

Also the CER Article 13rd vested the same power to the TC.

STOPPING

According to the 25th article of CER all the vessels in the TTW may be stopped and searched. Trafficking prevention, monitoring and investigating those responsible for the customs of naval vessels approached each kind of goods and documents shall be authorized to examine. Turkish ports of vessels coming from foreign ports, or rivers, which will lead to customs inspection or about to be cut in certain places, stops.

CONFISCATION AND SEIZURE

According to the CER article 26th in the presence of the suspicions or information the vessel checked and controlled. The 128th article of the TCPL assured that in the presence of reasonable suspect and smuggling case the vessels and the belonging to be seized.

Ergin ERGÜL, in his essay on the matter underlined the matter as follows:

1. Viyana Convention (Article 3)
Drugs and stimulant drug possession and trafficking offenses, illegal manufacture of narcotic substances and precursors used in the manufacture of illegal drugs and narcotics production and trafficking crimes, laundering proceeds of drug crimes.
2. Strazburg Agreement
Money laundering crimes (Usage.6)
3. Sınıraşan Organized Crime Convention
Of participating in the Crime-Organized Crime Group in making (m.5)
Anti-Money Laundering Crime-making (Usage.6)
Making-Corruption Crime (p.8)
Obstruction of justice, crime-making (p. 23)
4. Merida Agreement
-National Anti-Bribery of Public Officials (Article 15)
Bribery of Foreign Public Officials and Employees Article 16 International Organization
-Review of misappropriation of property by public officials, as the goods to be unfair or Conversion of other shapes (Article. 17)
-Influence-peddling Article 18
-Abuse of Official Capacity (Article.19)
-Unjust Enrichment (Article.20)

-Private Sector Bribery (Article.21)
 -Private sector, such as embezzlement (Article 22)
 -Criminal Proceeds (Article 23)
 -Knowing that it is obtained as a result of offenses established in accordance with the Convention of the assets of a hidden and permanent detention (Hiding the crime, Article.24)
 Justice prevention article (25)” 3

In parallel . Convention on laundering, Search, seizure and confiscation of the proceeds from crime Strasbourg Article 7 – General principles and measures for international co-operation. The Parties shall co-operate with each other to the widest

extent possible for the purposes of investigations and proceedings aiming at the confiscation of instrumentalities and proceeds.“Article 119 – (1) The members of the security forces shall conduct searches upon the order of the judge, or if there is peril in delay, upon a written order of the public prosecutor, if the public prosecutor is not reachable, upon a written order of the superior of the security force.

MIGRATION

Human smuggling, CER Article 111 - (dated 16.12.2005, as amended by Gazette No. 26025), the perpetrators of the crime of migrant smuggling, or participate in such a crime, regardless of previously allow the illegal immigrants accessed or entered the country, in order to obtain a pecuniary benefit, bringing the country them illegally, without complying with legal

³ Ergin ERGÜL, Judge Turkish Justice Ministry, seizure, confiscation and international judicial cooperation, http://www.ceza-bb.adalet.gov.tr/makale/ergin_bey_sunumu.doc - -1k

requirements make it possible them to stay in the country, for that purpose or provide false identity or travel document preparers, or those who have attempted this crime, the illegal immigrants caught by the public prosecutor shall be notified immediately and the measures to be taken shall be taken according to the instructions.

Turkey is a party of the IOM's Agreement Establishing the International Organization for Migration, Law No. 5260 dated 25/11/2004 in accordance with the attached "Agreement Establishing the International Organization for Migration" to the participation in, the Ministry of Foreign Affairs, dated 09/06/2010 and numbered article on HUMS/781302, dated 31/5/1963 and 244 of Law No. according to Article 3 of the Council of Ministers decided on 19.7.2010. Therefore customs is under the obligation of caring out those responsibilities arising from that agreement. As to international agreement to have entered into force is has the equal execution power.

THE LAW CONCERNING COASTAL SHIPPING (CABOTAGE)

(Turkish shores and performance of trade and business in Turkish ports and territorial waters)

Law Number 815, Date of Adoption: 19 April 1926, Official Gazette: Date : 29 April 1926, Issue: 359

Article 1 - The right to transport goods and passengers from one point to another along Turkish shores and to perform towing and piloting and all other port services of any type whatsoever within or between Turkish ports and shores shall belong exclusively to ships and vessels flying the Turkish flag.

Foreign ships may only transport passengers and cargo from abroad to Turkish ports, and take on passengers and cargo from Turkish ports to carry them to foreign ports.

Article 2 - The right to perform trade in rivers and lakes, in the Marmara Sea

and the Straits, in continental waters, and in gulfs, ports, bays and the like within continental waters, by means of fixed or floating vessels such as ships, tugboats, steamboats, motorboats, barges, lighters, rowboats and, in brief, all types or large or small vessels driven by machinery, sail or oars, and/or dredges, cranes, crane barges, flat-bottomed boats, transport and water boats, salvage vessels, buoys, pontoons, rafts or the like, and by performing navigation and transportation using the same, shall belong exclusively to Turkish nationals.

THE PUBLIC AGENCY HAVING THE SIMILAR COMPETENCE

Turkish The Coast Guard

THE COAST GUARD COMMAND ACT, Law no. 2692, dated 9.7.1982,
Published in Official Gazette no 17753, dated 13.7.1982

Duties

Article 4 - The Coast Guard Command shall have the following duties:

(a) To protect and guarantee the security of Turkey's coasts and territorial waters, and to exercise its rights and authorities in the seas over which it has sovereignty under national and international law.

(b) To prevent and monitor:

- (1) Smuggling operations of any kind by sea;
- (2) Activities in contravention of Antiquities Law no. 1710,
- (3) Activities in contravention of Law no. 2565, dated 18.12.1981 concerning Forbidden Military Zones and Security Zones;

to take the necessary actions in this regard and ,and to apprehend offenders over to the competent authorities apprehended persons and to turn .instruments of crime

(c)Outside the ports;

To prevent and monitor activities in contravention of the following laws, to apprehend offenders, to take the necessary actions in this regard, and to turn over to the competent authorities apprehended persons and instruments of crime:

- (1) Law no 815, dated 19.4.1926 concerning Sea Transport on Turkey's Coasts and Performance of Industrial and Commercial Activities in Turkey's Harbours and Territorial Waters;
- (2) Wireless Law no. 3222, dated 9.4.1937;
- (3) Law no. 4922, dated 10.6.1946 concerning the Protection of Life and Property at Sea;
- (4) Public Health Law no. 1593, dated 24.4.1930;
- (5) Law no. 1234, dated 3.5.1928 concerning the Health Control of Animals;
- (6) Law no. 6968, dated 15.5.1957 concerning Agricultural Pesticides and Agricultural Quarantine;
- (7) Aquatic Products Law no. 1380, dated 22.3.1971;
- (8) Passport Law no. 5682, dated 15.7.1950;
- (9) Law no. 5638, dated 15.7.1950 concerning the Residence and Travel in Turkey of Foreigners;
- (10) Vessel Health Duty Law no. 2548, dated 6.11.1981;
- (11) Tourism Encouragement Law no. 2634, dated 12.3.1982;
- (12) Relevant provisions concerning the security of navigation, anchoring and mooring of ships, fishing, diving and flag raising;

(13) Relevant provisions concerning pollution of any kind caused by vessels and aircraft or any other facilities on sea;

(14) International agreements on any of the above-mentioned issues.

(d) To provide information to the concerned parties and to take the necessary actions for the enforcement of Law no. 5202, dated 17.5.1948 concerning the Destruction of Untethered Mines, Explosives or Suspicious Objects Seen in the Sea and Coasts.

(e) To monitor and control the operation of navigational assistants in conformity with the relevant legal provisions, and the maintenance of signposts placed by the competent authorities for navigational obstacles and sunken objects and to provide information to the concerned parties on any irregularities and problems.

(f) To perform the activities of search and rescue as envisaged by the Convention concerning Search and Rescue Operations in International Seas.

(g) To confiscate weapons and ammunition of any other kind brought by the refugees entering Turkish territorial waters and to turn over to the concerned authorities such refugees and the weapons and ammunition confiscated.

(h) To assist other security forces to monitor crimes committed in their areas of duty and crimes, other than those described above, commencing on land and continuing on the sea and to apprehend the criminals; to prosecute such offences if necessary and to apprehend criminals and turn over them to the competent authorities.

In harbours where there is no customs office, the duties and powers of the Ministry of Customs and State Monopoly, and the duties and powers of other authorities empowered by special laws in issues not covered by the duties and powers of the Coast Guard Command as described in this article shall remain unaffected.

Powers

Article 5 - While performing the duties assigned hereby, the members of the Coast Guard Command shall have all the rights and powers granted to other security forces by law, including the right to carry weapons.

Under the provisions of relevant laws and international agreements, the members of the Coast Guard Command shall halt all activities outside harbours which are punishable by the Turkish Law.

In cases when the crime commences on sea and continues on land or when the offenders escape onto the land they shall maintain the above-mentioned powers on land until such time as the competent security forces take action and thus prevent the escape of criminals or loss of evidence. In such cases, they shall immediately notify the civil authorities of the locality through available means.

FOREING SHIPS CUSTOMS TREATMENT

Custom law of Article 3 of the 14. Stipulated that;

'Customs-approved treatment or use of goods' means:

- (a) the placing of goods under a customs procedure;
- (b) their entry into a free zone;
- (c) their re-exportation from the Customs Territory of Turkey;
- (d) their destruction;

(e) their abandonment to the Exchequer;

15. 'Customs procedure' means:

(a) release for free circulation;

(b) transit;

(c) customs warehousing;

(d) inward processing;

(e) processing under customs control;

(f) temporary admission;

(g) outward processing;

(h) exportation;

The provisions of the Custom law; ARTICLE 34-1. Goods brought into or exit from the customs territory of Turkey shall be subject to

customs supervision. They shall be subject to control by customs administration in accordance with the provisions in force.

2. No load or passenger shall be admitted to the vehicles in question without permission of the relevant customs administration or without concluding the examination of the vehicles arriving at the Customs Territory of Turkey by road, and the concerned vehicle shall not pass through. The combination of trains shall not be changed by switching or coupling carriages.

Goods outside the Customs Territory of Turkey may only be brought to an authorized customs administration at the frontier via vehicles other than rail. The goods brought to an unauthorized customs authority shall be rejected unless it has been referred to an authorized customs administration under

the customs supervision. The animals to be brought into the Customs Territory of Turkey on foot shall enter through the customs administrations where sanitary inspection can be made.

3. (a) Unless unforeseeable circumstances and force majeure occur or no customs control is required, the vessels arriving from the ports out of the Customs Territory of Turkey shall not change their normal route for their destination port, pause in the course of the journey, contact with other vessels or shall not board by places where no customs administration exists. The customs administrations shall be authorized to inspect the vessel, its load and the ledgers, papers and records thereof, and where necessary to seal the holds and other places that contain goods. The vessels coming from foreign ports into the Turkish ports and rivers shall halt or make the way

enough at certain places in order to be examined for customs purposes. The equipper or operator or his agent shall inform the relevant customs administration within the

duration to be laid down by the regulation for the arrival and departure of the vessels that arrive at Turkey from foreign ports or that depart from Turkey for foreign ports.

The seamen and the passengers of vessels and persons, on duty or not, who visit the vessels may enter to or exit from Turkey only through the authorized customs administrations

(b) Vessels that ply between the Turkish ports and possess an agency, shall be subject to paragraph

(a) in the case that they carry goods not released for free circulation or they halt at the ports enroute. The Undersecretariat shall have the authority to lay down the methods and principles in order to facilitate the control and customs formalities regarding such vessels and the passengers and loads thereof.

(c) The journey and carriage of the vessels other than those referred to in paragraph (b) may be subject to the customs supervision. Within the conditions to be laid down and the authorization to be granted by the Undersecretariat, such vessels may transit the goods not released for free circulation between the Turkish ports.

(d) Methods and principles of any customs supervision and control on the carriages referred to in paragraph (c) and of the vehicles of whatever kind navigating in the territorial waters and inland waterways shall be determined by regulation.

4. The aircraft that have arrived to Turkey and that are to depart from Turkey may land on or take off from the airports where the authorized customs administrations are situated. These aircraft shall be subject to customs supervision. The pilots of the aircraft that have arrived or departed by a special permission, shall act upon the directives given.

5. Provided that they contain no goods, warfare vessels of the Turkish Navy and navies of foreign countries warfare, crafts of the Turkish Air Force and the foreign warfare crafts that have arrived upon the permission of the Council of Ministers, shall not be subject to customs supervision.

ARTICLE 35- Entry into and exit from the Customs Territory of Turkey and any customs formalities of whatever kind in customs administrations shall be carried out within the regular working hours.

Nevertheless;

(a) a line of coupled railway carriages and regularly plying sea, river, land and air vehicles shall reserve the right to enter into and exit from the Customs Territory at any hour of night and day. Likewise, the irregularly plying sea, river, land and air vehicles which bring passengers shall also reserve the right to enter into and exit from the Customs Territory.

(b) Vessels shall be able to load and unload goods and embark and disembark passengers at any

hour of the day and night at the ports where operation facilities exist.

(c) Customs administrations shall also accept the loading and unloading requests of the vessels which, due to force majeure, had to enter or leave, out of the working hours, a port where a customs administration is situated. Vessels, carrying passengers and tourists, may, out of the working hours, enter and leave a port where a customs administration is situated.

CHAPTER TWO

Summary Declaration and Entry of the Goods into the Customs Territory of Turkey

ARTICLE 35/A-1. Goods brought into the customs territory of Turkey shall be covered by a summary declaration, with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within this territory.

2. The summary declaration shall be lodged at the customs office of entry. The summary declaration may be allowed to be lodged at another customs office, provided that this Office immediately communicates or makes available electronically the necessary particulars to the customs office of entry. The Undersecretariat may accept, instead of the lodging of the summary declaration, the lodging of a notification and access to the summary declaration data in the debtor's

computer system.

3. The summary declaration shall be lodged before the goods are brought into the customs territory of Turkey.

4. The following shall be laid down by regulations in accordance with the specific circumstances and for particular types of goods traffic, modes of transport and debtors and where international agreements provide for special security arrangements:

- the time limit by which the summary declaration is to be lodged before the goods are brought into

the customs territory of Turkey,

- the rules for exceptions from, and variations to, the time limit referred to in the first indent, and

- the conditions under which the requirement for a summary declaration may be waived.

Article 35/B

1. The format and content of the summary declaration shall be laid down by regulations, containing the particulars necessary for risk analysis and the proper application of customs controls, primarily for security and safety purposes, using, where appropriate, international standards and commercial practices.

2. The summary declaration shall be made using a data processing technique. Commercial, port or transport information may be used, provided that it contains the necessary particulars.

3. The Undersecretariat may accept paper-based summary declarations in exceptional

circumstances, provided that they apply the same level of risk management as that applied to summary declarations made using a data processing technique.

4. The summary declaration shall be lodged by the person who brings the goods, or who assumes responsibility for the carriage of the goods into the customs territory of Turkey.

5. Notwithstanding the obligation of the person referred to in paragraph 4 and in accordance with the conditions laid down in regulations, the summary declaration may be lodged instead by:

- (a) the person who acts in the name of the person referred to in paragraph 4
- (b) any person who is able to present the goods in question or to have them presented to the competent customs authority;

or

- (c) a representative of one of the persons referred to in paragraph 4 or points (a) or (b).

6. Customs authorities shall authorise to amend one or more particulars of the summary declaration after it has been lodged upon the request of the persons referred to in paragraphs 4 and 5. However,

no amendment to the summary declaration may be allowed after;

- (a) having informed the person who lodged the summary declaration, that the goods will be examined; or
- (b) having established that the particulars in questions are incorrect; or
- (c) having allowed the removal of the goods.

Article 35/C

1. The customs office of entry may waive the lodging of a summary declaration in respect of goods for which, before expiry of the time limit referred to in Article 35/A(3) or (4), a customs declaration is lodged. In such case, the customs declaration shall contain at least the particulars necessary for a summary declaration that are laid down in Article 35/B and, until such

time as the former is accepted in accordance with Article 61, it shall have the status of a summary declaration.

The customs declaration may be allowed to be lodged at a customs office different from the customs office of entry, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of entry.

2. Where the customs declaration is lodged other than by use of data processing technique, the customs authorities shall apply the same level of risk management to the data as that applied to customs declarations made using a data processing technique.

ARTICLE 36- 1. Goods brought into the Customs Territory of Turkey shall, from the time of their entry, be subject to customs supervision. They shall be subject to control by the customs administration in accordance with the provisions in force.

2. They shall remain under such supervision for as long as necessary to determine their customs status, and in the case of goods not released for free circulation and without prejudice to Article 77

(1), until their customs status is changed, or they enter a free zone or they are re-exported or destroyed in accordance with Articles 163 and 164.

ARTICLE 37- 1. Goods brought into the Customs Territory of Turkey shall be conveyed by the person bringing them without delay, under the rules specified by the Undersecretariat:

(a) to the customs administration designated or to any other place approved by those

administrations; or,

(b) directly to a free zone by sea or air, or by land without passing through a part of the Customs

Territory of Turkey.

2. Any person who assumes responsibility for the carriage of goods after they have been brought into the Customs Territory of Turkey, as a result of transshipment, shall become responsible for compliance with the obligation laid down above.

3. Without prejudice to provisions in force with respect to supervision and control by the customs administrations, the Undersecretariat is authorized to lay down special provisions regarding passengers, inhabitants of boundaries, postal traffic and goods of negligible economic importance.

4. The paragraphs above and Articles 35/A to 35/C and 38 to 50 shall not apply to goods which temporarily leave the customs territory of Turkey while moving between two points in that territory by sea or air, provided that the carriage is effected by a direct route and by regular air or shipping services without a stop outside the customs territory of Turkey.

5. Paragraph 1 shall not apply to goods on board vessels or aircraft crossing the territorial sea or airspace of Turkey without having as their destination a Turkish port or airport.

TURKEY'S INTERNATIONAL COOPERATION⁴

Turkey is a member of INTERPOL and on a bilateral level, there are over 50 law enforcement

Liaison officers from 25 different countries in turkey. As with EU member states the Turkish Authorities use the INTERPOL i-24/7 system in order to exchange cross-border information related to criminals and their activities,

⁴ TR0702.15-02/001 Technical Assistance for Development of the Border Management Roadmap and Execution of a Border Gate Survey in Turkey Feasibility Analysis Report October 2011

thus facilitating the exchange of information between Law Enforcement agencies (LEAs) regarding criminal investigations in different countries.

Turkey has an INTERPOL national central bureau (NCB) which is able to search and check Databases containing information on terrorists, fingerprints, fugitives, DNA profiles, lost or Stolen travel documents, stolen vehicles, etc. It is also able to check or exchange an almost exhaustive array of cross border information and has access to a wide range of criminal Information through a variety of databases. Although I-24/7 is initially installed in NCBS,

INTERPOL is encouraging member countries to extend their connections to national law Enforcement entities such as border police, customs and immigration etc, and in Turkey the Passport police already have an interface with the INTERPOL database via their POL-NET system.

Turkey has not yet concluded negotiations on a working agreement with Frontex³²⁹, and in Addition, there are no agreements with the European central bank (ECB) regarding currency counterfeiting or with the newly established European asylum support office (EASO).

Currently, Turkish veterinary services use the TURK-VET information system, but it is not Directly connected with the relevant EU databases such as RASFF (rapid alert system for food And feed)³³⁰, TRACES (trade control and expert system)³³¹ and ADNS (animal disease Notification system) ³³² and cross-border communication is limited. EU for the EU, international co-operation is divided into two separate areas; ,internally' between Member states within the EU, and ,externally' outside the EU with 3rd countries. Within the EU, information and intelligence are generally, as a rule, exchanged via national central Authorities / contact points such as the INTERPOL national unit, EUROPOL national unit, and SIRENE³³³ office, and in many member states these units / offices are all co-located.

CONCLUSIONS

The territorial sea regime under the LOS Convention confirms the sovereignty of the coastal State there, and its jurisdiction with regard to the control and regulation of vessel source pollution. Foreign ships right of innocent passage is however the prime exception from full coastal State sovereignty in the territorial sea. Legislative and enforcement jurisdiction shall be reasonable and with due regard to the inherent flag State right of innocent passage.

Along with the international basic customary law the Turkish custom enforcement competence is framed. It is obvious that Turkey domestic legislation will suffer from the lack of conformity with the International treaties.

As it is stipulated in the Turkish CPL Search warrant; In general there is a good legislative ground and structure in place to support the current maritime operation in the TTW and TIW such as the Judicial and Preventive Search regulation article 18th stipulated to have competence over the vessels for the sake of public interest. However there are areas, in particular in relation to basic control power on vessels which are needs clarification on the extend that before stoppage, board and search for better implementing the law enforcement execution competence of the customs.

SOURCES

Hesse, H. (2004). IMO Activities to Enhance Maritime Security. Seaport Security Conference. New Jersey.

Hoppe, H. (2000). Port State Control - cm update on IMO's work. Maritime Safety Division. IMO.

International Chamber of Shipping. (2004). Submissions to MSC 79 on the Impact of the ISPS Code. London: ICS.

TR0702.15-02/001 Technical Assistance for Development of the Border Management Roadmap and Execution of a Border Gate Survey in Turkey Feasibility Analysis Report
October 2011

Referred Legislation :

1. Act On The Territorial Sea, Law No: 2674, Date of Approval: 20/5/1982

2. The Coast Guard Command Act, Law no. 2692, dated 9.7.1982

Published in Official Gazette no 17753, dated 13.7.1982

3. Anti-Smuggling Act, Law No : 4926, Adopted On : 10.7.2003

4. the law concerning coastal shipping (cabotage) along

Turkish shores and performance of trade and business in turkish ports and territorial waters

Law Number: 815, Date of Adoption : 19 April 1926, Official Gazette: Date : 9 April 1926, Issue: 359,

5. CUSTOMS LAW No.4458of27/10/1999 (as last amended by LawNo:5911)

6. United Nations Convention on the Law of the Sea (1982), http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf, erişim 3/11/2011.

7. Gümrük ve Ticaret Bakanlığının Teşkilat Ve Görevleri Hakkında Kanun Hükmünde Kararname, Kanun Hük. Kar. nin Tarihi : 3/6/2011, No : 640, Yetki Kanununun Tarihi: 6/4/2011, No : 6223, Yayımlandığı R.G. Tarihi : 8/6/2011, No : 27958 Mük.

7. Ceza Muhakemesi Kanunu Turkish Penal Procedure Code

(4.12.2004-5271, RG. 17.12.2004, Nr. 25673), <http://www.justice.gov.tr/basiclaws/cmkk.pdf>, erişim 3/11/2011.

8. Turkish Criminal Code, law Nr. 5237, Passed On 26.09.2004, (Official Gazette No. 25611 dated 12.10.2004, <http://www.legislationline.org/documents/action/popup/id/6872/preview>, erişim 10/10/2011.

9. Customs Enforcement Duty Regulation. Decreed by State Ministry the date of 07.11.2003-25282,

10. Customs regulation Undersecretary of Prime Ministry Custom Undersecretariat, published in Official Gazette on 7/10/2009, reiterated official gazette number 27369

11. Arrestment and Confiscation in the Sea, Law Nr. 3894, passed 10/7/1940 (Official Gazette no. 4564)

12. International Convention on the Arrest of Ships (Geneva, March 12, 1999)

13. United Nations Convention Against Transnational Organized Crime And The Protocols Thereto, <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>, erişim, 5/10/2011

14. Revised Guidelines For The Prevention And Suppression Of The Smuggling Of Drugs, Psychotropic Substances And Precursor Chemicals On Ships Engaged In International Maritime Traffic, Resolution FAL.9(34), adopted on 30 March 2007, <http://www.imo.org/OurWork/Facilitation/docs/FAL%20related%20nonmandatory%20instruments/Resolution%209.pdf>, ERİŞİM 10/10/2011

15. Agreement of the European Council on Implementation of 18th Article of the Convention of the The Prevention And Suppression Of The Smuggling Of Drugs, Psychotropic Substances And Precursor Chemicals On Ships Engaged In International Maritime Traffic, 31 January 1995, http://www.uhdigm.adalet.gov.tr/sozlesmeler/coktarafli-soz/bm/bm_47.pdf, erişim 4/11/201

16. Judicial and Preventive Search regulation, 01.06.2005, Official gazette no : 25832

17. 640 numbered, Ministerial Board Decision, published on the date of 8/6/2011

18. Convention on laundering, Search, seizure and confiscation

Of the proceeds from crime Strasbourg, 8.xi.1990, <http://www.gumruk.gov.tr/tr->

[TR/emvzuat/Uluslararası%20Sözleşmeler/Sözleşmeler/32272579_1990_Convention_20Laundering__20Seizure__20Confiscation.pdf](http://www.gumruk.gov.tr/tr-TR/emvzuat/Uluslararası%20Sözleşmeler/Sözleşmeler/32272579_1990_Convention_20Laundering__20Seizure__20Confiscation.pdf) ,erişim 06/11/2011

19. Constitution Of The International Organization For Migration, http://gib.icisleri.gov.tr/ortak_icerik/gib/Uluslararası%20Mevzuat/Anlaşma/IO M%20KURULUŞ%20ANLAŞMASI.pdf, and

http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/about_iom/iom_constitution_eng_booklet.pdf, erişim 06/11/2011

Related domestic laws :

Turkish border control & related

1. Law no. 3497 on the protection and security of the land borders;
2. Law no. 5607 on the protection against smuggling;
3. Law no. 5682 on passports;
4. Law no. 2565 on forbidden military zones and security areas
5. Law on travelling and residence of foreigners in turkey
6. Coast guard command law
7. Regulations on administrative and judicial duties of coast guard command
8. Inspection guide for coast guard
9. Law on police competence and professional standards (no: 2559)
10. Law for national police organization (no: 3201)
11. Customs legislation on smuggling surveillance (no: 1918)
12. Code for government officials (no: 657)
13. National action plan towards the implementation of turkey's integrated border management

Strategy

14. Regulations and standard operational procedures
15. Turkish customs law no: 4458
16. Law 5996 on veterinary services, plant health, food and feed
17. Anti-smuggling law no: 5607
18. Article 237 of implementing provisions of turkish customs code
19. Council of ministers decree no 2000/53
20. 5179 - law on adoption of the amended decree by-law on the production, consumption and

Inspection of food

21. Instruction of export, re-import and transit of animal products
22. 1380- fishery laws
23. Nap towards the implementation of turkey's integrated border strategy
24. Screening report turkey chapter 12 – food safety, veterinary and phytosanitary policy
25. Turkey's e-health activities a country case study Nihat Yurt, m.d. 1 july 2008
26. Early warning environmental radiation monitoring system by Necati Küçükarslan, Adem Erdoğan, Ahmet Güven, Yusuf Gülay

Related international legal instrument:

EU member states & candidate countries border control & related laws

1. German federal police law (bundespolizeigesetz – bpolg)

2. Hungarian border guard law
3. Latvian border guard law
4. Croatian law on border control
5. French national police deontology
6. French law on aliens residence and asylum (code de l'entrée et du séjour des étrangers eDroit d'asile)
7. Italian immigration law
8. Uk borders act 2007
9. Uk borders, citizenship and immigration act 2009
10. Emergency regulation on organization and functions of the romanian border police 104/2001 of
27 june 2001 (official gazette 351 of 29 june 2001)

Key international conventions :

1. EUropean agreement concerning the international carriage of dangerous goods by road (adr)
2. Basel convention on the control of transboundary movements of hazardous wastes and their
Disposal
3. The tir convention 1975 (as amended on 1 january 2009)

4. Convention on international trade in endangered species of flora and fauna – CITES

5. Revised Kyoto Convention - General Annex Guidelines⁴⁹⁷

6. United Nations Convention against Transnational Organized Crime and its protocols (Palermo Convention):

□ protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime
Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against Transnational Organized Crime

Protocol against the illicit manufacturing and trafficking in firearms, their parts and

components and ammunition, supplementing the United Nations Convention against

Transnational Organized Crime

Other

1. Better management of EU borders through cooperation, Centre for the Study of Democracy, 2011

2. Guidelines for IOM in the Western Balkans, 2007 edition (IOM)

3. Guidelines for IOM in EU external cooperation, EUROPEAID in cooperation with IOM, 2009

4. Study on the status of information exchange amongst law enforcement authorities in the context Of existing EU instruments, icmpd, 2010

5. Commercial motor vehicle size and weight enforcement in EUrope, us department of Transportation, 2007

6. Guidelines for land road border stations, world bank, june 2004

7. National sop's of the EU member states on the check procedures at:

land border bcps (railway included)

air border bcps

sea border bcps

(e.g. Check of persons, vehicles, heavy lorries, buses, vessels, compartments, hazardous

Goods, waste, working hours – tachograph, mailing, handbooks for the use of equipment,

Special operations concerning: investigation and observation, undercover operations,

Gathering of intelligence

8. Global facilitation partnership for transportation and trade (gfp) (united nations trade Facilitation network – integrated border management

9. Centre for EUropean policy studies - the EU border management strategy - frontex and the Challenges of irregular immigration in the canary islands

10. World customs organisation guidelines on enforcement & compliance and procedures & Facilitation

11. World customs organisation guidelines on dual-channel systems in airports – report by the Permanent technical committee

12. World bank – border management modernization - gerard mclinden, enrique fanta david Widdowson, tom doyle (editors) – 2010

13. World bank - border management modernization: a practical guide for reformers - ger

Mclinden, enrique fanta, david widdowson and thomas doyle (editors)

14. Collaborative border management – tom doyle - world customs journal

15. Icmpd ibm in practice

16. Ibm june 2005

17. Beyond bomca (border management in central asia)

18. National ibm strategy of the republic of kosovo 2009

19. Wco research paper no.15 – risk assessment/targeting centres – study report june 2011

20. The strategic challenge of border security – managing border security risk – michael a.

Wermuth and k. Jack riley – march 2007

21. Egovernment factsheets – turkey <http://epractice.EU> EU 2011

22. Egovernment in the EUropean commission december 2010

23. Approaches of e-records management in e-state transformation process in turkey fahrettin

Özdemirci and özlem (gökkurt) bayram ankara university, faculty of letters, department of

Information and records management, atatürk bulvari, 06100 sihiye, ankara, turkey

24. British standards institute standard for business continuity plan — bs 25999
25. Thermal guidelines for data processing environments - american society of heating, Refrigerating and air-conditioning engineers (ashrae) environmental guidelines for Datacom equipment
26. American society of heating, refrigerating and air-conditioning engineers (ashrae) Environmental guidelines for datacom equipment
27. Inventory of biometrics enabled registration processes for immigration purposes, best network, 2010.
28. Biopass. Study on automated biometric border crossing systems for registered passenger at Four EUropean airports. Frontex 2007
29. Biopass ii – automated biometric border crossing systems based on electronic passport and Facial recognition: rapid and smartgate.
30. Lithuanian state border guard service, feasibility study on `biometrical data processing system`, Vilnius 2011
31. Sixth symposium and exhibition on icao mrtts, biometrics and security standards, icao, Headquarters, montreal, canada, 1-4 november 2010
32. EUropean commission programme for 2011: selected proposals - home affairs (internal security And immigration)