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## SOME ISSUES OF ADMINISTRATION AND LEGAL SUPPORT OF CUSTOMS MATTER OF THE EUROPEAN UNION COUNTRIES

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### Summary

In the article, a theoretical study of some issues of administrative and legal support of the customs matter of the countries of the European Union. The analysis of normative and legal acts such as the Customs Code of the European Union, Regulations Nos. 2913/92, 2454/93, 2658/87, 918/83, and other literature, as well as scientific works of domestic and foreign scientists in this field is carried out, defining their role in the study of the problems of the implementation of the European norms and standards to improve the customs legislation of Ukraine, which should become one of the main tasks of all bodies of state power of Ukraine involved in the process of administrative reform. The evolution of the customs business and the influence of the EU Customs Union on the modernization processes in the field under investigation are traced.

**Key words:** customs matter, administrative and legal support, harmonization of customs, customs union, European integration, European Union.

## НЕКОТОРЫЕ ВОПРОСЫ АДМИНИСТРАТИВНО-ПРАВОВОГО ОБЕСПЕЧЕНИЯ ТАМОЖЕННОГО ДЕЛА СТРАН ЕВРОПЕЙСКОГО СОЮЗА

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### Аннотация

В статье проводится теоретическое исследование некоторых вопросов административно-правового обеспечения таможенного дела стран Европейского Союза. Осуществляется анализ нормативно-правовых актов, таких как Таможенный Кодекс Европейского Союза, Регламентов №№ 2913/92, 2454/93, 2658/87, 918/83 и другой юридической литературы, а также работ отечественных и зарубежных ученых в данной сфере; определяется их роль в исследовании проблематики имплементации европейских норм и стандартов по совершенствованию таможенного законодательства Украины, которое является одной из главных задач всех органов государственной власти Украины, вовлеченных в процесс административной реформы. Прослеживается эволюция таможенного дела и влияния Таможенного Союза ЕС на процессы модернизации в исследуемой сфере.

**Ключевые слова:** таможенное дело, административно-правовое обеспечение, гармонизация таможенного дела, таможенный союз, европейская интеграция, Европейский Союз.

### Formulation of the problem.

Today, the state of regulation of customs rules and procedures of the European Union customs matter is under reforming, taking into account the introduction of the new Customs Code of the Union – the Union Customs Code (UCC) – and the entry into force its main provisions from May 1, 2016. This process is staged, and full implementation is expected no later than December 31, 2020. According to that fact, not only the Ukrainian customs system is involved automatically into this process, but even ordinary Ukrainian businessmen who ship their goods to the EU countries, now will be forced to keep shipping documents for proof of import and export of goods across the EU for 10 years, as the

term of storage customs documents for the purposes of customs inspection increases from 3 to 10 years in accordance with the current provisions. What is more interesting is that the system of fines, which is in force today, is being changed, and a single system of administrative penalties will be introduced, defined by the rules of the EU Customs Code. Moreover, the Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part of 2014, which entered into force on September 1, 2017 after a long process of ratification in full, the parties agree to intensify cooperation in the customs sphere and recognize the importance of customs issues and the promotion of trade in bilateral relations

[1]. An urgent issue for Ukraine is the efficient functioning of the customs service, and therefore the study of EU customs regulations, the activities of the customs authorities of the EU, etc. – administrative and legal support – is useful for achieving the goal.

Relevance of the research topic. The relevance of the research topic is the importance of harmonizing the activities of customs authorities of Ukraine with the requirements of customs regulations of the European Union countries, since effective customs policy and rationally organized customs services of any state contribute to the benefits of globalization.

**Status of the study.** Some aspects of the activities of customs authorities



and specialized customs agencies have already become the subject of research in scientific works by both domestic and foreign scientists, among which worth noting V. B. Averyanov, O.M. Bandurka, D.M. Bakhrakha, Y.P. Bytyak, S. Vasiliev, E.V. Dodin, S.V. Kivalov, K. Kolpakov, O.T. Korniychuk, V.P. Naumenko, A.P. Pavlov, P.V. Pashko, K.K. Sandrovskiy, O.L. Sokolenko, S.S. Tereshchenko and others.

However, this topic remains relevant due to constant processes of modernization of the European Union customs matter and the harmonization of Ukrainian customs legislation with European standards.

**Purpose of the article.** The aim of this article is to analyze the evolution of the state of administrative and legal provision of customs in the European Union for further improvement of the organizational and legal activities of customs authorities in Ukraine in the framework of harmonization of customs legislation with the requirements of the European Union customs regulations and within the general direction of research of European legal acts in the field of customs to pay special attention to positive experience.

**Main body of the article.** In the context of the globalization of the world economy and the strengthening of interdependence of countries, the importance of the customs component of their economic policy has sharply increased. Effective customs policy and rationally organized customs services contribute to the benefits of globalization (stimulate the growth of foreign trade of the country, improve the structure of its trade turnover and increase the competitiveness of export products). According to Article 5 of the Customs Code of Ukraine, the state customs policy of Ukraine is a system of principles and directions of the state's activity in the field of protection of customs interests and ensuring of Ukraine's customs security, regulation of foreign trade, protection of the domestic market, development of the Ukrainian economy and its integration into the world economy. State customs policy is an integral part of the state economic policy [2]. Having chosen one of the priorities of its foreign policy integration into the European structures and participation in pan-European processes, Ukraine has determined the main direction of its international customs cooperation, namely, international customs cooperation with the European Union. The situation

in the world, particularly in Europe, is changing every day, and therefore the law-making and law-enforcement activities of state bodies of Ukraine, namely the customs, need this modern European influence in order not to stay aloof. An integral part of the European integration process is the adaptation of Ukrainian legislation to the EU legislation, which involves the perception of legal standards, among which the standards of administrative law occupy an important place. Customs legislation as a part of administrative law in comparison with the legislation of other branches of law is the most mobile, especially when there is a change in socio-economic formation. The modern view of the customs business covers a complex set of relations that are directly related to the external and internal policies of the state. According to Art.7 of the Customs Code of Ukraine, the state customs practice is the established procedure and conditions for the movement of goods across the customs border of Ukraine, their customs control and customs clearance, the application of mechanisms of tariff and non-tariff regulation of foreign economic activity, customs statistics, customs information exchange, maintenance the Ukrainian classification of goods of foreign economic activity, implementation in accordance with the law of state control of non-food products when imported into the customs territory of Ukraine, preventing and combating trafficking, combating customs violations, the organization and activities of bodies income and fees and other measures aimed at implementing the state policy in the civil customs, constitute state customs; it is carried out in compliance with the internationally accepted forms of declaration of goods, methods for determining the customs value of goods, systems for the classification and coding of goods and customs statistics, and other generally accepted norms and standards in the world [2].

The administrative and legal support of any sphere consists precisely in the formation of the legal sphere to support the functioning and development of this sphere, the legal regulation of which must be carried out by numerous normative and legal acts of both general and special nature that meet the requirements of time. Administrative and legal support is to use means and forms of legal influence in order to achieve effective activity in the chosen sphere. When analyzing the sphere

of customs matter of the European Union, it is worthwhile starting from the fact that the customs regime is a key to the proper performance of the tasks assigned to the customs. Customs regimes are always concerned at least with two persons, who are residents of different countries, and are active in international trade. International trade cannot exist without intervention of governmental institutions such as border guard services, customs, veterinary and phytosanitary services. But in the same time governmental authorities should not hinder legal business and should fight against illegal businesses. That is an idea of intellectual economy and good governance practice. In particular, according to paragraph 25 of Art. 4 of the Customs Code of Ukraine, the customs regime is a set of interconnected legal norms that, in accordance with the stated purpose of moving goods across the customs border of Ukraine, determine the customs procedure concerning these goods, their legal status, and taxation conditions determining their use after customs clearance.

We cannot help but remember one of the EU's earliest achievements and a crucial asset in the global environment of the 21st century and it is the European Union Customs Union. Thanks to the Customs Union, the Community faced an urgent need for unification of the customs legislation of the Member States. In general, a customs union is a type of trade bloc which is composed of a free trade area with a common external tariff. The participant countries set up common external trade policy, but in some cases they use different import quotas. Common competition policy is also helpful to avoid competition deficiency [3]. The European Union Customs Union (EUCU) is a customs union which consists of all the member states of the European Union (EU), Monaco, and some territories of the United Kingdom which are not part of the EU (Akrotiri and Dhekelia, Bailiwick of Guernsey, Bailiwick of Jersey, and the Isle of Man). Some territories within the EU do not participate in the customs union, usually as a result of their geographic circumstances. The Customs Union is a foundation of the European Union and an essential element in the functioning of the single market. The single market can only function properly when there is a common application of common rules at its external borders.



Customs union is one of the major and significant elements of common market in the Community, which is based on four basic freedoms: free movement of goods, persons, services and capital. This market covers more than 400 million users and itself is the biggest market among the highly developed industry countries. Common market (without any internal barrier and restriction to internal trade, with unique conditions to international (third countries) trade) for all Member States is a catalyst of economy integration and liberalization in the world trade chain. In addition, enlargement of the European Union (EU), globalization of world trade, electronical sales and others social, economic processes require an adequate mechanism of trade regulation and control. EU policy on the best governance and intellectual economy requires from customs to effectively fight with breaches of customs law, but in the same time not bother legal business. Cohesion of business and public sector is possible only if both side respects each other and cooperates [5]. To achieve that, the 28 national customs administrations of the EU act as though they were one. These common rules they apply go beyond the Customs Union as such – with its common tariff – and extend to all aspects of trade policy, such as preferential trade, health and environmental controls, the common agricultural and fisheries policies, the protection of our economic interests by non-tariff instruments and external relations policy measures [5].

The common procedures and rules were collected by a Single Administrative Document, which replaced all previous regulations. Since 1993, the common market has officially started to operate; all traditional checks at internal borders have been abolished with customs formalities. Consequently, the customs services of member countries have lost the function of collecting excise duty, VAT and accumulation of statistical information.

Earlier, the Treaty of Rome of 1957 initiated customs union as an essential foundation of community. Today the provisions governing the free movement of goods are found in the Treaty on the Functioning of the European Union (Part 3, Title II). This prohibit customs duties on goods traded between EU Member States and stipulate that once a common customs tariff has been applied at the EU's external borders, goods must be able to circulate

freely. According to Art.28 (ex. Article 23 TEC) of the consolidated version of the Treaty on the Functioning of the European Union [6], the Union shall comprise a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.

According to the statistics of the European Commission in 2015, the value of the entire world trade amounted to EUR 23 trillion. The EU is one of the main players in the world when it comes to trade and supply chain logistics, alongside the United States and China, with a share of 15% in the total world trade. In 2016, the value of the EU trade with other countries amounted to EUR 3.5 trillion (EUR 1.71 trillion for imports and EUR 1.75 trillion for exports). This is more than the total yearly retail sales in the EU. In 2016, almost 313 million customs declarations were handled by more than 2 000 EU customs offices, working 24 hours a day and 365 days a year [7].

Administrative and legal framework of the customs matter of the European Union has undergone a certain way of growth, and this experience is very useful in the way of harmonization of customs legislation of Ukraine. Summarizing the primary regulations that consolidate the concepts and principles of the Community Customs Union, the following statutory agreements should be mentioned: the Treaty establishing the European Coal and Steel Community (Paris Treaty, 1951) [8]; Treaty establishing the European Atomic Energy Community (1957) [9]; Treaty establishing the European Economic Community (Treaty of Rome, 1957) [10]; Single European Act of 1986 (Amendment to the Treaty of Rome, 1957) [11]; Treaty on European Union (Maastricht Treaty, 1992) [12]; Amsterdam Treaty (Amendment to the Treaty establishing the EU, the Treaties establishing the EEC, and some related acts, 1997) [13] The Treaty of Nice (Amendment to the Maastricht Treaty and the Treaty of Rome, 2001) [14]; Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community (2007) [15].

The Customs Code of the European Union, which was adopted on October 12, 1992, by Council Regulation № 2913/92 [16] and entered into force on January 1, 1994,

summarized the provisions of the customs legislation contained in a large number of Community regulations and directives and, on July 2, 1993, Commission Regulation № 2454/93 [17] (the so-called Implementation Code, or the Regulation on the Application of the Customs Code), which established the procedure for the entry into force and application of the norms of the EU Customs Code. Conditionally legal norms of the EU Customs Code can be divided into the following groups: 1) general provisions; 2) provisions concerning the regulation of customs clearance and customs control; 3) rules relating to tariff regulation and the field of calculation and payment of customs duties. The Code and the Implementation Code have replaced more than one hundred regulations and directives that previously operated in the field of customs regulation.

However, the two most important regulations previously adopted in the EU continued (and continue) to act. The first one is Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff. This document introduces a common EU customs tariff. Thus, according to Article 1 of this Regulation, «a goods nomenclature, hereinafter called the 'combined nomenclature', or in abbreviated form 'CN', is hereby established to meet, at one and the same time, the requirements both of the Common Customs Tariff and of the external trade statistics of the Community. The combined nomenclature shall comprise: the harmonized system nomenclature; Community subdivisions to that nomenclature, referred to as 'CN subheadings' in those cases where a corresponding rate of duty is specified; preliminary provisions, additional section or chapter notes and footnotes relating to CN subheadings [18]

The second one is Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty [19], which establishes a system of exemption from customs duties.

According to the EU Customs Strategy, the customs business today is able to facilitate trade and protect the financial interests of the European Union, its citizens and their security, since terrorism and other serious crimes operate on a cross-border and transnational basis. Among the other tasks of the customs authorities is the improvement of the internal EU security.



Thus, customs officers are faced with new challenges: they must ensure a smooth flow of trade, using, on the one hand, the necessary control, and on the other hand guarantee the protection of the safety of Community citizens. In order to strike the right balance between these requirements, it is necessary to modernize customs procedures and management methods, as well as to strengthen cooperation between different services. For this reason, the Union Customs Code (Regulation (EC) No 952/2013) entered into force on May 1, 2016.

The European Commission has stated key aims of the Union Customs Code (the UCC) such as simplicity, service and speed. As for simplicity, the UCC builds on existing concepts to streamline the customs processes and procedures across the Customs Union. For instance, it clarifies the rules on release for free circulation and on special procedures. The UCC covers most of the customs legislation in one package and provides for precise rules of application. It defines data requirements for customs, pre-arrival and pre-departure declarations, notifications, applications and decisions in an integrated way designed to enable its modeling via the nationally extensible EU Customs Data Model and in full compliance with international standards like the WCO data model. All of this will contribute to a harmonized implementation across the EU. As for service, the design of the UCC took into account to a large extent the daily needs and existing practices of trade. For instance, it allows the use of electronic transport manifests for customs purposes, moving goods under temporary storage without lodging a transit declaration and it envisages new forms to extinguish a customs debt. It introduces modern concepts, such as centralized clearance, and offers more uniformity to business, by providing uniform and harmonized rules on guarantees, for example. It also reduces the administrative burden on compliant and trustworthy economic operators (AEOs) by allowing a number of simplifications on customs procedures, on the use of guarantees and self-assessing their customs debts under certain conditions. As for speed, the UCC strives for further automation of all exchange and storage of information through additional IT systems that integrate the new processes and legal requirements, such as common and shared services to customs and harmonized interfaces and EU

portals to trade. The UCC shortens from 6 to 3 years the period of validity of the decisions on tariff classification and origin, to better adapt to a rapidly changing world.

Innovations of the EU Customs Code in comparison with the previous one are the following: the submission of customs declarations and accompanying documents in electronic form as the main mechanism; ensuring the exchange of information between customs authorities and other competent authorities of the EU in electronic form; introduction the concept of «centralized registration», when separate categories of persons will be able to declare the goods in electronic form at their location, regardless of whether through which Member State the goods were imported into the customs territory or in which EU member state they were used; the development of the single window concept (when interested parties will only provide information about products to one body, even if the information provided is submitted to several competent authorities) and «One-Stop-Shop» (when control operations carried out by all competent authorities in respect of goods will be occur at one time and in one place).

**Conclusions.** We must admit that the current state of the administrative and legal provision of the customs affairs of the European Union is the result of significant changes that have occurred because of the reform of the customs legislation of the EU. Full completion of this reform is expected in 2020. The EU experience in the field of reforming customs legislation as the most successful example of constructing an integration customs legislation can be used in the activities of the customs authorities of Ukraine, considering that the introduction of European norms and rules will allow the application of common standards in the field of customs and solve issues related to final accession of our state to them to simplify customs procedures, as well as help to gradually approximate Ukraine's customs legislation to the EU legislation, by modernizing and unifying the customs legal framework to the Customs Code of the European Union and Regulations, Directives and other acts.

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## ИСПОЛЬЗОВАНИЕ ЗАРУБЕЖНОГО ОПЫТА ПРАВОВОГО РЕГУЛИРОВАНИЯ НАЛОГООБЛОЖЕНИЯ ЛЕСОПОЛЬЗОВАТЕЛЕЙ В УКРАИНЕ

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#### Аннотация

В статье осуществлен сравнительный анализ особенностей отечественной и зарубежных систем правового регулирования налогообложения лесопользователей. Сформированы обоснованные предложения о необходимости применения в отечественном законодательстве отдельных норм и принципов налогообложения, действующего в зарубежных странах. Предложено внесение изменений в Налоговый кодекс Украины и другие нормативные акты с целью совершенствования механизма налогообложения отечественных лесопользователей в контексте внедрения в Украине принципов регулирующего и стимулирующего налогообложения, а также европейских стандартов государственной финансовой поддержки важных отраслей экономики нашего государства.

**Ключевые слова:** зарубежный опыт, лесной доход, лесопользователи, правовое регулирование, прямые и непрямые налоги, регулирующее и стимулирующее налогообложение.

## USE OF FOREIGN EXPERIENCE OF LEGAL REGULATION OF FOREST TAXATION IN UKRAINE

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#### Summary

The article compares the peculiarities of domestic and foreign systems of legal regulation of taxation of forest users. Well-grounded proposals on the need to apply in the domestic legislation of certain norms and principles of taxation in force in foreign countries have been formed. It is proposed to amend the Tax Code of Ukraine and other normative acts to improve the mechanism of taxation of domestic forest users in the context of the introduction in Ukraine of the principles of regulatory and incentive taxation, as well as European standards of state financial support of important industries of the economy of our state.

**Key words:** foreign experience, forest income, forest users, legal regulation, direct and indirect taxes, regulating and stimulating taxation.

**Постановка проблемы.** Важной проблемой развития нашего государства является обеспечение охраны, рационального использования и воспроизводства лесных ресурсов как важного социально-экологического и финансово-экономического фактора. В современных условиях остаются нерешенными вопросы трансформации общественно-экономических отношений в области лесного хозяйства до уровня передовых европейских стандартов. Проблемы правового обеспечения надлежащего финансового состояния лесно-

го хозяйства в деятельности отечественных органов законодательной власти являются центральными и актуальными. В этом контексте важны наработки и доведение до научной и широкой общественности предложений по совершенствованию правового регулирования механизма налогообложения отечественных лесопользователей.

**Цель статьи** заключается в попытке совершения сравнительного анализа особенностей отечественной и зарубежных систем налогообложения лесопользователей. На основании анализа сфор-