

CHAPTER 3

PUBLIC ADMINISTRATION AND GOVERNANCE

THEORETICAL PRINCIPLES OF CUSTOMS CONTROL IN UKRAINE

Nadiia Kalashnyk¹, Ivanna Kozak²

¹Doctor of Sciences (Public Administration), Associate Professor, Professor of Regional Management and Local Self-Government Department of the Lviv Regional Institute for Public Administration of the National Academy for Public Administration under the President of Ukraine, Lviv, Ukraine, e-mail: kalashnykn@ukr.net, ORCID: <https://orcid.org/0000-0003-0814-0246>

²Ph.D. (Public Administration), Associate Professor, Associate Professor of the Economy Department, Lviv Regional Institute for Public Administration of the National Academy for Public Administration, Lviv, Ukraine, e-mail: ivannakozak@ukr.net, ORCID: <https://orcid.org/0000-0003-1801-8877>

Abstract. Globalization processes that rapidly change economic processes require decisive changes in all areas of management, and effective foreign economic activity requires solving existing problems in customs in general and optimizing the process of customs control in particular. Ukraine, in particular, the main tasks for the functions of customs authorities are analyzed. Consideration of the definition of "customs control" in the current legislation and scientists and proposed their own position. The types of customs control depending on the criteria of classification are studied, namely, depending on: the subject it is accepted to distinguish the general and special types of customs; direction of movement of goods; essential characteristics of goods; type and nature of cooperation of customs authorities of countries, etc. The differences between one-time customs control and re-customs control are given, the essence of official control is revealed. In order to increase the efficiency of customs control, ensure the simplification of international trade, improve the business climate, and promote economic growth, problematic areas of customs procedures have been identified in order to harmonize or avoid them.

According to the results of the study, it is determined that the customs authorities of Ukraine to simplify customs procedures and customs formalities need to intensify the introduction of electronic declaration, which will significantly reduce the cost of customs clearance and clearance time. Further development of the "Electronic Customs" system should be carried out taking into account the experience of implementing electronic systems in other developed countries, including EU member states. It is possible to fulfill the current tasks of customs authorities in the implementation of customs control only if the intensification of scientific research on the successful implementation of current legislation to international standards and the successful introduction of modern tools, which are discussed in this publication.

Keywords: control, customs control, customs system, customs control bodies, control procedures.

JEL Classification: F52, F68.

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Introduction. The changes that humanity has undergone as a result of globalization processes, including temporary logistical constraints related to the coronavirus pandemic, form new requirements in Ukraine's foreign economic activity in the customs sphere. Customs control when crossing the border by participants in foreign economic activity acts not only as additional revenues to the budget, but also is a guarantee of national security.

Ukraine is at the stage of formation and development of market relations, integration of the economy into the European and world customs system, so the problem of organizing and conducting customs control is extremely important and relevant. This integration into the world space requires adherence to common standards, conditions and procedures related to the movement and control of transit movement of goods in the legal field, innovation and new technologies.

All this requires a thorough study of theoretical and methodological aspects of customs control and appropriate proposals for ways to improve it, taking into account the crisis economic processes caused by the pandemic.

Literature view. An important contribution to the creation of a scientific basis for the implementation of customs control in the context of realization of economic interests of the state made such a science as I. Berezhnyuk, M. Bilukha, O. Godovanets, O. Honcharuk, L. Hrytsyna, O. Desyatnyuk, K. Kondratenko, A. Krysovaty, V. Martyniuk, T. Mykytenko, P. Pashko, S. Tereshchenko, I. Stefanyuk, L. Savchenko and others. The vast majority of research mentioned, as well as other scientists, reveals the general issues of organization, harmonization and identifies problematic aspects of customs control and ways to improve them.

Aims. The purpose of the article is to study the problematic theoretical foundations of customs control and study proposals for ways to optimize its procedures to ensure the effectiveness of Ukraine's foreign economic activity towards integration into the European and world economic space.

Methods. The methodological basis of the article was carried out with the use of general scientific methods: dialectical and historical methods, systematic approach, theoretical generalization and comparison, analysis and synthesis. The information base of this study are regulations, scientific developments of Ukrainian and foreign scientists on selected topics.

Results. One of the forms of function of customs authorities is control activity, which consists monitoring and verifying the compliance of citizens and business entities with the norms of customs legislation. In the process of carrying out control activities, the customs authorities: supervise the actual sale by citizens and persons carrying out operations related to the movement of goods and vehicles across the customs border; prevent possible customs offenses in this area; determine measures aimed at eliminating conditions that complicate the realization of citizens and business entities of their rights and conditions that contribute to the commission of offenses; in case of detection of the fact of a customs offense, measures shall be taken to stop it. The purpose of the customs authorities in relation to control is, on the one hand, creating the most favorable conditions for the implementation of customs legislation in the conduct, activities of citizens and businesses, ensuring the effectiveness of legal regulation of public relations in the customs sphere, and on the other - protection of economic interests of the state, law and order in the customs legal sphere. One of the main functions of customs authorities is the full and timely transfer of customs payments to the State Budget of Ukraine. Therefore, the correctness of accrual of customs payments, completeness and timeliness of their

payment, as well as control by customs authorities over the receipt of taxes and fees from the movement of vehicles to the state treasury are of particular importance [1].

Customs control occupies an important place in the general hierarchy of the customs system, which, in turn, is a set of tariff and non-tariff instruments, principles, forms and methods of their establishment, change or cancellation, a mechanism that ensures timely and complete payment of customs duties, liability for violation of customs legislation, and also state bodies, which are responsible for implementing the policy in the field of state customs. Y. Dyomin is convinced that customs control is "a system of legally established measures taken by customs authorities to ensure compliance with customs and tax legislation, protection of state and public security, economic interests and also detection and prevention of illegal actions of individuals and legal entities" [2]. M. Bilukha and T. Mykytenko define customs control as a function of management of customs operations of enterprises engaged foreign economic activity in order to ensure compliance with the requirements of regulations on state customs and international treaties of Ukraine [3]. According to I. Ivancha, customs control is an integral part of financial control based on both existing organizational reserves and new, modern forms of organization and providing of financial control: risk management system; electronic declaration; the only automated system for collecting, storing and processing information on foreign trade transactions [4].

The Customs Code of Ukraine (ICU) defines customs control as "... a set of measures taken to ensure compliance with the norms of Customs Code, laws and other regulations on state customs, international treaties of Ukraine concluded in the manner prescribed by law ». According to article 336 of the Customs code of Ukraine, customs control is carried out directly by officials of bodies of incomes and charges by:

- 1) verification of documents and information provided to the bodies of revenues and fees during the movement of goods, commercial vehicles across the customs border of Ukraine;
- 2) customs inspection (inspection and re-inspection of goods, commercial vehicles, inspection and re-inspection of hand luggage and luggage, personal inspection of citizens);
- 3) accounting for goods, commercial vehicles moving across the customs border of Ukraine;
- 4) oral interview of citizens and officials of enterprises;
- 5) inspection of territories and apartments of temporary storage warehouses, customs warehouses, free customs zones, duty-free shops and other places where goods, commercial vehicles subject to customs control are located;
- 6) checks on the accounting of goods moving across the customs border of Ukraine and / or under customs control;
- 7) conducting documentary inspections of compliance with the requirements of the legislation of Ukraine on state customs matters, including timeliness, reliability, completeness of accrual and payment of customs duties;

8) sending inquiries to other state bodies, institutions and organizations, authorized bodies of foreign states to establish the authenticity of documents submitted by the State Customs Service of Ukraine [5].

The EU Customs Code defines customs control as certain actions of customs authorities to ensure the proper application of customs and other legislation governing the import, export, transit, transfer, storage and finish using of goods moving between the customs territory of the Community and other territories, and the presence and movement within the customs territory of goods not originating in the European Union and goods placed under the regime of release for domestic consumption [6].

The main tasks and functions of customs authorities include ensuring the implementation of policy in the field of state customs and combating offenses in the application of customs legislation; exercising, within the limits of its powers, control over the receipt of taxes and fees, customs and other payments to the budgets and state trust funds; direct implementation of customs affairs, control over observance by all legal entities and individuals of the legislation of Ukraine on customs affairs; taking measures to protect the interests of consumers of goods, preventing the importation into the territory of Ukraine and release for free circulation of substandard goods; creation of favorable conditions for accelerating trade, increasing the volume of cargo flow across the customs border of Ukraine and protecting the intellectual property rights of legal entities and individuals in the process of foreign economic activity; simplification of customs procedures through further use of the "single window", the institution of an authorized economic operator, the development of a risk management system.

There are the following types of customs control according to the classification criteria. Thus, depending on the subject, it is customary to distinguish between general and special types of customs control. General customs control, depending on the specific subject can be divided into customs control of goods and customs control of vehicles.

Depending on the direction of movement of goods, it is customary to distinguish between customs control of imported, export and transit goods. Accordingly, import control is carried out on goods imported into the territory of Ukraine, export - on goods exported from Ukraine, and transit - on goods moving through the customs territory of Ukraine.

Depending on the essential characteristics of goods, which condition the features of customs control, there are subtypes of customs control of goods: customs control of hand luggage and control of luggage, both accompanied and unaccompanied.

Customs control of vehicles is determined by their type. Accordingly, there are customs control of vehicles, aircraft, customs control of railways, customs control of river vessels, customs control of ships, customs control of pipeline transport and power grids.

Depending on the type and nature of cooperation between the customs authorities of the countries there are such types of customs control as:

- unilateral customs control. Such control is carried out by only one party, usually before crossing the customs border. The customs authorities of one party trust the other party and do not carry out repeated customs control. This control system is also called simplified. It is becoming widespread for members of customs unions;

- bilateral customs control, which is carried out independently by the customs of the two countries;

- joint customs control, which is carried out simultaneously by the customs authorities of the two countries.

In addition to this, there are one-time customs control and re-customs control. Such controls are usually carried out on vehicles or goods when the customs authorities have sufficient grounds to do so. One-time customs control is carried out when the customs border is crossed in one direction, and repeated when vehicles cross the customs border twice in a short period.

During the customs control, the customs authorities shall independently determine the form and scope of control sufficient to ensure compliance with the legislation of Ukraine on customs matters and international agreements of Ukraine [7].

An important factor for providing compliance of legal rules and procedures of foreign economic activity is the development of institutional foundations for fulfillment of customs control. In modern conditions, the state of customs control does not provide protection of economic interests of the state, elimination of violations of customs and tax legislation. It is known that all goods and vehicles moving across the customs border of Ukraine are subject for customs control.

To ensure compliance with the legislation of Ukraine on customs matters, customs authorities must conduct a minimum of customs procedures. Note that the forms of customs control, according to Article 336 of the Customs Code of Ukraine, there are:

- 1) verification of documents and information during the movement of goods and vehicles;
- 2) customs inspection / re-inspection;
- 3) inspection of territories and apartments of temporary storage warehouses;
- 4) accounting for goods and vehicles;
- 5) verification of accounting of goods and vehicles;
- 6) oral examination;
- 7) conducting documentary inspections,
- 8) sending inquiries to other state bodies, institutions and organizations, authorized bodies of foreign states" [8].

The development of the system of customs clearance and control in Ukraine is carried out in the direction of accelerating the passage of goods and vehicles across the customs border. Increasing the capacity of checkpoints, without reducing the reliability of customs control, makes it possible to humanize and simplify the regime of control over the movement of goods and commercial vehicles. Thus, in order to create favorable conditions for crossing the customs border of Ukraine since 2018, official control measures have been introduced. Measures of official control may be

referred to the constituent parts of customs control, as in Part 1 of Article 319 of the Customs Code of Ukraine explicitly states that when moving through the customs border of Ukraine, goods, in addition to customs control, may be subject to customs. At checkpoints across the state border of Ukraine, the specified types of state control are carried out by customs authorities in the form of a preliminary document.

Thus, the legislator directly opposes customs control to preliminary documentary control, which is a form of other types of state control. In fact, the customs authorities exercise it not within the limits of their powers, but on the basis of the powers delegated to them by other state bodies.

Analysis of current legislation allows to confirm that between customs and preliminary documental control is many common: they are carried out simultaneously, by the same controlling subjects (officials of customs bodies), concerning the same objects. However, these types of control have different purposes. Customs control is aimed at ensuring the rule of law in the field of customs, to prevent violations of customs legislation, and in case of detection - to detect them.

Preliminary documentary control is designed, first of all, to ensure the safety of the people's meeting in Ukraine, to prevent phytosanitary, veterinary and canine measures of other, provided by legislation, characters. There are a number of minor differences between them, they can be distinguished by identifying the main specific features of the preliminary documentary control.

So, first of all, this control, as well as any other kind of state control is a means of maintaining legality, but its application involves ensuring the rule of law not in one but in a number of areas. Secondly, it is documentary, that is, it is carried out mainly in the form of verification of documents submitted by the declarant; at the same time, the legislator has defined a clear list of such documents. Thirdly, during the implementation of this type of control, customs officials check the compliance of goods with veterinary, sanitary, phytosanitary requirements. That is why, there is a situation when the controlling entity is not a specialist in the field being inspected.

The effectiveness of such control became possible only under the conditions of close interaction between the customs authorities and the specialized bodies of the state administration, the last one - documentary control is preliminary.

This feature is manifested in the fact that in case of detection of circumstances that call into question the possibility of a positive ending of the preliminary control, the customs authority is authorized to suspend its implementation and initiate normal control proceedings on phytosanitary, veterinary, state control over compliance with food and feed legislation. , products of animal origin, animal health and welfare.

Improving the efficiency of customs control, facilitating international trade, improving the business climate, promoting economic growth is possible due to the presence of problematic areas of customs procedures, namely:

- implementation of full customs control of goods, without using of appropriate technical equipment and information technology;
- there is duplication of bilateral customs control of two neighboring countries;

- subjects of foreign economic activity submit a significant number of different documents about the movement of goods across the customs border, the forms of these documents differ in different countries;
- insufficient staffing, in terms of material and technical base, and the convenience of the location of places for customs clearance of goods;
- presence of different rates and methods of accrual of customs duties and others.

One of the main tasks of the customs authorities of Ukraine in the near future is the creation of a customs service of European standard, the transition to international principles of customs control. In modern conditions of economic development, customs authorities should focus on cooperation with foreign trade entities, in order to improve customs control, by simplifying and harmonizing the relevant procedures to ensure transparency, consistency, logic and predictability of foreign trade entities [9].

It should be emphasized that the customs authorities of Ukraine to simplify customs procedures and customs formalities, are actively implementing electronic declaration, which significantly reduces the cost of customs clearance and clearance time. Further development of the Electronic Customs system should be carried out taking into account the experience of implementing electronic systems in other developed countries, including EU member states. Informatization of customs is in the interests of both business entities and the interests of the state. The effects of optimizing customs control and customs clearance of vehicles will be as follows:

- optimization of time for customs procedures;
- further automation of customs control and clearance procedures;
- interaction with information systems of various institutions and state organizations of Ukraine and the world;
- development of international customs cooperation in the field of export, import and transit of vehicles;
- increase in customs revenues to the State Budget of Ukraine;
- strengthening of the regulatory function of the customs policy of Ukraine, etc.

Another way of improving customs control procedures, along with electronic declaration, is to simplify the procedures required for customs clearance. Reducing the list of documents required for customs control means the possibility of taking them out of customs clearance. The result of such actions should be the acceleration of customs procedures, in particular, at checkpoints at the customs border, reducing delays in downtime of goods, which will accelerate the process of filling the state budget [10].

Despite the significant success of electronic declaration, it is still not perfect. Many customs processes are still based on paper documents, which does not match the current technical progress and world best practices. Electronic autonomy technology allows you to get several benefits at once:

1. Reducing physical contact between business and government minimizes corruption risks.
2. Automate and simplify business declaration.

3. To form a more comprehensive view of the enterprise from the point of view of the supervisory authority.

According to the World Customs Organization in the European region, the overall percentage of electronic customs declarations exceeds 90%. It is worth noting that in the EU customs clearance takes less than 5 minutes in 63% of cases and exceeds 1 hour in 9% of cases (this can take up to 48 hours). These results cannot be achieved without significant progress in customs automation and risk management. In contradistinction to financial fines in the tax legislation (which are applied to business entities), the responsibility for violation of customs rules is personal - a fine is imposed on an individual. Customs corruption harms doing business in the country as a whole.

Corrupt practices related to customs clearance distort competition, harm the legitimate business activities of honest business, and create risks to the security of the supply chain and the economic security of the state as a whole. That is why measures aimed at preventing corruption and reducing corruption risks are important for creating a favorable business climate in the country. The shadow economy, the illegal movement of goods across the customs border, tax evasion schemes harm the legitimate interests of conscientious companies and distort competition in the market.

That is why business is interested in the state, represented by the customs administration, to actively counteract violations of customs legislation.

Analyzing the complexity of customs procedures, it is advisable to pay attention to measures to simplify them in Ukraine in recent years of reform. First of all, in accordance with the obligations to the International Monetary Fund, our state had to introduce the institution of an authorized economic operator (AEO) in order to simplify customs procedures and implement customs legislation. Although at the legislative level, the concept of AEO has existed since 2012, which is defined by the Customs Code. On September 12, 2020, the Verkhovna Rada adopted a bill in the first reading on the introduction of the institution of an authorized economic operator in Ukraine.

The explanatory note to the bill states that its purpose is to introduce in Ukraine the institution of an authorized economic operator, similar to the one operating in the EU, with the prospect of their further mutual recognition. In particular, the status of the AEO confirms the high level of customs confidence in the company and, as a consequence, gives it the opportunity to enjoy the benefits of customs formalities for their goods. Recognition of the status of national AEOs by the customs authorities of the EU countries will ensure the participation of Ukrainian AEOs in the formation of so-called safe supply chains and increase their competitiveness in foreign and domestic markets.

This document is aimed at expanding the freedom of entrepreneurial activity, increasing the competitiveness of Ukrainian enterprises in foreign and domestic markets, which, in turn, will be the basis for creating new working places in the near future. This bill needs to be adopted and implemented in the current Ukrainian legislation, which will bring Ukraine closer on the path to European integration and facilitate customs procedures when crossing the border.

Discussion. In general, the elements of customs control are: the organization of the customs control, the subsystem of control over the movement of goods across the customs border by citizens and businesses; and the main components of customs control are the process of customs control, its forms, customs examination, customs control zones and special procedures. On the whole, based on theoretical approaches to understanding the essence of customs control, we observe a large number of views and definitions, which indicates the need to study the chosen topic. Considering that customs control is an integral part of the customs system, the study of its essence and features is an extremely important task of modern research for the harmonious integration of Ukraine into the European and world economic space.

Conclusions. Summarizing the theoretical analysis of our study, we can confirm that customs control includes a set of measures taken by customs authorities within their competence to avoid offenses that are possible when crossing the border to ensure national security, economic interests of the state.

In order to convert the customs authorities operating in Ukraine into the European standard format, a process of maximum simplification of customs procedures and customs formalities is needed, which will help save time for customs control participants and financial costs through the introduction of effective e-customs. It will make it possible to carry out most procedural points through electronic declaration and reduction of the list of documents that are duplicated due to their absence in the database. Reducing bureaucratic procedures and simplifying the procedure will have a positive impact on both the cooperation of customs control participants and the image of Ukraine in terms of competitiveness in the economic space. In order to harmonize and improve the customs control process, it is necessary to implement the current legislation to European and world standards, in particular to bring the process of introduction of the authorized economic operator, which will significantly speed up the procedure and ensure safe supply chains and increase their competitiveness in foreign and domestic markets.

Author contributions. The authors contributed equally.

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