

EUROPEAN UNION EXPERIENCE IN REGULATING CUSTOMS OPERATIONS OF ENTERPRISES

Andrii Tymoshenko¹

¹*Ph.D. Student, KROK University, Chief State Inspector, State Customs Service of Ukraine, Kyiv, Ukraine, e-mail: tymoshenko.kyiv@gmail.com, ORCID: https://orcid.org/0000-0001-5303-1407*

Citation:

Tymoshenko, A. (2021). European union experience in regulating customs operations of enterprises. *Economics, Finance and Management Review*, (2), 43–51. <https://doi.org/10.36690/2674-5208-2021-2-43>

Received: April 02, 2021

Approved: April 28, 2021

Published: May 01, 2021



This article is an open access article distributed under the terms and conditions of the [Creative Commons Attribution \(CC BY-NC 4.0\) license](#)



Abstract. After choosing the European integration vector of development and ratification of the Association Agreement with the European Union, Ukraine faced many obligations to bring key areas of the state in line with European standards and norms, significant functions of the state. The purpose of the article is to substantiate the principles of reforming the national customs system and analyze foreign experience in regulating customs operations of enterprises. After all, in the context of the spread of integration and globalization trends of world development, there is a need to unify national customs systems that will unite with a common idea of functioning, focus on the same principles and standards of activity, use common approaches and methods of work. Such unification in any case will not level national customs interests, but, on the contrary, will contribute to solving existing internal problems and ensuring the progressive development of the customs sphere and the state as a whole. Together, the proper fulfillment of all the tasks outlined forms the competitiveness and investment attractiveness of the country at the international level, strengthens its image as a profitable stable partner among other countries and a reliable participant in international organizations, provides progressive socio-economic development. Such functional versatility of the customs sphere clearly separates its place in the structure of the state and identifies a priority role in the implementation of state policy and entrepreneurship.

The article analyzes the main stages of customs regulation in the EU countries. The main provisions of the European Economic Commission are considered. The characteristic features and ways of implementation in the practical activities of customs administrations of software (bases) ASYCUDA were studied.

Keywords: customs system, customs policy, international standards, basic subsystems, reform, expert rating, European integration.

JEL Classification: A11, B26, D78, F13, F21

Formulas: 0; **fig.:** 0; **tabl.:**1; **bibl.:** 27

Introduction. In any country in the world, the customs system outlines its state borders, thereby forming territorial integrity; it is a kind of barrier to the movement of dangerous products across the border, thus forming national security; it acts as a litmus indicator for checking the quality of goods, protecting society from harmful and poor-quality products; is the conduct of legitimate international trade in enterprises, simplifying customs procedures for crossing the border; intensifies foreign economic activity of business entities, increasing the level of financial and economic development of the state. Together, the proper fulfillment of all the tasks outlined forms the competitiveness and investment attractiveness of the country at the international level, strengthens its image as a profitable stable partner among other countries and a reliable participant in international organizations, provides progressive socio-economic development. Such functional versatility of the customs sphere clearly separates its place in the structure of the state and identifies a priority role in the implementation of state policy.

Unfortunately, as evidenced by the practice of functioning of domestic customs authorities, today the national customs system is at the stage of stagnation,

characterized by considerable problems in various areas, does not ensure the proper implementation of basic functions, does not reflect international and European standards. In the context of European integration, this situation is unacceptable and requires large-scale reform of the customs system of Ukraine on the basis of taking into account the best foreign customs experience, the implementation of the worldwide customs principles, rules and standards of work, harmonization of customs legislation with the international and European regulatory framework.

Literature review. Theoretical and practical aspects of simplification of customs procedures, world experience of their introduction into the practice of customs control and registration have been studied by domestic and foreign scientists.

Thus, according to I. Berezhnyuk [4], the formation of customs policy public perception of customs regulation and customs in connection with the economic interests and goals of the state affect the definition of guidelines (framework standards) of customs regulation. Within the framework of defining the customs policy, a system of customs regulation is formed, which, in addition to the mechanisms of customs-tariff and non-tariff regulation, includes the customs system. The influence of the state in the person of customs authorities and other subjects of customs relations involved in the movement of goods and vehicles, in order to subordinate its actions to their economic interests launches a mechanism of customs regulation, which is implemented through customs, and customs authorities begin implementation of customs policy .

T. Ruda [11] notes that customs regulation is a reflection of the tasks that the state has in order to implement it, so it is constantly changing.

O. Desyatny [13] believes that the goals of customs regulation should be to ensure the national customs interests of the state and their security. Customs regulation is based on basic national interests and relevant aspects of state national security policy and is carried out through the implementation of relevant doctrines, strategies, concepts and programs in various spheres of state activity (both internal and external) in accordance with current legislation and international legal acts and customs. . Means of customs regulation are used mainly when individuals and legal entities move goods across the customs border of Ukraine.

Scientist I. Ivashchuk [14] defines customs regulation as a system of measures regulating the import, export and transit of goods and other items moving across the border of a given country, their customs taxation, registration and control. However, the author notes that customs policy is not limited to the technique of customs, in fact, to customs measures at the border or in connection with its crossing (inspection and release of goods, customs duties, etc.), but is much broader.

However, issues related to the coverage of current trends in improving the efficiency of customs regulation, the prospects for further development of the partnership, need more detailed study.

Aims. The purpose of the article is to substantiate the principles of reforming the national customs system and analyze foreign experience in regulating customs operations of enterprises.

Methods. In the course of the study, such methods were used as: causal method – in the process of analyzing the state of customs regulation in the EU countries; streamlining – during the systematization of the main provisions on customs affairs; comparison - the main provisions of the European Economic Commission; methods of system-structural analysis to determine the features and ways of implementation in the practical activities of customs administrations of software (bases) ASYCUDA; method of scientific generalization, which made it possible to formulate conclusions.

Results. Modern national customs policy is closely connected and is directly dependent on the customs policy of foreign countries, customs unions, international organizations, belongs to the activities of the state, which have a cross-border direction, need to be brought to international legal norms for the convergence of national legal systems in the field of customs.

In addition, the image of the state is a multifaceted structure that takes into account the system of values of the state, the activities of state institutions, human rights bodies, the economy, etc. In any country in the world, the customs system outlines its state borders, thereby forming territorial integrity; it is a kind of barrier to the movement of dangerous products across the border, thus forming national security; acts as a litmus indicator for checking the quality of goods, protecting society from harmful and poor-quality products; promotes the conduct of legitimate international trade in enterprises, simplifying customs procedures for crossing the border; intensifying foreign economic activity of business entities, increasing the level of financial and economic development of the state [1].

The last century is characterized by the active creation of economic integrated groups. An example of uns analogue economic integration was the European Union, which combines 27 European countries in a single customs, trade, legal and economic policy. The formation, in accordance with EU treaties, was the starting platform for the process of European integration and the beginning of the creation of a united Europe.

At the same time, in the world practice of the existence of integration groups, the most common types of economic integration are the free trade zone and the customs union.

The development and formation of EU customs regulation is directly related to the creation of a customs union at the EU level, which provides for a common space in which the free circulation of goods and persons is carried out. At the same time, it is glorified by the common eu actors in order to take measures in the field of trade, tariff and non-tariff policy towards third countries. EU legal acts define the boundaries of the customs territory of the Union, where, in addition to some cases, a single customs legislation is applied.

The formation of customs regulation in the EU countries can be divided into four main stages (Table 1).

Addressing the EU customs regulation, it should be mentioned its connection not only with national but also with international law, because the activities of international organizations and their bodies, in particular the WMO, GATT-WTO, the UN Economic Commission for European Economic Affairs, which is associated

with the establishment of new standards and the development of norms aimed at regulating customs relations, significantly influenced the development of EU customs law.

Table 1. Stages of customs regulation in the EU countries

Stages	Description
First stage	The beginning of the creation of the customs union, which began with the signing of the Treaty on the European Coal and Steel Association. Subsequently, in 1957, all customs duties on imports and exports and equivalent fees were abolished, as well as quantitative restrictions on the import and export of certain goods and products.
Second stage	Signing of the Treaty on the European Economic Community (1957), in accordance with Art. 9 which proclaimed the creation of a customs union. The former art.. 13 and 14 of the Treaty obliged member states to gradually abolish duties and fees, which had an equivalent effect during the transition period - from January 1, 1958 to December 31, 1969, which was completed ahead of schedule, namely July 1, 1969 However, it took more than 20 years to eliminate by decisions of the Council, Commission and Court reasons that prevented free trade between member states.
Third stage	The new stage is related to the adoption of the Council Regulation (EPP) of July 23, 1987 on the tariff statistical nomenclature and on the Unified Customs Tariff. At this stage, the Council Regulation No. 918/83 of March 28, 1983, which establishes a system of exemption from EU duties, was also adopted.
Fourth stage	The main stage in the formation of EU customs law is related to the adoption of the Council of the European Economic Community Regulation of 12 October 1992 on the approval of the EU Customs Code and the adoption of the so-called Implementation Provisions approved by Commission Regulation No. 2454/93 of July 2, 1993.

Source: generated by the author based on [3-8]

Thus, the activities of the World Customs Organization are aimed at harmonization of customs affairs by member states. An important component of this work is the recommendation unification of customs legislation. One of the main functions is the preparation of draft conventions and amendments to the convention, as well as the development of recommendations that ensure the monotonous interpretation and application of conventions. All EU member states are members of the World Customs Organization, as well as parties to international agreements concluded under its auspices, the consent to be binding on which was granted within the framework of the EU's unified customs policy.

It is worth mentioning that the GATT/WTO rules contain provisions on customs affairs, in particular:

- customs-tariff regulation;
- customs evaluation;
- anti-dumping and compensatory duties;
- customs unions and free trade zones;
- Fees and formalities related to import and export; prohibition
- Import and export
- contingent of imports and exports, etc. [9].

At the same time, there is still a special body – the Working Group on Customs Affairs of the European Economic Commission, which operates in Geneva as an auxiliary body of the UN Economic and Social Council.

The European Economic Commission is one of five regional economic commissions, which consists of all European states. It has 15 main bodies, one of them is the Committee on Inland Transport, which deals with road, rail and river transport. The Committee prepared a glossary of international customs terms, which unifies customs terminology and definition of the customs operation of European countries [10-13].

It consists of working groups on various types of transport and the Working Group on Customs Issues (Group of Customs Experts). This group is a practically specific body for handling customs issues within the framework of the European Economic Commission. It was organized in order to create an active international apparatus, which should be engaged in the development and implementation of unified customs systems, the development and improvement of customs equipment, customs legislation of states, as well as simplification of customs formalities at the borders.

In its activities, the Working Group on Customs Issues made a great contribution to the development of more than 13 international customs conventions and other international treaties, in particular the Customs Convention on the Transportation of Goods with the Application of the TIR Carnior (TIR Convention) of 1959 and 1975, the Customs Convention on Container Transportation of 1972 and the International Convention on the Harmony of Conditions for The Control of Goods at the Borders in 1982.

Since the norms of international agreements do not have a direct effect in the system of EU law, in order to implement these norms within the framework of the law and order of the European Union, measures for their implementation into EU law were necessary.

The implementation can take place at the council level, if necessary , by the Parliament and the Commission. It should be noted that only an individual transformation leaves no doubt about the effect of the international norm in EU law, that is, when the norm of the agreement is reproduced in each case in the binding act of the EU body, such implementation provides for the transition of the norm from international law to European law, allows to assert the existence of rights and obligations affecting the international agreement, as well as the existence of judicial protection of such rights in national courts and the EU Court of Justice. At the same time, it leaves no possibility for any restrictive interpretation of it by the EU Court.

When performing a comparative analysis, it is worth distinguishing two main components:

- the EU customs regulation system solves two main tasks that pre-state the specifics of EU customs law: ensuring the monotonous application of the Single Customs Tariff and ensuring the freedom of movement of goods through the Community;

- customs union as a form of economic integration of states is a prerequisite for further integration processes, for the successful development of which an independent system of legal regulation should be created, because the usual combination of international legal and national legal means of legal regulation does not ensure the

effective implementation of the goals of the customs union, and therefore the possibility of transition to the next stages of integration [15-17].

It is advisable to note that the customs union was one of the first on which the EU was based. With its advent, duties on internal borders were abolished and the general import taxation system was established. Customs control at the internal borders simultaneously disappeared. Currently, customs control and customs services are only found at the external borders of the EU. They are entrusted not only with the function of controlling the commodity flow, but also the functions of environmental protection, protection of cultural values and much more.

The Customs Union is the replacement of two or more territories with one customs territory in such a way that duties and other restrictive means of regulating trade are abolished in relation to the bulk of trade in goods passing from such territories, as well as conduct a unified customs policy regarding the trade in goods not included in the union. The common market provides, in addition to the free movement of goods within the customs union, and the free movement of production factors - labor, capital, enterprises [18].

In general, the customs union is a single trade zone in which all goods are moved freely regardless of whether they were produced directly in the EU or were implemented.

In addition, the work of customs services is quite complex. the European Union sets tariffs for imports in accordance with the provisions of international agreements (mostly those concluded by the World Trade Organization). which are economically developed. These countries include the countries of the European Economic Area, such as Isladiyah, Liechtenstein, Norway, Switzerland, former British, French and Portuguese colonies in Africa, the Caribbean and the Pacific basins, as well as some Mediterranean countries.

Customs control is carried out with the direct participation of customs services. They control the compliance of goods crossing the border with international standards and EU standards.

Customs services control the crossing of the border, thereby protecting biological species that are on the verge of extinction. In addition, through customs control procedures, national cultural values are protected.

Control is carried out in accordance with the transportation of certain types of technical means, thanks to customs services it is also controlled by copyright compliance (for example, customs removes millions of counterfeit and pirated disks every year). All this, of course, requires a high level of professionalism of customs officials.

Customs authorities also perform statistical functions by concentrating information on foreign trade statistics. For example, they must maintain a register of goods on which quotas can be imposed, for the reasons that these goods do not correspond to the level of goods of the European Union. Information collected by customs services during the study of commodity flows helps in understanding the economic trends that are necessary to determine customs policy [22].

Another task of the EU customs services is to control the crossing of the border by individuals with large amounts of money, both in cash and checks, in order to prevent money laundering. Customs services control and prevent the process of illegal border crossing. Customs services regularly fight organized crime and cooperate with the border police (immigration services).

An interesting fact is that by 1988, EU customs services used about 150 different forms of documents and declarations during the execution of goods. To date, this procedure is simplified and there is only one form of declarations – the Unified Administrative Document. The EU plans to spend a significant amount of money on automating all customs procedures, including the use of cargo scanning devices, which will significantly speed up the work of the customs service and save customs inspection time.

Customs administrations of many European countries are now actively serviced by the ASYCUDA system and its national modifications. ASYCUDA automated customs data processing system is a universal automated customs data management system through which all customs clearance processes can be processed.

Transaction data and management are stored in a relational database management system. The system takes into account all international norms and standards relating to customs clearance in accordance with the procedure established by ISO, the World Customs Organization, the United Nations. An important characteristic of ASYCUDA is its flexibility, that is, the ability to adjust in accordance with the national characteristics of individual customs regimes, tariffs, customs rules and legislation.

This created the preconditions for the installation of this automated customs data processing system in more than 90 countries of the world. A significant sector among ASYCUDA users [26] is made up of European countries such as the Kingdom of the Netherlands, France, Lithuania, Latvia, Moldova, etc.

The use of ASYCUDA in the practice of customs administrations should ensure:

- facilitating trade through normalization of forms and documents, standardization of data, simplification and automation of customs procedures to speed up the execution of goods;

- increasing the level of efficiency of customs control through the use of modern tools and methods, the introduction of reliable procedures and ensuring a full audit and mechanisms for controlling customs operations;

- improvement of customs management and control by providing governments of ASYCUDA member states with accurate and timely statistical information on foreign trade and income, which can later be used for trade policy purposes and management decisions [27].

The ASYCUDA system provides an opportunity to reduce the time required for customs control and customs clearance of goods moving across the customs border by water modes of transport. This, in turn, leads to a reduction in the time of the vessel's stay in the port, simplifies the work of customs administrations, facilitates and accelerates compliance with customs formalities by declarants and ship administrations. In addition, ASYCUDA creates a wide range of opportunities for

international cooperation of customs administrations, including information exchange, acts as actually a platform for unification of customs procedures of customs control and customs clearance at the international level.

Conclusions. Taking into account the above, the use of the experience of European countries, that is, to use the ASYCUDA system, through which customs control and customs clearance of goods moving across the customs border by water modes of transport will be carried out.

At the same time, customs regulation in the EU is not directly regulated by the EU Customs Service, as there is no separate section, such as the ICU. Thus, in the section 3, the EU ICC stressed the importance of customs control over goods brought to the customs territory of the EU. Separately, Section 2 regulates the procedure for the presentation of goods for customs control, and Section 3 regulates the regulation of the procedure for declaration of goods. Customs control by customs depends on the origin of the goods and is possible only if the goods, person or vehicle of the external eu border cross. Customs control is not carried out at the internal borders of the European Union.

References:

1. Kivalov, S. V. and Kormych, B.A. (2001), *Mytna polityka Ukrayny* [Customs policy of Ukraine], Yurydychna literature, Odessa, 254 p.
2. Customs Code EU, retrieved from : https://zakon.rada.gov.ua/laws/show/ru/984_009-13#Text.
3. Bilukha, M. and Mykytenko, T. (2014), “Customs control: organization and methodology”, *Naukovyi visnyk Natsionalnoho universytetu DPS Ukrayny (ekonomika, pravo)*, № 1 (64), pp. 181–187.
4. Berezhniuk, I. H. (2009), *Mytne rehuliuvannia Ukrayny: natsionalni ta mizhnarodni aspeky* [Customs regulation of Ukraine: national and international aspects], Akademiiia mytnoi sluzhby Ukrayny, Dnipropetrovsk, Ukraine, 543 p.
5. Dudar, S. K. (2002), “Harmonization of legislation: problems of concept definition”, *Derzhava i pravo. Yurydychni i politychni nauky*, vol. 17, p. 11-16.
6. Hodovanets, O. and Vedashenko, N. (2014), “Customs control in Ukraine: essence and purpose”, retrieved from : http://sophus.at.ua/publ/2014_11_25_lviv/sekcija_4_2014_11_25/mitnij_kontrol_v_ukrajini_sutnisti_priznachennja/70-1-0-1088.
7. Krysovata, K. (2013), “Financial risks in the system of customs control and customs clearance of goods”, *Visnyk sotsialno-ekonomicnykh doslidzhen*, vol. 2 (49), part 2, pp. 47–52.
8. Dodin, Ye. V. (2004), “Legal bases of customs business in Ukraine”, *Mytna sprava*, № 5, pp. 6–18.
9. Merezhko, O. O. and Nelip, M. I. (1999), *Pravove rehuliuvannia svitovoї torhivli v systemi HATT/SOT* [Legal regulation of world trade in the GATT / SOT system], Naukova dumka, Kyiv, Ukraine, 103 p.
10. Lazurenko, V. O. (2021), “Simplification of customs procedures - prospects for the state and business”, retrieved from : <http://dspace.snu.edu.ua:8080/jspui/bitstream/123456789/2331/1/Lasu-renko.pdf>.
11. Ruda, T. (2021), “The essence and significance of customs services in the context of customs reform in Ukraine”, retrieved from : <http://naukajournal.org/index.php/naukajournal/article/viewFile/85/114>.
12. Honcharuk, O. A. (2010), “Administrative and legal bases of reforming modern customs bodies of Ukraine”, Uchenye zapiski Tavricheskogo natsionalnogo universiteta im. V. I. Vernadskogo. Seriya «Yuridicheskie nauki», part 23 (62), № 2, pp. 124–130, retrieved from : http://sn-jurid.crimea.ua/arhiv/2010/uch_23_2law/017_goncharuk.pdf.
13. Desiatniuk, O. and Kharkavyi, M. (2021), “The latest paradigm of customs control in terms of simplification of customs procedures”, *Efektyvna ekonomika*, retrieved from : <http://www.m.nayka.com.ua/?op=1&j=efektyvna-ekonomika&s=ua&z=3857>.
14. Ivashchuk, I. (2010), “Directions and prospects of convergence of customs relations in the global space”, *Halytskyi ekonomicznyi visnyk*, № 4 (29), pp. 24–30.
15. Chubariev, V. L. (2009), *Mizhnarodne ekonomiche pravo* [International economic law], Yurinkom Inter, Kyiv, Ukraine, 368 p.
16. Valuieva, L. and Kovban, A. (2015), “Legal regulation of customs procedures on maritime transport”, *Pravo i suspilstvo*, № 4, part 3, pp. 139–144.
17. Averochkina, T. V. (2015), “Customs administrative jurisdiction of Ukraine in coastal seas”, *Mytna sprava*, № 5 (95), pp. 19–29.
18. Bazyliuk, I. O. (2011), “The concept of movement of goods across the customs border and its legal support”, *Aktualni problemy derzhavy ta prava*, vol. 60, pp. 516–522.
19. Luts, L. (2004), “Legal integration: general theoretical characteristics”, *Visnyk Lvivskoho universytetu. Seriia: Yurydychna*, vol. 39, pp. 79–86.

20. Moroz, B. I. and Diachenko, O. O. (2014), "Development of an automated customs control system for maritime transport", *Sistemnyie tehnologii*, № 5 (94), pp. 55–64.
21. Perepolkin, S. M. (2008), *Mizhnarodno-pravovi aspekty mytnoho spivrobitnytstva yevropeiskykh derzhav* [International legal aspects of customs cooperation of European states], Akademia mytnoi sluzhby Ukrayiny, Dnipropetrovsk, Uktaine, 180 p.
22. Letter from the Ministry of Finance of Ukraine from 17.09.2015 № 31-03040-05-15/29409, retrieved from : https://www.mdoffice.com.ua/ua/aMDOSForum.GetANS?p_id=1343469.
23. Tsalina, D. S. (2004), "Concepts and principles of customs clearance", *Problemy zakonnosti*, №69, pp. 110–114.
24. Nahrebelnyi, V. P. (2021), "Harmonization of legislation", retrieved from : <http://zakony.com.ua/juridical.html?catid=37171>.
25. Fedyniak, H. S. and Fedyniak, L. S. (2000), *Mizhnarodne pryvatne pravo* [International private law], Yurinkom Inter, Kyiv, Ukraine, 416 p.
26. The ASYCUDA Programme. Unated Nations Conserence of Trade and Development, retrived from : <http://www.asycuda.org/programme.asp>.
27. Holomovzyi, V. M. Pankova, L. A. Hryhoriev O. Yu. and other (2004), *Mytne rehuliuvannia* [Customs regulation], Natsionalnyi universyet «Lvivska politekhnika», Lviv, Ukraine, 240 p.