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## ACTUALIZATION OF CUSTOMS CONTROL FORMS

*The research on the forms of customs control was conducted. There was analyzed the specific of control activity of customs authorities in the field of financial relations, conditions and forms of its realization. Introduction of the system of analysis and risk management, customs inspection, and the method of "customs audit" into the practice of customs control is suggested.*

**Key words:** *customs controls, the state financial control, system analysis and risk management, customs inspection, the method of "customs audit" is suggested.*

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**Актуалізація форм митного контролю**

*Посилення ролі митниці у виконанні фіскальної функції та захисті економічних інтересів України в цілому потребує не лише вдосконалення механізму митного контролю, митного оформлення товарів та інших предметів під час їх експорту та імпорту, а й належного оснащення митних кордонів, забезпечення виконання положень чинного законодавства та нормативно-правових актів, уніфікації тарифів і митного законодавства, створення сприятливих умов для торгівлі, налагодження партнерських відносин з бізнесом і співпраці з іншими державними органами на національному та міжнародному рівнях.*

*Метою статті є дослідження діючих методів митного контролю та формулювання прогресивних напрямів удосконалення роботи митних служб в умовах гармонізації законодавства України із законодавством ЄС у сфері митного регулювання.*

*Теоретичною основою дослідження є фундаментальні положення економічної та інституційної теорії, теорії фінансів, оподаткування, управління, систем контролю й аудиту і структурного та функціонального аналізу, наукові праці вітчизняних і зарубіжних науковців з питань дослідження.*

*Специфіка фінансового контролю в митному секторі породжує різноманітні інтеграційні зв'язки і вимагає розширеної інформаційно-комунікаційної інфраструктури. Для цього необхідно сформувати ефективні механізми, які обслуговують процес контролю та базуються на митному, податковому, бюджетному і валютному законодавстві, а також сучасних технологіях, інструментах, формах, методах, ключових факторах, нововведеннях, організаційних умовах для найбільш повного та своєчасного надходження доходів у бюджет.*

*Доведено, що одним з основних пріоритетів у підвищенні якості й ефективності роботи митних органів та адаптації митного законодавства України до митного законодавства ЄС є спрощення митного контролю. Для цього доцільно удосконалити систему аналізу ризиків та управління ними, а також електронне декларування. Крім того, запропоновано формувати списки «білих компаній» – учасників зовнішньоторговельної діяльності та застосовувати так званий метод «митного аудиту».*

**Ключові слова:** державний фінансовий контроль, метод «митного аудиту», митна ревізія, митний контроль, системи аналізу та керування ризиками.

**Urgency of the research.** Enhancing the role of customs in ensuring fiscal problems and replenishment of state budget requires not only improving the control measures and the quality of customs, but also equipping the customs borders, trade facilitation, establishment of partnership relations with business, strict compliance with applicable laws and regulations, unification of tariffs and customs legislation, cooperation with other state bodies at national and international levels.

**Analysis of recent research and publications.** The subject of customs control in all its forms are engaged in domestic and foreign scholars such as Ye. Yu. Baryshnikova, O. V. Hrechkina, I. I. Ivancha, I. A. Kalashnikov, G. O. Olishchuk, A. V. Shpilevaia, T. Yu. Yurkin etc.

At the same time, despite of the publications of this issue, the study of customs control forms is still logically incomplete. Thus, the specificity of financial control in the customs sector generates a variety of integrative connections and requires advanced information and communication infrastructure based on building target mechanisms that serve the control process and are based on customs, tax, budget and currency legislation, as well as modern technology, tools, forms, methods, key factors, innovations, organizational conditions for the most complete and timely revenue return into the budget.

Hence, the importance of customs and logical incompleteness of scientific developments in this area necessitate further research in this area.

**The purpose of the article.** The article aim is to study existing methods of customs and formulation of progressive directions for improving the work of customs services in terms of harmonizing legislation in Ukraine with EU customs regulations.

**Research Methodology.** The theoretical basis of the study is the fundamental position of economic and institutional theories, theories of finance, taxation, management, control and audit systems and structural and functional analysis, scientific works of domestic and foreign scholars on the study issues.

**Presentation of basic material of the research.** The system of customs regulation of foreign economic activities (FEA) is aimed at ensuring compliance with customs-tariff and non-tariff measures, which the state uses to protect life and health, environment, flora and fauna, as well as to protect its economic interests. At the same time, methods of customs regulations alone are

able to stimulate the development of the state trade cooperation and influence the development of its economy [1].

Current legislation gives the customs solely precautionary preventive function. However, if the actions of economic operators in carrying out customs controls have the signs indicating the composition of an administrative offense for violation of customs laws, customs forms obtain a completely different legal status. They acquire a new purpose – to ensure compliance with the legality of procedural law. As a result the measures of administrative coercion are given other functions, their application is changed, and this has certain legal consequences. That is, they move into an entirely different category of administrative law enforcement – the proceeding activities measures in the cases of administrative offenses [2].

According to I. Ivancha the development of financial control performed by the customs, when administrating the budget revenues, is based both on the existing institutional provisions and new, modern forms of organization and provision of financial control. These include work on the basis of analysis and risk management, introduction of electronic declaration and a single interagency automated system for collecting, storing and processing information necessary for controlling foreign trade. Actual direction of financial control development is improving customs administration, including the development of risk management system.

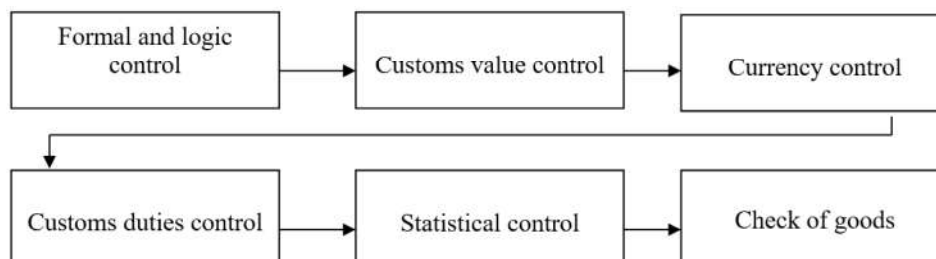
Infrastructure provision of financial control in the customs system is based on legal mechanisms embodied in customs, tax, budget and currency laws.

Improving the structural and functional model of customs service as a part of administrative reform allowed refusing the very costly continuous financial control of foreign trade operations, resulting in increased speed customs clearance and volume of budget payments [3]. According to Customs Code of Ukraine [4] customs control is provided in the following forms:

- 1) checking the documents and information given to the customs authorities when moving goods and vehicles for commercial use through customs border of Ukraine;
- 2) customs inspection (examination and re-examination of goods and vehicles for commercial use, examination and re-examination of hand baggage and luggage, personal inspection of citizens);
- 3) accounting the goods and vehicles for commercial use, crossing the customs border of Ukraine;
- 4) oral questioning of citizens and enterprises officials;
- 5) inspection of areas and temporary storage warehouses, customs warehouses, free customs zones, duty free shops and other places where there are the goods and vehicles for commercial use which are subjected to customs control, as well as places where activities, controlled by the customs authorities according to the Code and other laws of Ukraine, take place;
- 6) checking the accounting of goods transported through the customs border of Ukraine and / or that are under customs control;
- 7) documentary check of compliance with the legislation of Ukraine on Civil customs, including timeliness, accuracy, completeness of calculation and payment of customs duties;
- 8) sending the requests to other government agencies, institutions and organizations, authorized bodies of foreign states to establish the authenticity of the documents submitted to customs authorities.

The most requested are such areas of organization of state financial control carried out by the customs performing such administrative budget function as customs value control, risk management, customs control after the release of the goods.

The Place of the customs value control in the technological scheme of customs control is presented in figure 1.



**Figure 1. Technological scheme of customs control (Source: Developed by author)**

Source: [5].

Control of the customs value at the technological scheme of customs control is at the center. The correctness of determining the customs value and its acceptance is the starting point, after which other types of control are exercised: currency, customs duties, statistical, goods checking.

Reduction in customs value is one of the most significant violations from the point of view of ensuring the state financial security.

CIS current legislation establishes the following terms of customs control after the release of the goods: Customs Code of RF – 1 year; Customs Code of Kazakhstan, Kyrgyzstan, Azerbaijan, Uzbekistan, Ukraine – a term is not installed; Customs Code of Belarus – 3 years [6].

Particular importance at the present time gets the question of fulfillment of obligations of customs bodies within the control of goods containing intellectual property objects: objects of copyright; related items (with copyright) rights; objects of rights for the means of individualization of legal entities, trademarks, appellations of origin, service marks.

Traditionally customs of such products pursues a number of objectives, among which three main are distinguished [7]. The first is to provide government revenue collection with the amounts of duties and taxes (cost of rights for the use of intellectual property is considered when determining the customs value of goods).

The second is to avoid the suspension of processes of intellectual property creation in the country and their involvement in economic turnover, undermining the legal production of goods, endangering the safety of consumers, undermining the authority of the state and, therefore, reducing investment climate of the country.

The third is to protect the interests of copyright holders. Practice shows that violations of rights of intellectual property use in the field of customs can be connected with: physical falsification (i.e. instead of one commodity declared on the package a different product is proposed); illicit manufacture and import / export of products; unauthorized trade of goods (without obtaining the producer's rights, the so-called parallel imports) [8].

Of the 10 forms of customs control under the Customs Code of the RF, in practice only some of them got wide use, they are: checking documents, customs examination and customs inspection. Other forms of control by the customs officials are neglected, and therefore their share in the law enforcement practice is extremely low. But without mastering all forms by tax collectors and in the absence of analytical base of their application the whole arsenal of administrative and preventive measures cannot be effectively used to combat customs violations.

Therefore, this category of measures will not fully meet its intended purpose - the prevention of crime [2].

Customs Code of the RF, which was entered into force on 1 January 2004, and the by-laws provided the customs inspection as a form of customs control for the first time. This fact indicates a shift in priorities in the implementation of customs control from inspecting goods and vehicles at customs to checking the relevant documents and information after the release of goods and vehicles (the next customs control).

The inspections are provided as the most effective forms of the next stage of financial control, that can detect deficiencies of prior and current control because the customs inspection means checking the facts of output of goods and authenticity of the information specified in the customs declaration and in other documents submitted for customs clearance, by comparing these data with accounting information as well as reporting, accounts, etc.

Thus the scope of the customs control is expanding, because now it is not limited only by examination of goods and vehicles at customs, but also verifies the authenticity of the relevant documents and information (i.e. their completeness, true nature, legitimacy receipt) after the release of such goods, even in the absence of reasons to believe that they are in circulation violating established customs legislation.

A. Holub formulates the essence of the concept “customs inspection” as a comprehensive review of compliance by the participants of foreign trade activities of customs tariff and nontariff regulation by comparing the information specified in the customs declaration and other documents provided during customs clearance with accounting data and reports, with accounts, and with other information of persons who perform customs clearance of goods and vehicles, as well as inspection of premises, customs maintenance, inventory, checking the identification marks and other forms of customs control [9].

Comparing customs inspection with the financial and economic activity checking we can see that the difference is in the scale of verification arrangements as the customs inspection does not exercise the control over accuracy of financial and economic activity of a controlled object, but checks the compliance with customs legislation of goods crossing the border (for example, the fact of the release of goods, the reliability of the information specified in the customs declaration and other documents).

The method of check is to compare the information obtained during customs clearance with data accounting and reports, with accounts and other information obtained from the person being checked [10]. In this case, there may be formal legal document checks, inspection of records in registers of accounting and reporting; there also could be conducted analytical procedures, arithmetic check of calculations, etc. [9].

When conducting the customs inspection customs authorities may get acquaintance with any industrial, commercial, banking information of declarants and other persons, they may examine premises, conduct an inventory of products to remove them and put those arrested. The complex nature of customs inspection is that while it is conducted there may be used other forms of customs control (documentary control, premises inspection, custom care, checking identification marks, etc.). It is proposed to consider the customs inspection as a result of the transformation of control after release of goods, customs audit, external inspection, and audit of financial and economic activities, post control [12].

As the subject of study in the implementation of the customs inspection there should be considered the information contained: in the documents and registers about the organization

that is in customs, tax and other regulatory authorities; in primary accounting documents, accounting books intended for systematization and storage of data; in financial statements, prepared on the basis of both synthetic and analytical records, and other accounting documents.

In addition, during the customs inspection the data that may be subjected to revision is the information on financial and economic activities of the organization received from the third parties with whom it has business relationships, which is taken to establish the reliability of the information displayed in its original documents, or in the case of absence of its proper initial documents [9].

The peculiarity of customs control and customs general revisions in particular is their conducting exclusively by the customs authorities which allows the latter to operate on the basis of a common approach and centralized management in accordance with the customs legislation. Thus participants of foreign economic activities are guaranteed that burden of obligations related to the customs cannot perform other public bodies or individuals [9].

Some researchers propose new forms of customs control, noting that in 2004 Customs Committee of RF first declared another effective mechanism of customs control – risk management (RM), although defined it as the principle of «analysis of the risk management system», which is a priority direction of the customs authorities. The development strategy of the RM in accordance with universal international principles in the field of customs – «minimal intervention», approved by the WTO and acclaimed the Concept of customs bodies of RF. Its essence is in compliance with the principle of selectivity and adequacy of customs control through the use RM [2], that is the necessity of evaluation of probability customs legislation breach concerning every transported consignment [12].

Today there is no unambiguous interpretation of customs risk. For example, in the European Union customs risk means the probability that something will prevent the adoption of Community measures or national measures concerning the customs treatment of goods [13]. In the US customs risk (the risk of higher degree) is treated as cargo or container shipment, for which there is insufficient information and about which tactical intelligence provided evidence testifying to the high-risk sending as well as sending recognized shipments risk by the method of scoring risk [14]. In the Concept of risk management in customs of Russian Federation this term means the probability of failure of the customs legislation [15].

The concept of customs control should be based on a system of risk management, which will create an effective system of pointed control of customs clearance stages, where the most risk of offenses impinging on economic security is predicted. The principle of selective customs control is to simplify and reduce the time to comply with customs formalities by participants of foreign economic activity [16].

Based on analysis of the RM customs develop risks profiles, which are the collections of information about risk and specifying conditions necessary for its application, the so-called risk indicators. Today, the ‘framework’ risk profiles are used mainly. They are based on using customs officers’ intuition or on applying other current information for goods importing into the customs territory or exporting out of it.

The process of creating risk indicators and risk profiles, which is one of the components of customs risk management, is conducted by the following stages:

- classification of primary information;
- definition of active risk indicators and risk areas using classification data;

- creating risk profiles based on active risk indicators;
- performance of group risk profiles using the indicators of risk [17].

Use of analysis system elements and risk management, electronic declaration of goods, a system of next customs control after release of goods provide the basis for implementing the strategic priorities of customs administration, rapid detection and prevention of fiscal crimes and protect the fiscal interests of the state [3].

In order to improve efficiency the customs authorities have to implement, improve and actively use the system of operational monitoring of customs control forms, which will determine their effectiveness and develop a productive mechanism of influence at the processes of customs control by minimizing risks.

Risk management in customs is the main basic principle of modern methods of customs control that allows use of the resources of customs authorities in optimal way, without reducing their efficiency, and it also exempts the majority of participants of foreign trade activities from the excessive control.

It should be noted that at present time intensifying the actions of reforming the customs bodies and achieving a new level of customs policies the change of emphasis in national practice of customs regulations is in the plane of worldwide changes.

The most important for Ukraine's guidelines in the process of integration into the global customs cooperation and selection of areas of customs policy were 105/106 sessions of WCO in 2005, where on 25 June, 2005 the Framework security standards and international trade facilitation were adopted. Thus it is important to emphasize that these standards were developed by a high-level strategic group of World Customs Organization as a practical mechanism of implementing the adopted Resolution on measures of global security and facilitation of international trade, taking into consideration of the emergence of new threats and challenges of the international trading system (June, 2004 year) [18].

**Conclusions.** One of the main radical changes of customs authorities as well as priorities in the work and approaching the customs legislation of Ukraine to the EU customs legislation is simplification of the customs control (but not at the expense of quality). This can be achieved by introducing the systems of risk analysis and management into the practice of customs control, by creating the lists of «white companies» – the participants of foreign trade activities, by introduction of electronic declaration and change of emphasis of customs control and verification of the legality of foreign operations from the moment of direct holding to the later time – the implementation of a so called «customs audit» method. Present customs control in Ukraine in view of its importance requires a deepening of scientific research, a clear legal regulation, creation of an effective system of public oversight bodies in this area.

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**О. А. Шевчук, О. В. Шевчук. Актуализация форм таможенного контроля**

*Проведено исследование форм таможенного контроля. Исследовано специфику контрольной деятельности таможенных органов в сфере финансовых отношений, условия и формы ее проведения. Предлагается внедрение в практику таможенного контроля системы анализа и управления рисками, таможенной ревизии, метода «таможенного аудита».*

**Ключевые слова:** *государственный таможенный контроль, метод «таможенного аудита», системы анализа и управления рисками, таможенная ревизия, таможенный контроль.*

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