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У журналі здійснюється публікація наукових і оглядових праць з основних проблем зовнішньоекономічної діяльності, партнерства митних адміністрацій та бізнес-структур, професійної освіти в галузі митної справи, впровадження та реалізації стандартів Всесвітньої митної організації, оглядові статті про досвід реалізації стратегій інституційного розвитку митних адміністрацій країн-членів Всесвітньої митної організації, публікації молодих науковців у галузі митної справи та зовнішньоекономічної діяльності, реферативні матеріали та анонси.

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ANTI-CORRUPTION IN PUBLIC SERVICE: PROBLEMS OF CUSTOMS AUTHORITIES

The article is devoted to the analysis of the system of anti-corruption measures in the customs authorities as a specific segment of the public service. The analysis was carried out taking into account international and European approaches to the anti-corruption strategy by examining the legal framework and organizational means to counteract this phenomenon.

The purpose of the article is a legal analysis of international standards for combating corruption in the public service, highlighting the main approaches to overcoming it in the customs authorities and formulating proposals for improving anti-corruption practices.

Methods. To write the article, a comparative method was used (to systematize information about legal acts on combating corruption in different countries); dialectical (to understand the relationship of the basic); structural and functional (for comparison of foreign experience); analysis and synthesis (to highlight the criteria for the virtue of public service); generalization method (to form the conclusions of the analysis).

Results. The prospect of Ukraine's accession to the European Union requires the accelerated introduction of international standards in the practice of public administration and public service, including in the customs authorities. Both the phenomenon of corruption and the problems of combating it are transnational in nature, requiring the combined efforts of not only numerous national specialized organizations, but also global international institutions that carry out relevant work in this area. In addition to the United Nations and the European Union, these organizations include: the Council of Europe, the World Customs Organization, the Organization for Economic Co-operation and Development (OECD), Transparency International, the Group of States against Corruption (GRECO), divisions of the World Bank, the World Trade Organization and a number of regional associations. The result of the concerted efforts of these organizations was the formation of a system of legal acts aimed at organizing international cooperation in the fight against corruption.

Manifestations of corruption in the bodies of the State Customs Service have a negative impact on the level of receipt of funds to the state budget, the efficiency of the customs authorities, their rating, relations with foreign economic activity entities and citizens. The organizational measures taken in the department are insufficient, and the results so far do not meet expectations.

Conclusions. The main principles of customs ethics are based on the recommendations of the WCO, focused on the implementation of the rule of law, improving the quality of customs services, professionalism and moral qualities of personnel. The formation and control of the virtue of the behavior of officials is a priority activity of the customs administrations of European countries. The introduction of international standards of moral behavior is an integral part of the modernization of the activities of customs authorities. The search for balanced levers of influence on the behavior of customs officials remains relevant.

Key words: virtue, service in the customs authorities, international anti-corruption standards, anti-corruption strategy, responsibility, motivation of officials.

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Introduction. Today, the dominant in European practice of public administration and administration in general is “good governance”. The European Commission calls its principles the main driving forces of the European democratic process, and among the 8 main characteristics of good governance, the minimization of corruption is singled out. The European course of development, which Ukraine has chosen, provides not only for the declaration of prospects - by choosing this vector of development, our country has assumed a number of obligations, due to which it will be possible to bring the conditions for the functioning of state institutions to the requirements of the European community. In the national security strategy of Ukraine, corruption is recognized as one of the urgent threats to the national security of Ukraine, since its presence entails negative

consequences of both property and non-property nature. Corruption affects all spheres and levels of public service. The activities of the customs authorities are not without this problem.

Research status. The scientific works of modern scientists Yu. Bytyak, O. Busol, V. Zhuravskiy, L. Davidenko, Ye. Dodin, A. Dolgova, M. Kamlyk, T. Kolomoiets, O. Kostenko, O. Kulyk, N. Lypovska, M. Melnyk, M. Mykhailychenko, O. Mykhailychenko, Ye. Nevmerzhytskyi, B. Romaniuk, V. Trepak, M. Khavroniuk, Ye. Skulish are devoted to the analysis of the prerequisites for the emergence of corruption and the problems of countering this negative phenomenon.

Despite a sufficient number of developments on the presented issues, we are convinced that there is a need to analyze international and European standards of virtue in the public service, to identify the main directions for modernizing the national civil service in accordance with the basic criteria of the European Union in the field of combating corruption. The focus of the study is on the issue of anti-corruption measures in the customs authorities, which is due to the wave of criticism that the domestic customs authorities have recently received from politicians and businessmen, journalists and citizens, as well as from the government and the President of Ukraine.

The purpose of the article is to study international standards for combating corruption in the public service, highlighting the main approaches to overcoming this phenomenon in the customs authorities and formulating proposals for improving domestic anti-corruption practices.

Presenting main material. In the conditions when European countries have ratified the Association Agreement with the EU, and the political aspirations of the Ukrainian people are clearly focused on the prospect of joining the Community, the issue of accelerating the implementation of international standards in the practice of public administration and public service, including in customs authorities, becomes extremely urgent.

During the modernization of Ukrainian customs, a lot of attention is paid to the study of international standards and the experience of other countries, its analysis and adapted use. Such changes concern not only the unification of the order and procedure for the implementation of customs control and clearance. Given that customs administrations around the world play a key role in facilitating trade, collecting taxes, protecting society and national security, experts conclude that it is the lack of integrity in customs administrations that can create barriers to trade and investment opportunities, destroy public trust in government and endanger welfare of the entire population (Berezhnyuk, 2010: 237).

The requirements of the virtue of public service: background and international standards. Corruption (corruptio) is translated from Latin as bribery, bribery and venality of public and political figures, government officials and officials for personal enrichment. In Roman law, this term was interpreted as: damage, break, violate, bribe, and meant illegal actions in judicial practice. The phenomenon of corruption has been the subject of research many times, and there are endless discussions about its causes and consequences. Some scholars consider this social phenomenon, originating from the birth of statehood, taking into account personal interests, as a reflection of the contradiction between the lack of resources to meet their own needs and the desire of some officials to use their own position in order to better meet personal needs (Seregin, 2003: 3). Others believe that corruption should be considered not only as a manifestation of the negative behavior of a particular official, but as part of the immorality of a certain society and state, the level of which, in turn, is determined by the degree of decline in morality and law (Kurinny, 2014: 73); rightly believe that the fight against corruption is the business of the whole society, the formation of the attitude of citizens to the very problem of corruption, rejection of it in any manifestations (The system of bodies of the executive decline of Ukraine: legal problems of improving organization and activity, 2013: 226), and insist on the obligation of the state to ensure communication integrity of civil servants and the formation of a culture of non-perception of corruption (Um, Shkurenko, 2015:99).

Realizing that, to a certain extent, manifestations of corruption are inherent in all countries of the world, let's listen to the conclusion of American scientists: corruption is not an infection that a healthy society can suddenly "catch". It is a consequence of the phenomena and trends of politics, economics and development of the state (Pundey, 1997:85). We also support Ukrainian scientists who attribute the ineffectiveness of most laws and measures aimed at combating corruption crimes to culture, mentality, and traditions of corrupt activities in public authorities and law enforcement agencies (Busol, 2015: 20). In any case, the true role of corruption is that it leads to the deformation of state institutions, like rust corroding the foundations of society and the state (Sukhonos, 2015:12).

This socially dangerous act accompanies human civilization from the very beginning of the formation of the state and the allocation of a group of persons endowed with their own powers. The existence of corruption was known even in the ancient world; its modern concept began to take shape on the verge of modern times; and alarming trends associated with the international community's awareness of the threat of corruption's impact on world politics and the economy, which were formed at the end of the 20th century, gave an active impetus to the development of regional and intergovernmental organizations to counter this global problem.

In connection with the choice of a course towards European integration, Ukraine has assumed quite objective obligations in this area. In the Association Agreement with the EU, the main principles for strengthening relations between the Parties, along with the rule of law and good governance, include the fight against corruption (Article 3). And among the issues of cooperation in the fight against criminal and illegal organized activities, not only illegal transportation of illegal migrants across the state border, trafficking in people and firearms and drug trafficking, smuggling of goods and economic crimes, but also corruption in both private and public sector. The commitment to such cooperation in the fight against corruption and the implementation of the 2003 UN Convention against Corruption (Article 22) (Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States) on the other hand, was confirmed).

European countries are trying to create a single common system of value orientations and introduce it into the training of civil servants. A search for a unified approach to understanding the conceptual apparatus is being carried out. In the context of integration into the European community, the so-called "three E"s are mentioned - economy, efficiency and effectiveness, that is, economy, efficiency (efficiency) and performance (productivity), to which one more "E" is gradually added - ethics, ethics, responsibility, openness and transparency of the activities of civil servants. Consequently, modern changes in the civil service of Ukraine clearly require the introduction of ethical standards of activity.

Both the phenomenon of corruption and the problems of combating it are transnational in nature, requiring the combined efforts of not only numerous national specialized organizations, but also global international institutions that carry out relevant work in this area. In addition to the United Nations and the European Union, these organizations include: the Council of Europe, the World Customs Organization, the Organization for Economic Co-operation and Development (OECD), Transparency International, the Group of States against Corruption (GRECO), divisions of the World Bank, the World Trade Organization and a number of regional associations.

The result of the concerted efforts of these authoritative organizations was the formation of a system of legal acts aimed at organizing international cooperation in the fight against corruption, most of which Ukraine has joined. Traditionally, among the areas of international cooperation on preventing and combating corruption, there are three main ones: practical, informational and educational, and rule-making, and the Singapore model is called a unique example of the consolidation of society in overcoming this phenomenon (Ilchenko, Denisenko, 2020), (International legal aspects of corruption in customs authorities: experience of Singapore); (Khoma, Moldovan (2013); (Singapore: "dragon" of corruption defeated); (Chepelyuk).

The main international legal sources on the professional activities of employees include: the European Convention on the Extradition of Offenders of 1957 and its Additional Protocol of 1978; 1959 European Convention on Mutual Assistance in Criminal Matters, 1996 UN Declaration against Corruption and Bribery in International Commercial Transactions, 1999 Council of Europe Civil Anti-Corruption Convention, UN Convention; Criminal Convention against Corruption (ETS 173) of 1999, UN General Assembly Resolution 51/59 of 1996, which adopted the International Code of Conduct for Public Officials, UN General Assembly Resolution 34/169 on the maintenance of law and order, Agreement establishing the Group of States Committee of Ministers on Combating Corruption (GRECO) 1998, Statute of the Group of States against Corruption (GRECO) 1998, Resolution No. R (97) 24 of the Committee of Ministers of the Council of Europe "About Twenty" 1997, Recommendation of the Cabinet of Ministers of the Council of Europe "On Codes of Conduct for Civil Servants", which endorses the promotion by governments of all countries of the adoption of national codes of conduct, the basic principles of which are based on the provisions of the Council of Europe Model Code of Conduct for Civil Servants.

The Model Code, in the course of exercising powers, requires civil servants to: conscientiously fulfill their official duties, show initiative and creativity, constantly improve their professional qualifications and improve the organization of their work; perform official duties honestly, impartially, not provide

any advantages and not show commitment to individual individuals and legal entities, political parties, resolutely oppose anti-state manifestations and forces that threaten public order or the security of citizens; observe a high culture of communication, treat citizens, managers and employees, and other persons with respect; prevent actions and deeds that may harm the interests of society and the state or negatively affect its reputation (Corruption risks in the activities of civil servants).

The Model Code of Conduct for Public Officials characterizes public office as a trustworthy one, which includes an obligation to act in the interests of the state, and therefore expects those holding such positions to show absolute devotion to the public interests of their country. Officials are required to perform their duties and functions competently and efficiently in accordance with laws or administrative regulations and with full virtue. It is considered absolutely unacceptable to use official position for unjustified personal benefit or personal and financial benefit for one's families.

In accordance with the provisions of the UN Convention against Corruption, the main goal of the state policy of Ukraine in the field of fight corruption should be the creation of an effective system for preventing and fighting such a negative phenomenon as corruption, identifying and overcoming its social prerequisites and consequences, exposing such illegal acts, the mandatory responsibility of persons guilty of committing them. The laws of Ukraine should provide for the implementation of a number of measures to prevent manifestations of corruption among civil servants and other persons authorized to perform the functions of the state, disciplinary and administrative liability for committing acts of corruption or violation of special restrictions (United Nations Convention against Corruption).

Among the international organizations with which our country actively cooperates in combating corruption is the Council of Europe Group of States to Combat Corruption (GRECO) (Agreement on the Establishment of a Group of States to Combat Corruption), the purpose of which is to improve the competence of its members in the fight against corruption. with corruption to take action through a dynamic process of collaborative evaluation of delivery methods and equal impact. Since 2006, when Ukraine joined the Group, GRECO has carried out several evaluation rounds, during which the main attention was focused on the independence of the judiciary, state administration; prevention of corruption in the context of financing political parties. The report prepared by this institution, along with a positive assessment of the reforms initiated by Ukraine, noted the high level of resistance to change on the part of a large number of representatives of the established system and emphasized that combating corruption should become one of the main tasks of Ukrainian society, and it is proposed to consider the Report in a broader context as a contribution to moving towards a modern, effective democracy where elected representatives and civil servants deserve the trust of their citizens (Evaluation Report).

Legal principles of counteracting corruption in customs authorities. The requirements of international standards for the behavior of civil servants are formed in such a way as not to undermine the public's faith in the impartial performance of their functions and duties. The need to form such an approach applies to all spheres of public administration without exception, not bypassing the activities of customs authorities. That is why the current need is the development and practical implementation of a number of measures aimed at overcoming the negative manifestations of corruption in the customs sphere and raising the moral standards of the professional activities of customs officials. Achieving results in combating corruption is a prerequisite for democratic reforms in the country, strengthening national security, increasing its economic potential and investment attractiveness, building public confidence in government, and improving the welfare of citizens.

In addition to the general standards of proper behavior of civil servants developed by international practice, the World Customs Organization has developed the principles of effective management and business ethics in the customs authorities, formulated the basic principles of good behavior of customs administration employees, which were approved in 1993 in the city of Arusha. international customs law as the WCO Arusha Declaration.

The main focus of the document is the recognition of the extreme importance of the issue of combating corruption for all countries and all customs administrations, its negative impact on the ability of customs to fulfill their mission and the prestige of the state. The general negative consequences of corruption in the customs sphere include: a decrease in the level of national security and protection of society; shortfall or decrease in state budget revenues and fraud; outflow and decrease of foreign investments; increasing the cost burden on society; creating barriers to international trade and economic growth; reduction of public confidence in state bodies; reduced trust and cooperation between customs authorities and other

government agencies; a decrease in the level of voluntary compliance with customs legislation, as well as a low level of morality and honor of the uniform.

Members of the Customs Cooperation Council called on customs administrations to start implementing a comprehensive and long-term plan of action against corruption, and governments, businesses and members of the international community to support customs in its fight against corruption.

The Declaration of Virtue Conduct identifies 10 key factors to be taken into account by customs authorities when developing their national “customs integrity” programs, in particular: 1) leadership and dedication; 2) regulatory framework; 3) transparency; 4) automation or computerization; 5) reform and modernization; 6) conducting investigations (internal audit); 7) adoption of the Code of Conduct; 8) effective management of human resources; 9) support for morale and organizational culture; 10) Building relationships with entrepreneurs and business communities.

In 2003, a new version of the Arusha Declaration was adopted, which created a conceptual legal basis that includes a number of key elements, the implementation of which, although of a recommendatory nature, emphasizes the importance of their consistent implementation in the practice of customs administration.

In 2014, Ukraine committed itself to implement the EU Customs Prototypes in the process of modernization of customs authorities. The objectives of the implementation of the fourth standard of the Customs Prototypes should be: development and implementation of the ethical principles of the customs administration, which provide for mandatory standards of professional and personal conduct that are fully approved, adhered to and supported by management; development and implementation of systems in the field of recruitment, training, internal control and communications that ensure the implementation and recognition of moral principles; development and implementation of a management and organization system that ensures the elimination or reduction of opportunities for misconduct and corruption, as well as a system of internal sanctions for employee misconduct. The achievement of such ambitious goals should be ensured by a comprehensive implementation mechanism, which includes proper legal and material support, a high level of professional training, an efficient and unified system for organizing activities with an emphasis on minimizing the subjective influence of a customs officer and other elements.

Thanks to Ukraine’s choice of the course of European integration, our citizens got a chance for a decent life without corruption, which is often compared to a deadly disease that corrodes society from the inside. And although the fight against corruption is recognized in Ukraine as one of the most urgent problems, which significantly hinders the implementation of socio-economic transformations and the improvement of the efficiency of the national economy, poses a threat to state institutions and creates a negative image of the country in the international arena (Korulya, 2011: 212); (Nevmerzhitsky, 2008) no real results have been achieved yet.

In modern conditions, countering corruption in the bodies of the State Customs Service is based on the implementation of international anti-corruption standards and the requirements of the current legislation of Ukraine (Deineka, Shavlo, 2015), gradually adapting to generally accepted models (On the National Program for Adapting the Legislation of Ukraine to the Legislation of the European Union, 2014); (On the Fundamentals of the State Anti-Corruption Policy in Ukraine (Anti-Corruption Strategy) for 2014–2017). Actual preventive measures in the field of combating corruption in customs include the active introduction of information technologies, a risk analysis system, electronic declaration, and the “single window” principle. Improving legal support has made it possible to simplify customs procedures, automate customs clearance processes and minimize cases where the decision of a customs official is made “at his own discretion”. Taking into account the recommendations of the WCO, the main principles of the implementation of the customs business include publicity and transparency (clause 9, article 8 of the Customs Code of Ukraine).

Organizational means of counteracting corruption in the customs authorities. The formation of the latest requirements for customs personnel causes an urgent need for a more detailed study of international standards and foreign experience, a critical analysis of which will help highlight provisions that may be appropriate for implementation in the domestic customs service system. Yes, one of the basic principles of public service in the EU is personal responsibility for the performance of official duties and discipline. This approach is the basis of the legislation on public service, for example, Lithuania (a public servant must be personally responsible for his decisions and is responsible to the people for them), Germany (an official bears full personal responsibility for the legality of his official actions), Estonia (the implementation of public service is always coming with responsibility). The high level of responsibility of civil servants not

only to the employer, but also to society is demonstrated by the experience of France, where the statesman is obliged to “dedicate himself only to the service”. A civil servant should not be mercenary, does not have the right to carry out his private professional activities aimed at making a profit, a feature of the responsibility of such employees is that it is relatively difficult to dismiss an official. Such a measure is the most severe disciplinary sanction and results in the deprivation of the right to receive a pension in the future, in contrast to dismissal in the event of a reduction in position, when the right to a pension remains (Administrative Law of Ukraine, 584: 7).

Along with the issue of responsibility of customs officials, the issue of material incentives for such employees is no less significant. And here we note the presence of diametrically opposed points of view regarding the ratio of the level of corruption to the level of wages. Some scholars proceed from the fact that the state’s financial capabilities in the transition period are limited, and at present it is unlikely to satisfy the selfish interest of a customs officer, and the creation of separate services with large official salaries did not lead to a decrease in corruption (Lipovskaya, 2007: 433). Others believe that any anti-corruption measures in general will be ineffective if the basic conditions are not observed, which include the possible risk of losing a position, which should prevail over the benefits of receiving a bribe - in other words, an official should lose (Kovalenko, 2011: 132). Today, the general level of salaries of customs officials is insufficient for the independent performance of their official duties. This, as one of the factors in the presence of corruption risks for customs personnel, has long been pointed out by both domestic researchers and foreign scientists.

Despite the relevance of finding ways to minimize corruption risks, we cannot support some of the proposals of foreign researchers to increase the material interest of customs officers in “honesty” through the bonus mechanism, where a formula is derived to determine the amount of such encouragement, taking into account the “bribery” of the position of an employee of the customs clearance unit. And for targeted financial incentives for officials who charge additional charges during desk and field inspections, it is recommended to introduce a system of payments that make up the expected amount of the alleged bribe (Zhuzhoma, 2008: 114). Such an approach, focused on selectively adapting the conditions of remuneration for a specific control operation or individual groups of customs officials, will inevitably complicate the internal communications of customs personnel and, instead of professional growth and collective responsibility for the case, will create the preconditions for the struggle for appointment to positions with a high degree of risk and precisely to those divisions where bribe is “most likely”.

We are more impressed by the position that the state should be interested in stimulating the system, which makes a significant contribution to the state budget, then the customs will work even more efficiently. In turn, the customs officer should know that if he fulfills his duties at a high level, then the state will provide for him and his family members the necessary material conditions for life and he does not need to take the path of an offender (Pysmennyi, 2005: 180).

The practice of anti-corruption measures of the customs administrations of European countries convinces that the achievement of such ambitious goals should also be ensured by a reliable set of implementation mechanisms, including proper legal and material support, a high level of professional training, an efficient and unified system for organizing activities with an emphasis on minimizing the subjective influence of a customs officer and other elements

Ukrainian researchers also consider it unpromising to develop measures aimed at reducing offenses and acts of corruption in which the inspector is their object, and see the complication of such work through the personal nature of the work of inspectors and the remoteness of control objects. Therefore, it is proposed to pay more attention not to the personal limitations of the inspector, but to the problem of the powers with which he is endowed. Since it is precisely the reduction of the latter to the purely necessary that will make it possible to fulfill one of the principles of the fight against corruption: in order to reduce the level of corruption, it is necessary to make it an unprofitable and dangerous business (Lipovskaya, 2007: 427).

Under the influence of European approaches to the formation of partnerships between customs administrations and business entities and citizens over the past fifteen years in Ukraine, in addition to general anti-corruption measures, certain organizational measures have been taken aimed at preventing and combating corruption in the customs authorities, but they cannot be considered neither sufficient nor consistent. Such measures in the overwhelming majority were reduced to the formation of various kinds of prohibitions, restrictions or an increased level of controllability of the behavior of customs officials. Officials who served around the clock at checkpoints on the state border did not have the right to enter

such checkpoints by personal transport, and in some periods, even get to work in their own cars. It was forbidden to carry communication equipment during working hours; at the beginning of the shift, customs officers were required to deposit their mobile phones with the head of the unit, who kept them in a sealed safe. It was not allowed to carry cash in foreign currency while on duty, and the amount of national currency that a customs officer could take with him to work without the risk of being fired from work was significantly limited. In the practice of domestic customs authorities, no special effect was obtained as a result of the introduction of such restrictions, which is also confirmed by the conclusions of scientists.

N. Lipovskaya writes that the development of measures aimed at reducing offenses and acts of corruption in which the inspector is their object is not very promising due to the fact that the number of employees of control units that mainly carry out these activities is much less relative to the number of inspectors they have to supervise. Noting the complication of such work through the personal nature of the activities of inspectors and the remoteness of the objects of control, he suggests paying more attention not to the personal limitations of the inspector, but to the problem of the powers that he is endowed with, since he sees a direct dependence of the level of corruption on the presence of powers (Lipovskaya, 2007).

Realizing that manifestations of corruption in the bodies of the State Customs Service of Ukraine, of course, have a negative impact on the level of receipts of funds to the state budget, on the efficiency of customs authorities, their rating, relations with foreign economic activity entities and citizens, we expect more activity and specificity from the activities of specially authorized divisions: departments of internal security and departments of combating and preventing corruption, fully functioning in all customs and the central office of the State Customs Service.

Conclusions and research perspectives. Summing up the above, we can state that the formation, education and control of the virtue of the behavior of officials is a priority for the activities of the customs administrations of European countries. The introduction of international standards of moral behavior of customs officers is an integral part of the system of measures for the comprehensive modernization of the activities of customs authorities, the mechanism for the implementation of which should be the concept of reform developed taking into account the customs prototypes of the World Customs Organization. The main principles of customs ethics are based on the recommendations of the WMO, focused on the implementation of the rule of law, improving the quality of customs services, professionalism and high moral qualities of personnel.

We hope that the development of foreign and domestic scientists, the recommendations of international organizations and leading professional ones will not only become a catalyst for the organization of countering corruption in customs, but will also help form practical recommendations to overcome this phenomenon.

Today, more than ever, the search for balanced levers of influence on the behavior of customs officials remains relevant, including through the improvement of the motivational remuneration system that can ensure the independent performance of official duties. However, given that the task of forming a customs officer's inner conviction about the inadmissibility of using the opportunities offered by the position for personal purposes is very difficult, its solution requires time, funding and consolidation of efforts not only of anti-corruption bodies, but also of society and business structures and citizens.

The development of modern methods of combating corruption, including among customs officers, requires further improvement and requires the coordinated application of preventive, preventive and legal measures, the comprehensive goal of which should be strict compliance with the norms of the current anti-corruption legislation, as well as the elimination of the causes and conditions that create prerequisites for committing corruption offenses.

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ПРОТИДІЯ КОРУПЦІЇ В ПУБЛІЧНІЙ СЛУЖБІ: ПРОБЛЕМИ МИТНИХ ОРГАНІВ

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Статтю присвячено аналізу системи заходів протидії корупції в митних органах як специфічному сегменті публічної служби. Аналіз проведено з огляду на міжнародні та європейські підходи до антикорупційної стратегії, шляхом дослідження правових засад та організаційних засобів протидії цьому явищу.

***Метою статті** є правовий аналіз міжнародних стандартів протидії корупції в публічній службі, виокремлення основних підходів до її подолання в митних органах та формування пропозицій до вдосконалення антикорупційної практики.*

***Методи.** Для написання статті використано компаративний метод (для систематизації відомостей про правові акти з питань протидії корупції в різних країнах); діалектичний (для розуміння взаємозв'язку базових); структурно-функціональний (для порівняння зарубіжного досвіду); аналізу та синтезу (для виокремлення критеріїв доброчесності публічної служби), метод узагальнення (для формування висновків проведеного аналізу).*

***Результати.** Перспектива вступу України до Євросоюзу вимагає прискореного впровадження міжнародних стандартів у практику державного управління та проходження публічної служби, у тому числі – в митних органах. Як саме явище корупції, так і проблеми боротьби з нею, носять транснаціональний характер, що вимагає об'єднання зусиль не лише численних національних спеціалізованих організацій, а й глобальних міжнародних інституцій, що проводять відповідну роботу в цій сфері. Крім Організації Об'єднаних Націй та Європейського Союзу, до таких організацій належать: Рада Європи, Всесвітня митна організація, Організація економічного співробітництва і розвитку (ОЕСР), Transparency International, Група країн проти корупції (GRECO), підрозділи Світового банку, Світової організації торгівлі та ряд регіональних об'єднань. Результатом узгоджених зусиль цих організацій стало формування системи правових актів, спрямованих на організацію міжнародної взаємодії у боротьбі з корупцією.*

Прояви корупції в органах Держмитслужби мають негативний вплив на рівень надходження коштів до державного бюджету, на ефективність діяльності митних органів, їх рейтинг, взаємовідносини з суб'єктами ЗЕД та громадянами. Організаційні заходи, що вживаються у відомстві, є недостатніми, а результати поки що не відповідають очікуванням.

***Висновки.** Основні принципи митної етики ґрунтуються на рекомендаціях ВМО, орієнтованих на реалізацію принципу верховенства права, підвищення якості митних послуг, професіоналізму та моральних якостей персоналу. Формування та контроль доброчесності поведінки посадовців є пріоритетним напрямком діяльності митних адміністрацій країн Європи. Впровадження міжнародних стандартів етичної поведінки є складовою частиною модернізації діяльності митних органів. Актуальним залишається пошук збалансованих важелів впливу на поведінку посадових осіб митних органів.*

***Ключові слова:** доброчесність, проходження служби в митних органах, міжнародні стандарти протидії корупції, антикорупційна стратегія, відповідальність, мотивація посадових осіб.*

EXPERIENCE OF THE CUSTOMS SERVICE OF UKRAINE IN THE DESCRIPTION OF NUMISMATIC ITEMS

At the end of the first quarter of the XXI century on the east and west coasts of the Atlantic Ocean there is a reassessment of traditional and classical culture. As a result, we have witnessed a «conflict of interest», which, in particular, can be seen in the preservation of cultural values. The task of customs officers of any state is not only to fill the budget with finances, but also to counteract the illegal movement across the border of cultural values and works of art. Officers of the Academy of Customs Service of Ukraine once provided the State Customs Service of Ukraine with plans to describe various types of works of art used by people in uniform when drawing up protocols, but ignored by the Ministry of Culture when filling in scientifically unified passports. The article is devoted to popularizing the attribution and description of sculptures in customs documents on the territory of Ukraine, based on the method of layered description of works of art, which facilitates their further identification, both when crossing the border and in operational actions of the officers Police and Security Service of Ukraine to create documents for search. When it comes to the registration of cultural values, it should be noted that in Ukraine there are still no: first, the only criteria for describing cultural values, which are stored in public and private collections; secondly, despite the forms of registration of cultural values approved by the Ministry of Culture of Ukraine (the so-called scientifically unified passport), their key positions are filled in any form due to which the entered information does not contain useful information, as evidenced by documents labels that are not suitable for practical identification. And this «information» is transferred to scientific monographs and articles, which leaves the interested reader more questions than answers: third, there are not only standards in the system of photo fixation of cultural values, but also the practice of taking photos of artefacts stored in collections, as evidenced by materials of the investigation of thefts in Ukrainian museums and private collections. In order to change this practice, the author offers readers an algorithm for creating a protocol on violation of customs rules (passport), which is based on the method of layer-by-layer description of works of art, he offered the description of a coin as an example.

Key words: numismatics; Customs; registration of cultural values; index of cultural value; basis; smuggling; protocol.

JEL Classification: D78, D78, Y92, Z11.

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Introduction Smuggling of works of art and antiques takes “an honorable third place” after the smuggling of weapons and drugs. But in the variety of items that, according to Ukrainian and world legislation, are classified as “cultural values”, there is a problem that complicates their identification and attribution not only by customs officers, but also by law enforcement officers. Until 2012, the Academy of the Customs Service of Ukraine developed description plans for various types of cultural property, which could be used not only to fill out customs violation protocols, but also to create passports for works of art in public and private collections. Unfortunately, communication with colleagues from various departments, one way or another dealing with the search for, detention or exhibiting of cultural property, shows that these methods remained unknown to many, as a result, due to incorrectly executed documents on cultural property detained at the border smuggling cases either “fall apart” in courts or do not even reach them. As a result, the state is deprived of previously detained works of art. Let’s add to this not just a reduction in hours, but the exclusion from the curriculum of the discipline “Fundamentals of art history expertise”, in which the cadets of the customs service brought the work according to this method to automatism. These unfortunate circumstances determined the relevance of the article presented to your attention. Probably, this

work will not be of interest to specialists in the field of special historical sciences, who have their own methods for describing cultural coins. But practitioners involved in their registration (i.e. when creating a passport) both in forensics and at customs will be interested in this article.

The purpose of the work is to popularize the existing method of describing cultural values using the example of numismatic objects, which, being sculptures, have a number of design features that require additional attention (**Litvinov, 2013**).

The analysis made by the author of the literature available in modern conditions shows that the method of layered description of an object has not yet become widespread (**Litvinov, 2021**), since it is easier for authors to indicate the denomination, year of issue and the country that issued the coin, since today there are no uniform norms and criteria for designing coins. For example, the Catalog of Cultural Property Stolen from Ukrainian Museums (**Catalog, 2010**), published in 2010, when describing stolen coins (as well as for other types of cultural property), contains data that does not allow one to identify either a coin in general, or from a variety of similar ones, exactly the one stolen from a specific owner, and not similar to the stolen one (**Catalog, 2010**). We see a similar picture in the protocols for assessing cultural values (**Indutnyy, 2009**). In 2013, the author analyzed this latest work of the State Service for Controlling the Movement of Cultural Property, noting the identified shortcomings in the existing practice of paperwork (**Litvinov, 2013**).

Nevertheless, the situation with paperwork, both for exhibits stored in museums and during the search for stolen artifacts, remains at the level of the 1980s. (**Levit, 1986**). In order not to reflect on this issue, the author again proposes to return to the basic rules for describing coins by writing an article in English, since the university leadership stated in December 2021 that works in English can be used in the educational process. Perhaps it will allow this technique to break through the “information blockade”. But this is not the only problem. Psychologically, the majority of not only our contemporaries, but also colleagues see coins and banknotes only as a means of payment, without thinking about their artistic value. They look at coins and banknotes that are out of use as garbage (**Litvinov, 2017**). But it's not.

Despite their small size, the coins, which have historical and artistic value, amaze the uninitiated with their prices. I will give just a few examples.

1. American silver dollar “Loose Hair” (1974) was sold from the official IRVINE collection for \$ 7.85 million.

2. A gold double florin (1343), known as “Edward III” of the year, was auctioned by Spink for \$ 6.8 million.

3. Small Silver Dollar (1804) was issued in 1834 especially for the King of Siam (modern Thailand) and was purchased for \$ 4.14 million in 2001.

4. Golden doubloon (1787) is estimated by experts at \$ 2.415 million.

5. The last of 64 issued in honor of the coronation of Emperor Pedro I of Brazil in 1822 was sold at an auction in Chicago for \$ 138,000.

The rise in coin prices is also striking. If the silver ruble of 1825, known as the “Konstantinovsky ruble”, was sold in New York for \$ 550,000, then in 2021 it was bought for \$ 2.6 million.

Difficulties for customs officers lie in the fact that when controlling the movement of numismatic items across the border and when registering them in the protocol of Violation of Customs Rules, the following circumstances must be taken into account.

1. In accordance with the current legislation of Ukraine (**Instruction, 2002**), when issuing a Certificate for the right to export (temporary export), items of faleristics, numismatics, bonistics and philately are not accompanied by photographs, which undoubtedly complicates their identification. But at the same time, it must be remembered that when drawing up a protocol for violation of customs rules, it is necessary to insert large-scale photos of the obverse and reverse and the edge of the described item into it.

2. Domestic and foreign coins made of precious and non-precious metals, made (inclusive) before 1960, are considered cultural value (**Instruction, 2002**).

3. In the event that you are unable to identify the described item as a coin, it falls into the category of decorative household items made of metal and other materials that are of cultural value, if made before 1950 inclusive (**Instruction, 2002**). First of all, this refers to archaeological finds, which, if it was impossible to identify how the coins should have been described, as objects of small plasticity.

4. For unification in determining the index of cultural values under the leadership of O.L. Kalashnikova in 2011 developed a system for coding cultural property. The universality of this system lies in the fact

that it is built from 6 components – three of which are prescribed in national and international legislation. The first position corresponds to the Ukrainian Code of Goods for Foreign Economic Activity (UCGFE), which was created on the basis of the Harmonized System created by the Customs Cooperation Council in 1983. That is why we also used the Iskra code system in our work, developed by employees of the Anti-Smuggling Department State Customs Service of Ukraine and the coding system given in the EEC Regulation No. 116/2009 of December 18, 2008 (**Council Regulation, 2008**), providing them with three more author's positions, which made it possible to create a detailed system for coding cultural values. As a result, we get an Index consisting of six positions:

The coin is an independent monument – 9705.01.209.0.0.13;

Coin, independent monument, archaeological find – 9705.01.209.0.1.13;

Coin fragment – 9705.01.209.1.0.13;

Coin fragment archaeological find – 9705.01.209.1.1.13.

Nevertheless, the situation with paperwork, both for exhibits stored in museums and during the search for stolen artifacts, remains at the level of the 1980s (**Levit, 1986**). In order not to reflect on this issue, the author again proposes to return to the basic rules for describing coins by writing an article in English, since the university leadership stated in December 2021 that works in English can be used in the educational process. Perhaps it will allow this technique to break through the “information blockade”.

But this is not the only problem. Psychologically, the majority of not only our contemporaries, but also colleagues see coins and banknotes only as a means of payment, without thinking about their artistic value. They look at coins and banknotes that are out of use as garbage (**Litvinov, 2017**). But it's not.

For more details on the rules for creating the Index of Cultural Values, you can read the author's works (**Litvinov, 2013; Litvinov, 2013; Litvinov, 2018**).

5. Each coin is three-dimensional, so the protocol indicates the max and min length, width and thickness. Product dimensions are indicated in millimeters. The exception is round-shaped coins in sizes, for which it is enough to indicate the diameter and thickness.

6. When describing a coin, as well as other types of sculpture, it is necessary to indicate its mass in grams. Unless, of course, you are describing a coin similar to the now-famous 1 million Canadian dollar coin of 2007 (the coin is 50 cm in diameter, 3 cm thick, and weighs 100 kg.). The mention of this coin is not accidental, since one of the six coins produced was stolen on March 27, 2017 from the Bode Museum in Germany and is on the wanted list. These dimensions are lost against the background of a 1 million Australian dollar coin (Fig. 2) issued by the Royal Australian Court in 2012 (diameter – 80 cm, thickness – 12 cm, weight 1012 kg, gold 999.9 fineness).

7. Most of the existing coins have a denomination, which makes them easier to identify and distinguish from tokens and medallions. In the case of coins of antiquity and the Middle Ages, if it is impossible to identify objects as a coin, they are described as a medallion. Knowing the basics of the image rules on the obverse and reverse of coins will allow you to distinguish a coin of cultural value from modern souvenirs.

8. Taking into account the circumstances that each state creates coins of various forms and that during registration we must indicate the special features of the product, the author proposes to consider the varieties of the most common forms of coins. It is necessary to specify their type, even if for a number of reason you are not familiar with numismatics. Among the most common forms are: round, square, rectangular, oval, protein, rod, zoomorphic, irregular geometric, seven-sided, the shape of an eight-petal flower. Other forms are also possible.

9. If it is impossible to determine the composition of the ligature (the alloy that makes up the base of the coin), it is enough to determine that it is a metal and indicate its color.

10. The coin has three sides: obverse (obverse Av), reverse (reverse Rv) and edge (edge). Already from the VI century. BC. they were occupied with images that needed to be transferred to the protocol. The obverse is the side on which the most important images (or inscriptions) are depicted, which should glorify state power or the official religion. So, for example, on the obverse of the coins of Ancient Greece and Rome (the times of the republic) and the Bosphorus kingdom, a deity was depicted. For coins of states with a monarchical form of government, the obverse adorns either a portrait (portraits) of the ruler or his monogram. On the obverse of the coins of countries with a republican form of government (this form can also apply to monarchies), the state emblem is predominantly located. But if a coat of arms and a portrait (monogram, genre scene) are simultaneously located on the coin, then in this case the coat of arms is located on the reverse along with information about the denomination.

11. The design of the edge acts as a guarantee against counterfeiting of the coin, therefore it is distinguished by its diversity, which does not always have its own name. Therefore, a photo of the band is placed in the protocol (especially if it is impossible to verbally determine its type).

12. Inscriptions can be placed not only on the obverse and reverse of the coin, but also on its edge. The content of the inscriptions contains information about the country, the name and title of the monarch, the authority that issued the coin, the name of the mint, the name of the person responsible for issuing the coin, the denomination of the coin (value indication) and the date of issue. **The inscriptions are transferred to the protocol in the original language.**

13. Since there is no concept of customs expertise in domestic legislation, when describing the condition of a product, it is necessary, without giving an assessment of the product, to list the presence and nature of damage, stains (indicating their color), the presence (or absence) of all structural elements. If possible, the method of making the coin is also indicated. In addition to the already mentioned casting, craftsmen use one-sided or two-sided embossing.

But in addition to damage, the coin can also contain minted corrections, both lettered and plot-based. Among the coins that can be found on the territory of our country, this detail is most characteristic of “yefimok” – (silver coins of the Moscow kingdom of the 17th century).

14. Specifying the place where the artifact was found can be used by law enforcement officers, representatives of the Ministry of Culture, and private collectors, indicating the place of discovery or purchase of the described artifact.

Conclusions Any research requires conclusions. Taking into account all the above features of the description of numismatic objects, in 2013 the author developed methodological recommendations on this issue (**Litvinov, 2013**), supported by an electronic form of describing this type of cultural value. This form can be presented in the form of a plan, which is presented to your attention on the example of a description of a coin that has cultural and historical value.

1. Type of cultural value: coin “2 КОПѢЙКИ” of 1813. Russian empire.

2. Large-scale photo of cultural value.



3. Index of cultural value in accordance with the Ukrainian Code of Foreign Economic Activity, “Iskra”, EU Regulation No. 116/2009 of December 18, 2008: 9705.1.229.0.0.13.

4. Coin size: diameter 30mm, thickness 2.5 mm.

5. Coin weight: 15.04 g

6. The shape of the coin is round.

7. The material from which the coin is made is yellow-red metal.

8. The nature of the image on the obverse. Relief image of a double-headed eagle spreading its wings. Above the heads of the bird is a large imperial crown. In the left paw, the eagle holds a power, in the right – a scepter. Under the eagle there is an inscription in two lines: “H.M.”, “1813”.

9. The nature of the image on the reverse. In a wreath of laurel (left) and oak (right) branches, there is a relief image of a large imperial crown, under which there is a relief inscription in four lines: “2”, “КОПѢЙ”, “КИ”, “Е. М.” between the 3rd and 4th line is a horizontal line.

10. The nature of the image on the edge: smooth, protrudes above the obverse and reverse.
11. Nature of conservation. The obverse has numerous scuffs and scratches. There are black spots on the branches of the wreath on the reverse.
12. Availability of the Certificate for the right to export – absent.
13. Information from the Certificate for the right to export.
14. The place where it was discovered.

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ДОСВІД МИТНОЇ СЛУЖБИ УКРАЇНИ ПРИ ОПИСІ ПРЕДМЕТІВ НУМІЗМАТИКИ

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Наприкінці першої чверті ХХІ століття на східному та західному узбережжі Атлантичного океану відбувається переоцінка традиційної та класичної культури. Як наслідок, ми стали свідками «конфлікту інтересів», який, зокрема, простежується в питанні збереження культурних цінностей. Перед офіцерами

митної служби будь якої держави стоїть завдання не тільки наповнювати фінансами бюджет, але і протидіяти незаконному переміщенню через кордон культурних цінностей та творів мистецтва. Викладачі Академії митної служби України в свій час забезпечили Державну митну службу України планами опису різноманітних видів творів мистецтва, які використовуються людьми у погонах при оформленні протоколів, але ігноруються співробітниками Міністерства культури при заповненні науково уніфікованих паспортів. Стаття присвячена популяризації особливостей атрибуції та опису творів скульптури в митній документації на території України, в основі якого метод пошарового опису творів мистецтва, що полегшує їх подальшу ідентифікацію, як при перетині кордону, так і при оперативних діях офіцерів МВС та СБУ при розслідуванні кримінальних злочинів та для створення документів на розшук. Коли мова йде про реєстрацію культурних цінностей, слід відзначити, що на території України і досі відсутні: по-перше, єдині критерії опису культурних цінностей, які зберігаються в державних та приватних колекціях; по-друге, не дивлячись на затверджені Міністерства культури України форм обліку культурних цінностей (так званий науково уніфікований паспорт) їх ключові позиції заповнюються в довільній формі завдяки чому внесені відомості не несуть корисної інформації, що і демонструють документи для розшуку викрадених артефактів, які нагадують музейні етикетки, які не придатні для практичної ідентифікації. І ось ці «данні» переносяться в наукові монографії і статті, що залишає у зацікавленого читача більше питань, ніж відповідей: по-третє, відсутні не тільки стандарти в системі фото фіксації культурних цінностей, але і практики робити фото артефактів, які зберігаються в колекціях, про що свідчать матеріали розслідування крадіжок в українських музеях та приватних колекціях. Щоб змінити цю практику, автор пропонує читачам алгоритм створення протоколу про порушення митних правил (паспорту), який базуються на методі пошарового опису творів мистецтва, запропонував в якості прикладу опис монети.

Ключові слова: нумізматика; митниця; реєстрація культурних цінностей; індекс культурної цінності; основа; контрабанда; протокол.

THE INFLUENCE OF THE CUSTOMS SYSTEM ON THE LOGISTICS SYSTEM UNDER THE CONDITIONS OF THE STATE OF MARTIAL

The authors show that the government of our country makes every effort to create conditions for sustainable development of the country. The article describes the role and influence of the customs service on the economic activity of the state. It is substantiated that the State Customs Service of Ukraine plays an important role in the development of the Ukrainian economy, performing the function of a regulator between the needs of the Ukrainian population and the existing offers of importers, between the protection of the domestic producer and available imported goods, between the functions of filling the state budget and duty-free importation of goods. It was determined that the speed of delivery and the cost of goods depend on the activities of customs authorities. Representatives of the Ukrainian government see the leading role of customs and logistics support in the supply of goods, therefore, at the state level, all efforts are made to simplify the activities of customs authorities. The authors show that the state was preparing for military actions by the Russian Federation, in particular, in 2018 the government approved the procedure for the logistical support of the defense forces during the performance of tasks for the defense of the state, protection of its sovereignty, territorial integrity and inviolability.

It was determined that the government of our country from the first days of the war worked effectively to ensure the needs of the military and the population with the necessary goods and products, establishing a zero rate of customs payments for export/import goods, determining the list of humanitarian goods and introducing a simplified regime for their customs clearance. It has been proven that despite the above-mentioned measures taken by the government and the operational activities of the customs, there are problems caused by too great a load on the western border, the lack of equipment at customs checkpoints in accordance with such a load, and the inadequacy of customs logistics centers with modern Ukrainian needs on the western border. The authors suggested, taking into account the conflicting relations with the Russian Federation as a result of the attack and Ukraine's future membership in the EU, to improve the technical support of customs checkpoints, to contribute to increasing their number on the western border and to promote the development of customs logistics centers on the western border.

The purpose of the study is to conduct an analysis of customs and logistics support in the conditions of martial law and to substantiate the directions for its improvement. When conducting research, we used such methods as synthesis, analysis, induction, deduction.

The results. The government should create conditions for improving customs and logistics support on the western border and promote the development of customs and logistics centers.

Conclusions. In further research, we should analyze what has been done to build customs checkpoints on the western border and develop favorable conditions for the development of customs logistics centers on the western border of Ukraine.

Key words: customs authorities, customs payments, customs logistics center, humanitarian aid, customs checkpoint.

JEL Classification: K13, K34.

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1. Introduction

The activities of customs authorities directly affect the development of the economy and the supply of necessary goods to Ukraine, creating conditions for the movement of goods. A special role is played by the activities of the customs authorities in the conditions of martial law, since the revitalization of economic activity, the growth of demand for certain types of goods, the

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supply of the military with the necessary goods and combat superiority on the front line depend on their activities.

2. Literature review

The activities of customs authorities are investigated by V. Chentsov (organizational mechanisms for improving the activities of customs authorities based on domestic experience and foreign practices), V. Varava (directions of combating smuggling), I. Yefimova (improvement of criminal punishment for violation of customs rules). However, the problems of the country's customs and logistics support and directions for its improvement in the conditions of martial law were not studied by scientists.

Legal support

The government of our country makes every effort to create conditions for sustainable development of the country. Thus, Anna Maksymova notes that Sustainable development of the state, ensuring its national strength and power, rational use of resources to achieve strategic goals depends on the effectiveness of strategic management in the public administration sphere and the use of its managerial potential (Maksymova, 2021). The task of government bodies is to create conditions for the sustainable development of cocaine. One of these bodies is the State Customs Service of Ukraine, which plays an important role in the development of the Ukrainian economy, performing the function of a regulator between the needs of the Ukrainian population and the existing offers of importers, between the protection of the domestic producer and available imported goods, between the functions of filling the state budget and duty-free import of goods. Depending on the needs of the state and the Ukrainian population, the state customs policy of Ukraine is adjusted. Customs authorities are responsible for the economic security of the state, on the one hand, creating the necessary conditions for crossing the customs border for the desired goods, and in the event of a decrease in the import of the corresponding goods, the rates of customs payments increase and/or the customs clearance process is complicated. The importance of economic security is emphasized by L. Rybalchenko, E. Ryzhkov, that «the economic security of the country is considered from the standpoint of ensuring the protection of vital interests of all inhabitants of the country, society and the state in the economic area from possible internal and external threats» (Rybalchenko, 2021). It is the customs authorities that must ensure the economic security of the state.

All the time, starting from 1991, our state tried to unify customs legislation with European legislation, to simplify and make it the most convenient, in particular, it acceded to the International Convention on the Simplification and Harmonization of Customs Procedures, the International Convention on Mutual Administrative Assistance in Preventing, Investigating and Stopping Violations of Customs Legislation, of the Customs Convention on the International Carriage of Goods Using the TIR Carnet (TIR Convention). As of today, Ukraine is technically ready to join the European Convention on the Common Transit Procedure of the Convention on the Simplification of Formalities in Trade in Goods.

Therefore, the activities of the customs service and the state policy in general in the pre-war period are aimed at reducing the time for customs control and customs clearance and harmonization with European legislation.

Customs legislation under martial law

On the morning of February 24, 2022, everything changed dramatically with the attack of the Russian Federation on the territory of Ukraine, which intensified the need to adapt the country's economy to military needs. On March 1, the Ukrainian government canceled import/export duties in order to support business activity in conditions of uncertainty.

In our country, even before the war, with the aim of maintaining the country's defense capability and its integrity, the Cabinet of Ministers of Ukraine approved the «Procedure for logistical support of the defense forces during the execution of tasks for the defense of the state, protection of its sovereignty, territorial integrity and inviolability» dated December 27, 2018 No. 1208. It defines the mechanism of planning and organization of logistical support of the determined composition of troops (forces, bodies) of the Armed Forces, as well as other military formations formed in accordance with the laws (National Guard, State Special Transit Service), law enforcement (Security Service of Ukraine, State Border Guard Service, National Police of Ukraine, Department of the State Protection of Ukraine) and intelligence agencies, State Special Communications Service of Ukraine, State Emergency Service of Ukraine, etc.

In the life of the country, the customs service is an important regulator of economic activity, which, on the one hand, provides the state with revenues, and on the other hand, its activity can contribute to the development of the economy and enterprises in general by adjusting the rates of customs payments

Since the beginning of the war, the use of logistical approaches by combatants has been a competitive advantage that will provide a long-term advantage. It was the customs office that faced a heavy burden due to the large flow of people, goods, and humanitarian aid. During this difficult period, the task of the customs office on the western and southwestern borders was to quickly and qualitatively ensure the needs of the military in food and equipment, as well as to satisfy the needs of the Ukrainian population in basic products and goods. At the same time, the customs office had to serve a large flow of refugees who left the territory of our state in the war zone. The complexity of the work of customs officials is due to the fact that in the east, north and south, aggressive actions by Russia and unfriendly actions of Belarus towards Ukraine in the north were observed. That is, it was only possible to deliver humanitarian aid in this direction.

Humanitarian aid, which provides the necessary products and equipment, plays an important role for the military and refugees. Proper logistical support will ensure timely deliveries of food and equipment to the front line with minimal costs. Our government, realizing this, adopted Cabinet Resolution No. 174 on March 1, 2022, the passage through the customs border and the procedure for customs clearance of humanitarian aid in Ukraine from legal entities and individuals was simplified as much as possible, and the procedure that has been in effect since 2000 is currently not applied.

Humanitarian aid is declared according to the simplified procedure when crossing the customs border of Ukraine by the person transporting the goods. Additional permissions or statements from the beneficiary are not required. This reduces the time and financial costs of searching for a customs broker and formalizing contractual relations.

For customs clearance, instead of a customs declaration, a «Declaration on the list of goods recognized as humanitarian aid» is provided. The form of such a declaration is defined in the appendix to Resolution No. 174 (as amended by Resolution of the Cabinet of Ministers dated March 9, 2022 No. 235). The declaration is submitted in paper form directly at the customs checkpoint when crossing the border. Declaration forms can be taken at the checkpoint. A declaration is submitted separately for each vehicle. (Cabinet of Ministers of Ukraine, 2022).

Resolution of the Cabinet of Ministers No. 224 of March 7, 2022 approves the list of categories of goods that are recognized as humanitarian aid and do not require the procedure for recognizing such goods as humanitarian aid in each specific case (Cabinet of Ministers of Ukraine, 2022).

These are, first of all, fuel and lubricants, flammable substances, military equipment, equipment, vehicles, weapons. Presentation of the above-mentioned decision is mandatory for crossing the border. Resolution of the Cabinet of Ministers No. 224 makes it possible to significantly reduce time and administrative costs. However, goods that are not on the specified List are subject to recognition as humanitarian aid in the general manner. Humanitarian aid is not subject to the application of phytosanitary and veterinary-sanitary control, state control of compliance with the legislation on food products, feed, by-products of animal origin, health and welfare of animals, which are carried out in accordance with the legislation of Ukraine. State export control as a measure of official control was not abolished under martial law

conditions, however, the procedure for registration of humanitarian aid, which includes military and/or dual purpose goods, was optimized.

In general, as of now, the customs clearance procedure for humanitarian aid is as simplified as possible. The Cabinet of Ministers introduced effective and timely measures aimed at eliminating a significant part of the bureaucratic processes that can lead to the delay of the arrival of such aid to the territory of Ukraine.

Empirical results

The impact of war on activity of customs service

From July 1, 2022, the government returned the payment of customs payments, explaining this by the fact that logistics schemes have already been worked out. At the beginning of the war, only 20% of goods were transported through the western borders. And since the beginning of the war, 100% of cargo is transported through Western countries. But on July 1, the customs and logistics scheme of transportation was already fully worked out, which led to the return of customs payments.

In the first days of the war, the government reacted promptly and developed measures for simplified crossing of the customs border of humanitarian aid, as well as at the expense of the removal of customs payments.

But despite the measures taken, the main problems in the customs activity were revealed on the western border of Ukraine:

- discrepancy between the number of checkpoints and the actual volumes of transportation (the checkpoints are calculated for 20% of transportation from the total Ukrainian cargo flow). To date, customs officers are successfully coping with the fact that most of the cargo is humanitarian aid, which is processed according to a simplified scheme. But the return of payment of customs payments determines the need for customs control at specially designated sites, the number of which is not calculated for the entire Ukrainian cargo flow.

- inadequacy of technical means for handling such a large cargo flow, in particular X-ray, places for customs inspection of trucks and cars.

- the lack of compliance of the number of customs and logistics warehouses on the western border of Ukraine with today's needs in the conditions of the occupation of the southern territory of Ukraine and the blockade of ports on the Black Sea, as well as their underdevelopment.

Critical thinking plays an important role in the analysis of situations and ways of solving them. O. Golovina notes that Critical thinking is recognized as the main competence of the future, which is associated with the trend of world development – the transition to the information society [Golovina, 2022]. Thus, by applying the methods of critical thinking, we can analyze the situation in the field of customs and logistics support and suggest directions for its improvement.

In the first days of the war, these problems were barely noticeable, which is due to the decrease in cargo flow in March-April, reorientation to humanitarian aid. But in May, the government announced the restoration of the economy, emphasizing that a working economy is needed for the continuation of military operations and the vital activities of society. Another sign of such activity was the resumption of customs payments. However, in Ukraine on the western border, there is a small number of customs and logistics centers, undeveloped warehouse infrastructure. Our country currently has 14 largest logistics centers (in particular, 11 customs and logistics centers in Kyiv region, 2 in Odesa region and only 1 customs and logistics center in Lviv) (Wareteka, 2022). At the same time, perspective membership in the EU will activate more intensive cooperation of our state in the political, economic, and cultural spheres, while the military conflict in the north and east of the country will contribute to more intensive cooperation, which determines the need for the development of the western border.

Results. The government should improve the network of customs and logistics centers on the western border of Ukraine.

Conclusions. At the beginning of the war, our state took all necessary measures to quickly provide the military and the population with all the necessary products and goods, establishing a zero rate of customs payments and defining the list of goods that are humanitarian aid, as well as simplifying the crossing of the customs border for humanitarian goods as much as possible. However, after the return of customs payment rates, which caused the need for customs control and customs clearance and delays at the border, the technical unsuitability of the existing customs checkpoints to serve the entire Ukrainian cargo flow, the inadequacy of customs logistics centers to current needs. Taking into account the damaged relations with the Russian Federation and the prospects of future membership in the EU, it is advisable to review

the capabilities of customs and customs checkpoints to serve such an all-Ukrainian cargo traffic on the western border. Prospects for further scientific research are implementation of scientific and technical substantiation of needs in customs logistics centers, customs checkpoints.

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ВПЛИВ МИТНОЇ СИСТЕМИ НА СИСТЕМУ ЛОГІСТИКИ В УМОВАХ ВОЄННОГО СТАНУ

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Авторами показано, що уряд нашої держави докладає всіх зусиль у створенні умов для стійкого розвитку країни. У статті описується роль та вплив митної служби на економічну діяльність держави. Обґрунтовано, що Державна митна служба України відіграє важливу роль у розвитку української економіки, виконуючи функцію регулятора між потребами українського населення та існуючими пропозиціями імпортерів, між захистом вітчизняного виробника та наявними імпортними товарами, між функціями наповнення державного бюджету та безмитного ввезення товарів. Визначено, що саме від діяльності митних органів залежить швидкість доставки та вартість товару. Представники українського уряду вбачають провідну роль митно-логістичного забезпечення у постачанні товарів, тому на державному рівні всі зусилля докладаються для спрощення діяльності митних органів. Авторами показано, що держава готувалася до воєнних дій з боку РФ, зокрема, у 2018 уряд затвердив порядок логістичного забезпечення сил оборони під час виконання завдань з оборони держави, захисту її суверенітету, територіальної цілісності та недоторканості.

Визначено, що уряд нашої держави з перших днів війни ефективно спрацював з метою забезпечення потреб військових та населення необхідними товарами та продуктами, встановивши нульову ставку митних платежів для експортних/імпортних вантажів, визначено перелік гуманітарних вантажів та запроваджено спрощений режим їх митного оформлення. Доведено, що незважаючи на вищезазначені заходи вжиті урядом та оперативною діяльністю митниці, існують проблеми, обумовлені занадто великим навантаженням на західному кордоні, необлаштованістю митних пунктів пропуску згідно з таким навантаженням та невідповідність митно-логістичних центрів сучасним українським потребам на західному кордоні. Авторами запропоновано, враховуючи конфліктні відносини з РФ внаслідок нападу та майбутнє членство України в ЄС, удосконалити технічне забезпечення митних пунктів пропуску, сприяти збільшенню їх чисельності на західному кордоні та сприяти розбудові митно-логістичних центрів на західному кордоні.

Метою дослідження є проведення аналізу митно-логістичного забезпечення в умовах воєнного стану та обґрунтування напрямів його удосконалення. Здійснюючи дослідження, ми використовували такі методи, як синтез, аналіз, індукція, дедукція.

Результати. Уряд має створити умови для поліпшення митно-логістичного забезпечення на західному кордоні та сприяти розбудові митно-логістичних центрів.

Висновки. У подальших дослідженнях ми маємо проаналізувати, що зроблено для розбудови митних пунктів пропуску на західному кордоні та розробити сприятливі умови для розбудови митно-логістичних центрів на західному кордоні України.

Ключові слова: митні органи, митні платежі, митно-логістичний центр, гуманітарна допомога, митний пункт пропуску.

TRADE AND CUSTOMS RELATIONS OF THE INDUSTRIAL ERA: INTERNATIONAL LEGAL ASPECTS

The purpose of the article is to highlight the historical, state and legal aspects of the genesis of trade and customs relations in the conditions of the formation of an industrial society, and their influence on socio-economic and political processes in the world context of the 17th-19th centuries. The research methodology was based primarily on the basic principles of dialectical epistemology and heuristics, which created the conditions for scientific conclusions. The principle of historicism belongs to the main methodological principles. The idea of analyzing social phenomena from the standpoint of historicism presupposes their consideration in terms of structural and transformational connections.

The main historical forms of customs policy, which were formed and operated from the middle of the 17th to the beginning of the 20th century, were protectionism and free trade. It should be noted that the policy of protectionism at the initial stage of its evolution acted as a sub-policy and was implemented within the very popular policy of mercantilism among Western European states.

At the end of the 19th century, the content of the protectionist policy was to create conditions for the development of the national economy by artificially restricting competition from other states and at the same time helping national producers to develop foreign markets, using the foreign policy position of the state and supporting the exporter. However, any measures to limit foreign competition, as a rule, cause an adequate response from other states, which during the 19th and 20th centuries led to a large number of so-called "customs wars" – the introduction by states of more and more new tariff and non-tariff restrictions against each other, which ultimately had a negative effect on the state of international trade in general. A specific mechanism for the implementation of trade and customs policy is the tariff business, which includes the justification of the relevant tariff rates that meet a set of socio-economic conditions and perform a number of functions. But at the end of the 19th century, in connection with the new technological revolution, the aggravation of international economic relations, customs tariffs again turn into cumbersome laws and begin to perform not only a regulatory and fiscal function, but mainly act as a mechanism of international politics in a competitive struggle between states.

Thus, according to the standards of the organization of international trade in the 17th century, a developed foreign trade infrastructure was of great importance, which included: a certain legal status of the merchants, the availability of working capital for entrepreneurs, a commercial fleet, developed port facilities, the ability of the state to support its own merchants in foreign markets. Only a minimal approximation to these standards allowed the states of that time to join the existing system of trade and customs agreements.

Key words: History, Trade, Process, Policy, Agreement, Entrepreneur, Merchant, Funds, Law.

JEL Classification: B15, B17, N01.

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Introduction.

Relevance of research. Trade and customs relations as a category of international legal relations is of scientific and practical interest both in determining their functions and content, and their impact on the economy, finances, geopolitical interests of the state. According to P. Berok, in the period 1500-1700, world trade indicators increased five times and the formation of the world market began (Berok, 2000). Qualitative changes in European trade stemmed from such factors as the improvement of climatic conditions in Europe in 1450-1550, major geographical discoveries, such phenomena as the Reformation and the Renaissance. The intensification of maritime communications gave impetus to the intensification of foreign economic activity. The volume of overland transportation has doubled, shipping – from 5 to 10 times. In the second half of the 17th century, in connection with the beginning of the process of formation of an industrial society, another important task for customs regulation is being developed –

this is the social aspect. Trade and customs processes acquire properties that begin to determine not only the welfare of the local feudal market, but the entire nation as a whole.

The purpose of the research is to highlight the historical, state and legal aspects of the genesis of trade and customs relations in the conditions of the formation of an industrial society, and their impact on socio-economic and political processes in the world context of the 17th-19th centuries.

We are faced with a difficult **task** – to show that customs policy is not only a fiscal function of the state, but an important social mechanism. The policy of protectionism accelerated the process of social and political structuring of society. The historical and legal study of this mechanism allows us to research in more detail its main manifestations and content, taking into account political, economic, social, and international conditions. Therefore, for the domestic historical and legal science, the problem of highlighting the main directions of the formation and development of the trade and customs policy of the 17th-19th centuries, which influenced the evolution of society, becomes relevant. The importance and urgency of such scientific research is determined by the need for continuous improvement of customs policy technologies at the present historical stage.

The methodological arsenal of this research uses an interdisciplinary approach. It consists in the application of concepts and models, the categorical apparatus of history, economics, law, and sociology. The research methodology was based primarily on the basic principles of dialectical epistemology and heuristics, which created the conditions for scientific conclusions. The principle of historicism belongs to the main methodological principles. The idea of analyzing social phenomena from the standpoint of historicism presupposes their consideration in terms of structural and transformational connections.

Literature overview.

The historiographical basis of our research was the classic studies on the history of world trade, the authors of which revealed at a high theoretical and practical level the patterns of world and regional trade processes that took place in the chronological period that we are studying. (List, 2005; Struve, 2007; Esslen, 1927). Of fundamental importance are fundamental scientific works devoted directly to the historical evolution of customs-tariff and trade-customs relations, including in the field of international legal regulation. (Kutsheba, 1907; Aleksandrenko, 1906; Shershnevich, 2003; Kulisher, 2002). The use of research by these scientists makes it possible to determine the role of the customs component in international contractual practice, to determine general trends. The importance of such an analysis is evidenced by the expression of the well-known researcher of international trade, I. M. Kulisher, that the second half of the 19th century. to the beginning of the First World War – this is the time of the dominance of international trade agreements.

The main stages of trade and customs policy.

The main historical forms of customs policy, which were formed and operated from the middle of the 17th to the beginning of the 20th century, were protectionism and free trade. It should be noted that the policy of protectionism at the initial stage of its evolution acted as a sub-policy and was implemented within the very popular policy of mercantilism among Western European states.

In the era of antiquity and the Middle Ages, trade and customs relations were distinguished by varying degrees of liberalism. The trade policy of the heyday of Athens was a time of a kind of ancient imperialism, which was characterized not by freedom of trade, but by the trade and political exploitation of the allies in favor of the citizens of the most powerful city in the union (Struve, 2007, p. 7). The instrument of this exploitation was the monopolization of commodity exchange in the hands of Athens. The trade policy of Carthage had the same character. On the contrary, the Roman Republic was characterized by commercial liberalism. In this regard, in Rome during the empire, a liberal public law “jus gentium” was formed, the implementation of which was controlled by the praetor (Shershnevich, 2003).

In the Middle Ages, despite the existence of guild restrictions, trade liberalism also developed. Such liberalism characterizes the trade policy of the capitalist country of the Middle Ages – the county of Flanders. The well-known historian of Belgium H. Pirre defines this policy as completely liberal and even free trade. The policy of the Flanders counts was to assist foreign merchants. Mercantilism developed out of urban guild protectionism. The system of urban policy of the Middle Ages was focused on enriching the urban population with crafts and trade. In urban politics, for the first time, the theory and policy of the trade balance is being formed. A restriction is established on the export of money and gold, a ban on the export of production assets and raw materials is practiced, that is, a complex set of trade and political measures of classical mercantilism is being developed. (Struve, 2007, p. 9).

Cities are defending their long-standing rights: the territorial power, which has gradually conquered the cities of its jurisdiction, acted as an intermediary in the contradictions between the city and the countryside, developed the same policy of the cities on a broader basis, breaking only their economic egoism. The essence of mercantilism was that the principle of urban egoistic policy is transferred to a large territory of the state, the whole country, the nation. Instead of one city market, a single territorial one appears. The territorial state unites in its hands the monetary and fiscal affairs. Thus, as a result of the integration activities of the state, a national economy is created. Such a regularity, even a fact, follows from historical observation. This fact has not been fully appreciated by either historians or economists – it lies in the fact that non-mercantilist countries that supported the policy of protectionism, that is, the policy of encouraging production, perished politically and economically. On the contrary, the states disappeared where the authorities in an era when new economic forces were born, a new economic and social psychology were being mobilized to protect consumption, not production.

This general characteristic also includes the economic policy of the Polish state, which, due to external unfavorable conditions, has lost its statehood. In the Commonwealth of the 17th century, in the interests of the gentry, a policy of protecting consumption, not production, was carried out. The historian of the social system of Poland S. Kutsheba characterized this process as follows: “Trade passes into the hands of the gentry, which now itself, directly exports its livestock, grain, potash, etc. ... The trade of Polish cities is limited to mediation in the import of goods ... The absence of protective duties kills the guild industry, foreign goods fill the markets, the guilds are dying faster and faster” (Kutsheba, 1907, s. 137). What is important in these words is that the policy of protection of consumption, supported by individual social conditions, destroys an already existing industry. Thus, politics does not develop the industrial forces of the country, but destroys them. Here we can formulate the historical-psychological basis of mercantilism and protectionism in general, which explains the world economic significance of this system. When the state, as an organizing force, encourages production, it considers a person as an economic value, its active side, and goes towards this feature in a person who performs a creative function in the economy.

At the same time, when the political force of society concentrated in the state implements a policy of protecting consumption as such, it pushes a person in the sphere of management to passive consumption. And it is no coincidence that where we see a policy of protecting consumption, there the more passive, more retrograde economically agrarian classes become the carriers of this policy. This was most evident in Spain and Poland in the 18th century. The historical role of protectionism is to support the creative forces of man. But the opponents of protectionism always refer to the English experience of free trade, arguing that it was the interests of consumption that determined the fall of protectionism in nineteenth-century Britain. But it was the interests of production that created freedom of trade. English free trade – an expression of non-interests of the English consumer, primarily the interests of maturity and the rise of British production, in the interests of satisfying its boundless activity, is deprived of state guardianship (Yanzhul, 1874, p. 23).

Mercantilist politics in European countries developed in different ways. The characteristics of each country determined which particular sources of wealth deserved the most assistance. Intermediary trade was considered the most popular means of enrichment. The task was to direct a certain flow of goods to ports, to force other states to depend on one port. Venice was the first to take this path, then Portugal and Spain followed this example. Subsequently, their place was taken by the Netherlands. Such a policy was possible only with dominance of the sea and the possession of important strongholds for trade outside the borders of one's own state. Maritime power and possession of colonies thus became the main means of commercial policy.

In addition to dominance on trade routes, in some states the production of goods that are in great demand abroad becomes an important source of enrichment. This policy was mastered and applied with great success by France. Among the measures of the Minister of Trade and Finance during the reign of King Louis XIV – Jean Baptiste Colbert, the first place belonged to the promotion of manufactories. The mercantilist policy in France began to be introduced already in the time of Louis XI, with an attempt to create its own production of cloth and silk; in the 16th century, the import of cloth from Catalonia and Flanders was banned. Colbert systematized all the activities undertaken by his predecessors. Colbert's goal was to create a single French market, so in 1662 the last internal duties were eliminated. In 1664, he took steps to create a single customs border, but there were areas with their own customs jurisdiction – Alsace

and Lorraine. The main tool that Colbert used to encourage industry was not duties, but government orders, bonuses, and subsidies (Esslen, 1927, p. 35).

As a result of the expansion of known territorial boundaries, the scope of international trade also expanded, soon covering all continents. The directions of the main trade communications have changed and moved from the Mediterranean basin to the Atlantic and Indian Oceans. Competition arose in world trade, the struggle for markets for goods began.

The British supported the fleet and developed foreign trade, focusing on the development of a manufacturing industrial base. The growth of the industrial base contributed to the rapid establishment of world economic leadership in England. The development of industry needed funds. It is possible to increase their volume by maintaining a positive monetary balance. Along with the provision of a positive monetary balance for the purposes of the English policy of mercantilism, over time, it also becomes the provision of a positive trade balance. In fact, mercantilism presented the role of the state in the economy, determined the instruments of state economic policy. Thomas Mun became the ideologist of British mercantilism. In his work "England's Treasure by Foreign Trade" (1628.) the principles of this policy are formulated: the export of raw materials is prohibited, and the export of finished products is approved by the state; the access of foreign goods to the territory of England is limited by high import duties.

The British realized the need not only to develop, but also to protect their manufacturing industry. They look for means of such protection and find it in stimulating the export of goods of their own production and at the same time restricting the import of those goods that their own industry is capable of producing. The main methods used by the British since the 1650s were the application of high import duties, as well as a ban on the import of certain types of goods (wool, cloth, fish, coal).

To protect the English shipping companies, the British Parliament approved in 1651 a series of protection laws, which went down in history under the name "Navigation Acts" or "Acts of Trade and Navigation". According to the norms specified in these acts, colonial goods in English ports had the right to import only ships flying the English flag. The position of the English government on the implementation of the provisions of the "Acts of Trade and Navigation" led to three Anglo-Dutch naval wars, which lasted from 1652 to 1674, and ended with the final defeat of Dutch and the recognition of England's right to own the world monopoly on maritime transportation. (Ziveking, 1907, p. 53).

At the end of the 19th century, the content of the protectionist policy was to create conditions for the development of the national economy by artificially restricting competition from other states and at the same time helping national producers to develop foreign markets, using the foreign policy position of the state and supporting the exporter.

However, any measures to limit foreign competition, as a rule, cause an adequate response from other states, which during the 19th and 20th centuries led to a large number of so-called "customs wars" – the introduction by states of more and more new tariff and non-tariff restrictions against each other. to each other, which ultimately had a negative effect on the state of international trade in general.

The ideas of free trade began to be put into practice in the second half of the 18th century, when, as a result of the industrial revolution and the growth of the potential of the bourgeoisie, a transition began from a policy of protectionism to a policy of free trade. The pioneer in this was Great Britain as the most industrialized country of the then world. In addition, due to its geographical position, the presence of a colonial empire and the status of "mistress of the seas", Britain received a significant part of its national profit from foreign economic relations.

One of the types of liberal customs policy was the "porto-franco" (free port) regime. A free port is an ordinary seaport and surrounding areas that were not part of the customs territory of the state. Consequently, this area enjoyed the regime of duty-free import and export of goods. Such were in the XIV-XVII centuries the North German free cities of Hamburg, Bremen, Lübeck, which were part of the Hansa trade and political union. In France, the free port regime was introduced in the port of Marseille in 1669, and in 1719, by decree of Charles VI, Holy Roman Emperor, the free port of Trieste, on the Adriatic coast, was formalized. Within the free port area, the import and export of goods and other items was carried out without payment of customs duties if such goods were intended for use inside the free zone. At the same time, it was allowed to store imported goods in warehouses on the territory of the port without time limits, their industrial processing, export to third countries or to the domestic market of the state outside the free port. However, in the latter case, the duty was levied on a general basis. (Kulisher, 2002, s. 24).

From the second half of the XIX century, the policy of protectionism becomes dominant in many countries of the world, except for Britain. At the same time, most governments and prominent statesmen relied on the ideology of protectionism, the author of which was Friedrich List, a German economist, the founder of the German “historical” school. His book “The National System of Political Economy” (in German “Das Nationale System der Politischen Ökonomie” (1841). This book is a kind of reaction to the universal theory of A. Smith, which, according to F. List, is unsuitable for practical use. According to the ideas of F. List, economic theory should explain national interests. Unlike the classics of the free market or free traders, F. List paid great attention to the economic role of the state. He believed that each country, if it does not want to remain backward in economic, cultural and political directions, should develop its industry, and not be engaged exclusively in agriculture. Historical experience shows that a system of protectionism can be a means of achieving national independence and power. The application of this political and economic model by the governments of many countries has influenced international trade relations. (List, 2005).

Tariff practice: historical nuances.

A specific mechanism for the implementation of trade and customs policy is the tariff business, which includes the justification of the relevant tariff rates that meet a set of socio-economic conditions and perform a number of functions. For the 17th-19th centuries, the most adequate of these conditions and functions can be called the following: the customs tariff should take into account the ratio of various sectors in the national economy, including those competing with each other, and thereby positively influence the structure of the economy. One of the important functions of the customs tariff is to create conditions for the development of local producers. The task of the tariff business is directly related to the saturation of the domestic market with goods based on the development of a customs tariff, gaining a position in foreign markets by expanding exports, but not at the expense of the needs of domestic consumers. Within the framework of customs policy, the fundamental issue was the development of tariff mechanisms aimed at stimulating the achievements of technical progress, involving new technologies in the country.

Since the second half of the 19th century, the social function of customs and tariff regulation has been formed: to stimulate entrepreneurs to prevent the export of capital abroad and to expand employment.

The main thing is that the customs tariff should contribute to the implementation of the main task of the industrial time customs policy, that is, to turn the import of goods into the import of capital.

The first industrial time tariffs were the customs tariffs of France and England in the second half of the 17th century. These customs legislations consolidated radical economic changes in England after the revolution of 1640-1648 and in France during the financial and economic reforms of J. Colbert, that is, the transition to protectionist measures to stimulate the development of manufactory and production in general. The French customs tariff of 1664 consisted of 1600 articles, the English of 1660 – of 490 main articles and 1140 additions to them (Kulisher, 2002, s. 29–30).

The tariffs of that time contained a large number of rates, depending on the origin of the goods, the method of transportation, etc. In addition to the main rate, an additional duty was levied on the same goods and transferred to different cash desks. As a result, the English tariff of 1660, containing 37 different categories with a mass of exceptions and additions, was a labyrinth that was difficult to understand. For merchants, this tariff was a state secret, and this gave customs officers the opportunity to push merchants into violations of customs rules and bribes from them. To remedy the situation in 1787, the unification of British tariff legislation was carried out on behalf of Parliament.

In Prussia, as early as the beginning of the 19th century, there were 67 different customs tariffs: Swedish, Saxon, Rhine, which only in 1818 were replaced by one common one. The German tariff of 1879 consisted of 43 articles in total. But at the end of the 19th century, the number of rates in customs tariffs was growing again. The reason is the formation of new industries and the production of new types of goods. As a result, the specialization of the customs tariff, its differentiation, the establishment of separate duties on a particular product is growing. The specialization of the customs tariff increases with the development of customs protectionism.

The result was huge, cumbersome customs tariffs. So, for example, the German tariff of 1902 consisted of 1464 rates, and if we add 545 items stipulated by trade agreements, then from 2000. Almost 2000 rates were contained in the Swedish tariff of 1911. In the Russian customs tariff of 1790, with the addition of 355 conventional rates increased to 1055 articles. But the record holder in this case was Peru, where the customs tariff in 1902 had 3,300 articles.

Thus, we can notice an interesting pattern. At the beginning of Western European industrialization, when there was a transitional symbiosis from mercantilism to protectionism and there was a desire of the state to regulate the activities of entrepreneurs as much as possible, customs tariffs were more complicated in structure and mechanism of action than documents. With the development and improvement of factory production, they are simplified and unified. But at the end of the 19th century, in connection with a new technological revolution, the aggravation of international economic relations, customs tariffs again turn into cumbersome laws and begin to perform not only a regulatory and fiscal function, but mainly act as a mechanism of international politics in the conditions of competitive struggle between states.

Trade and customs agreements.

The first mention of trade and customs transactions dates back to ancient times, examples of medieval contractual practice between northern Italian cities of the 13th century have been preserved: the Hanseatics, due to the drafting of contracts, received significant privileges in England, Flanders, the Scandinavian states, North-Western Rus'. Initially, trade could not do without such transactions. But from the 16th century we already find treaties, mainly on trade and navigation.

In 1702, the well-known Methuen Treaty between England and Portugal appeared, which for the first time introduced the regime of trade of the greatest assistance. With the accession of countries to international trade, the need for a clear regulation of trade relations grew. Gradually, unified rules were formed and established for all merchants, regardless of their origin. In the 19th century new content is added to trade agreements: along with regulations regulating the rights of foreign entrepreneurs (the right to reside in the country, buy real estate, tax obligations), provisions on the amount of duties appear. The focus of the treaties of the second half of the 19th century is already the customs tariff; those of them that did not contain such a tariff supplement were even denied the title "Trade Agreement". Gradually, new varieties of such contracts appeared: conventional or tariff (Aleksandrenko, 1906).

Since the 19th century, any trade agreement granted citizens of another country the right to come to another country, settle in it, engage in crafts and trade, and buy real estate. Separately, the principle of free trade was confirmed in all the contracting ports of the states. Only in the Far Eastern states did the norm remain regarding a limited number of seaports where foreign entrepreneurs could do business, and this type of agreement also provided for equality in the types of taxes between foreigners and local merchants: a foreigner paid the same taxes as local merchants. There was a provision that granted the right to the buyer and seller to freely determine the price of goods among themselves. At the same time, in the Netherlands, Sweden, an industrial tax was levied from such a group of foreign entrepreneurs as traveling salesmen, in other states they were limited to the requirement to provide a legitimation card on the payment of relevant taxes in their homeland (Germany, Austria-Hungary, France, England). (Rudchenko, 1893, p. 132).

From the second half of the 19th century, with the beginning of industrial exhibitions, trade agreements fixed the right of duty-free import of samples and models of products, so that they could be exported during the year. Re-exportation was secured by the payment of duty as a pledge, which was then returned to the owner.

A significant place in the trade agreements of the new time belonged to the regulation of transport communications and the carriage of goods. As a rule, foreign entrepreneurs were allowed to use roads, railways, canals, locks, bridges, fairways, ports on equal terms with local ones. Maritime transport occupied a leading place in world transportation of that time, as a result of which most trade agreements were called treaties on trade and navigation. The main principle in this area was the equalization of foreign courts with their own. This principle was fixed in the articles regulating import, export, placement of goods, loading and unloading of ships, and it was added that the intention of both parties who agreed was not to allow any advantage of the local flag over the flag of the other side (Aleksandrenko, 1906, p. 180–186).

In the 1870s The ideology of trade agreements is again changing from the impact on the strengthening of international competition. The new system differed from the previous one in that, along with the contractual or conventional tariff, a general (general) tariff was also applied, which, unlike the first, was autonomous. There was a dual tariff system.

The role of trade agreements has changed radically after the principle of free trade gave way to careful weighing in each particular case how beneficial it is to further reduce the customs rate, and even more so as the transition to protectionism, when countries tried to raise customs rates as much as possible and keep them so long. time. Under protectionism, the state looked at any trade concession as a sacrifice and tried

to give as little as possible and get as much as possible. For this, a common tariff was required, without which the state was disarmed.

In the Western European literature of the 18th century, devoted to the organization of commerce, the concept prevailed, according to which only trade carried out by sea transport under the national flag was considered national. Otherwise, local merchants were deprived of the opportunity to independently trade with other countries, and a significant share of the income remained with foreign intermediaries. The national laws of England, France, Spain of that time generally allowed the import of goods from foreign states into their ports under two conditions: either the state has its own merchant fleet, or it must transport goods only on English, Spanish or French ships. These were the consequences of the international legal tradition of the “Acts of Trade and Navigation” of Britain in 1651. (Sobolev, 1916, p. 45).

Conclusions.

Thus, according to the standards of the organization of international trade in the 17th century, a developed foreign trade infrastructure was of great importance, which included: a certain legal status of the merchants, the availability of working capital for entrepreneurs, a commercial fleet, developed port facilities, the ability of the state to support its own merchants in foreign markets. Only a minimal approximation to these standards allowed the states of that time to join the existing system of trade and customs agreements.

In the second half of the 19th century – the beginning of the 20th century, in states that attached great importance to the export of domestic products and the mastery of foreign markets, the practice of returning duties levied on the import of semi-finished products or raw materials was widely used. Duties were returned when exporting goods made from foreign raw materials or semi-finished products, since the price of goods made from such materials when they were sold on foreign markets increased, taking into account the duty paid. This situation forced the state to return duties.

Even during the time of mercantilism, the promotion of exports with a premium became a popular way of trade policy. At the end of the 19th century, export bonuses were issued to entrepreneurs for a limited list of goods, even when the state authorities considered it necessary to develop exports at the expense of the interests of the state treasury. By granting bonuses, the government created conditions for reducing the price of goods and thus competed more successfully with similar goods on the international market. Export premiums existed in two forms: open (direct) and hidden.

From the above, the following conclusions can be drawn. The formation of international trade and contractual practice begins in the 18th century, when the institutions of international trade themselves acquire regulated, stable traditions. This process is associated with a change in financial, production and legal principles in the countries of Western Europe. The trade and customs agreement simultaneously becomes an instrument of diplomacy, that is, in the 18th century, with the simultaneous formation of cosmopolitan economic ideas and traditions, the state tried to use the commercial interest of the negotiators to achieve its foreign policy goals. With the development of manufactory, and then factory production, the so-called “manufactory patriotism” is formed, which influenced the emergence of a sub-branch of international law – maritime and international commercial law.

From the second half of the XIX century. the trade agreement actually turns into an integral element of international customs relations. In the context of increased international economic competition and protective customs tariffs, a trade agreement acts as a compromise for competing parties, temporarily reducing the aggravation of customs conflicts, preventing them from escalating into an armed conflict.

The development of international trade practices also influenced social processes. The trade agreement secured the property, financial, personal rights of entrepreneurs in foreign countries. The subsequent evolution of the commercial contract at the end of the 19th century opened the way for legal formalization and protection of international investments. The international movement of capital begins.

The conclusion or accession to a particular trade agreement becomes an indicator of the ability of both the state and its economic institutions to work in accordance with international standards.

In the future, in the process of prospective research on this issue, attention should be focused on an in-depth analysis of the sociological factors that resulted from the influence of trade and customs policy on social processes. And also, how social changes influenced the formation of new approaches and principles of international trade law.

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ТОРГОВЕЛЬНО-МИТНІ ВІДНОСИНИ ІНДУСТРІАЛЬНОЇ ДОБИ: МІЖНАРОДНО-ПРАВОВІ АСПЕКТИ

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Метою статті є висвітлення історичних, державно-правових аспектів генези торговельно-митних відносин в умовах формування індустріального суспільства, та їх вплив на соціально-економічні та політичні процеси у світовому контексті XVII–XIX ст. Методологія дослідження ґрунтувалась передусім на головних засадах діалектичної гносеології та евристики, що створило умови для наукових висновків. До основних методологічних принципів належить принцип історизму. Ідея аналізу соціальних явищ з позицій історизму передбачає їх розгляд у структурних та трансформаційних зв'язках.

Основними історичними формами митної політики, які сформувалися й діяли з середини XVII до початку XX ст., стали протекціонізм і фритредерство. Слід зазначити, що політика протекціонізму на початковому етапі своєї еволюції виступала як субполітика та реалізувалась у рамках дуже популярної серед західноєвропейських держав політики меркантилізму. Наприкінці XIX ст. зміст протекціоністської політики полягав у створенні умов для розвитку національної економіки шляхом штучного обмеження

конкуренції з боку інших держав та одночасній допомозі національним виробникам в освоєнні закордонних ринків збуту, з використанням зовнішньополітичної позиції держави та підтримкою для експортера. Однак будь-які заходи щодо обмеження іноземної конкуренції, як правило, викликають адекватну реакцію з боку інших держав, що протягом XIX–XX ст. призводило до великої кількості так званих “митних війн” – уведення державами все нових і нових тарифних і нетарифних обмежень стосовно одна одної, що в остаточному підсумку негативно позначалося на стані міжнародної торгівлі взагалі.

Конкретним механізмом реалізації торговельно-митної політики виступає тарифна справа, яка включає обґрунтування відповідних тарифних ставок, що відповідають комплексу соціально-економічних умов та виконують ряд функцій. Але наприкінці XIX ст., у зв’язку з новою технологічною революцією, загостренням міжнародних економічних відносин, митні тарифи знову перетворюються на громіздкі закони й починають виконувати не лише регулятивно-фіскальну функцію, а переважно виступають механізмом міжнародної політики в умовах конкурентної боротьби між державами.

Таким чином, за стандартами організації міжнародної торгівлі XVII ст., велике значення мала розвинута зовнішньоторговельна інфраструктура, яка включала: певний правовий статус купецтва, наявність обігових коштів у підприємців, комерційного флоту, розвинуті портові господарства, спроможність держави підтримувати власних купців на закордонних ринках. Лише мінімальне наближення до зазначених стандартів дозволяло державам того часу приєднуватися до існуючої системи торговельно-митних договорів.

Ключові слова: історія, торгівля, процес, політика, угода, підприємець, купець, кошти, право.

LOGISTICAL MANAGEMENT OF FLOW PROCESSES OF ENTERPRISES PARTICIPATION IN INTERNATIONAL PRODUCTION AND COOPERATION RELATIONS

A methodological support for the organization of logistics management of the development of international industrial cooperation of enterprises has been developed, which differs from the existing one by correlating the concept of planning based on functional abilities with a description of the distribution of components of global logistics flows by levels of the economic structure of society and taking into account the interests of participants in cooperation interaction when optimizing the structure of value creation.

It has been established that, based on the results of the selection of participants in international industrial cooperation, it becomes necessary to organize the management of their interaction, which is quite difficult, given the legal independence of such participants.. Since cooperation is aimed at promoting value, it was appropriate to introduce the principles of logistics for the operation of the mechanism of international industrial cooperation of companies and the development of methodological support in the organization of logistics management of the development of international industrial cooperation of companies. The organization of logistics management in this case is reduced to the regulation of the roles of participants in international production cooperation, optimization of the responsibility structure of the links in the global logistics chain of value creation and the use of the concept of planning based on functionality.

The complexity of organizing the logistics management of the development of international production and cooperation interaction between enterprises lies in the absence of direct subordination of the participants in such interaction to each other. Accordingly, in the developed model of organization and implementation of the logistics management of the development of international industrial cooperation, it is proposed to introduce the sphere of responsibility of the facilitator of cooperation interaction. This model also provides for the selection of the processes of movement of the target system along its life cycle and the selection of business processes for adapting to the requirements of cooperative interaction.

Key words: Logistics, Management, Organization, International Industrial Cooperation, Enterprise, Flow Process, Production and Cooperation Relations.

JEL Classification: L210, M110, Q130.

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Introduction. The result of the implementation of the approach to building a network of international industrial cooperation of enterprises is an agreed list of practices for promoting the target system (consumer value) along its life cycle, as well as a set of economic entities that ensure the implementation of these practices and for which a geographical location is specified (nationality is taken into account). It is clear that the formation of a configuration of practices and executors of such practices corresponds to the strategic level, therefore, the organization of managing the interaction of such practices becomes necessary. When organizing such management, it is proposed to focus on the logic of taking into account the fractal nesting of production and cooperation cooperation in developing a strategy for international production cooperation of companies. This logic presupposes the formation of a system of benchmark indicators for the implementation of business practices (further, such indicators will become the basis for organizing monitoring in the mechanism of international industrial cooperation between enterprises). The subordination of all such practices of activity to the general guidelines for the operation of the network of international industrial cooperation (such guidelines are both a component of global strategic priorities and an element

of institutional support for the operation of the mechanism of international industrial cooperation of enterprises).

Analysis of recent research and publications. The main goal and advantage of the logistical management of the network of international industrial cooperation is the coordination of all ongoing practices of activity on the basis of obtaining such an integral criterion as the logistical flow. In the classical formulation of the problem of organizing logistics management, given in the works (I. Goi, 2014, M. Doronina, 2002, D. Ivanov, 2006, V. Sergeiev, 2005, A. Kolobov, 1997, N. Tiurina, 2014, O. Shkodina, 2014) and a number of other researchers, flow processes are deployed around the movement of resources towards creating value at the output of the global supply chain. In this regard, the ISO 15288 standard is laid down, according to which the target systems and systems are secured and protected for the life cycle, logistics management is put forward on the basis of ensuring the security of the target systems.

The purpose of the article is to develop methodological support for the organization of logistical management of the development of international industrial cooperation between enterprises.

Presentation of the main material of the article. From the point of view of the operation of the mechanism of international production cooperation of enterprises, a number of advantages arise from the combination of logistics methodology with architectural and ontological modeling of production and cooperation cooperation. Let us consider such advantages in more detail, taking into account the need to harmonize the different levels of the holarchy of international industrial cooperation. As an example of taking into account the holarchy of international industrial cooperation in the organization of logistics management, we note that the approach to building a network of international industrial cooperation of enterprises ends with the optimization of the territorial distribution and national jurisdiction of the participants in the international industrial cooperation network. This approach should be consistent with proposals to represent the network of international industrial cooperation as a set of mutual services and interfaces (such a service-oriented approach has become the basis for the formation of cluster-network structures). From the point of view of organizing the logistics management of a network of international industrial cooperation, it should be noted that the deployment of a service system as a tool for implementing a strategy and cluster initiatives ensures the consistency of individual links in the global logistics chain. The functioning of such a chain is based on the cooperative interaction of members of a cluster or a network of international industrial cooperation. However, the global value chain may extend beyond the geographic boundaries of the cluster. This is possible, for example, in terms of distribution processes, when value is created within the cluster, and its implementation outside the cluster. Such implementation can also take place within the framework of cooperative agreements. Accordingly, the issue of modeling the geographical location of participants in cluster-network interaction is of great importance. Thus, logistics management is revealed through the formalization of the system of roles of participants in international industrial cooperation, the implementation of which is supported by the business processes of enterprises designed to perform such roles. The architectural model for coordinating collective roles allows, in addition to determining the subjects of the logistics management organization, to model the locations of cooperation participants (thus, the approach to selecting partners for cooperation is expanded). Given the architectural model for coordinating collective roles, it is possible to provide for the possibility of displaying at the model level any geographic configuration of enterprises that will perform functions (activity practices) to ensure the movement of flow processes within the global value chain (i.e., implement logistics management).

From the point of view of supporting competitiveness and building up the potential of production and cooperation cooperation, the mechanism of international production cooperation of enterprises should integrate the tools for selecting cooperation participants with the levers for implementing guiding influences in the logistics management loop. Focusing on the developments of the authors (M. Doronina, 2002, D. Ivanov, 2006, V. Sergeiev, 2005, A. Kolobov, 1997), it is possible to define the content of logistics management as a certain type of management activity aimed at optimizing the flow processes of a certain business entity (regulating its material, financial, informational and other flows) according to a certain criterion. In the available studies, as a rule, logistics management is considered not through optimization, but through the regulation of logistics flows. Also, economists mainly use the minimization of total logistics costs as a criterion for regulating logistics flows. The author's interpretation of logistics management to a certain extent expands such a proposal, assuming a plurality of criteria for optimizing flow processes. For example, when expanding to the markets of other countries, the optimization criterion can be the speed of

value formation at the output of an integrated global value chain. The choice of the optimization criterion for flow processes in the case of the study will be subject to the goals of the activity of the network of international industrial cooperation, as well as the distribution of global strategic priorities between the levels of the holarchy of international industrial cooperation. This refers to the possibility of different criteria for optimizing logistics flows at different levels of the holarchy. At the same time, the coordination of such criteria will lead to the manifestation of the effects of emergence and supervenience.

In addition to defining goals, in the organization of logistics management, a clear identification of the subject and object of management is of particular importance. Based on such identification, principles, tools, regulations, methods and levers of logistical management of the network of international industrial cooperation will be determined. Accordingly, focusing on the logic of correlating the spatial and geographical distribution of enterprises that ensure the implementation of flow processes in the network of international production cooperation, the organization of logistics management is largely reduced to optimizing the structure of responsibility of the links in the global logistics chain of value creation for the final product (not even so much for the final product, how many while observing the timely change of the stages of the life cycle of the target system). The author's proposal in this case is the use of an agent-role approach not only to regulate the cluster-network interaction of enterprises, but also to organize their logistical management. At the same time, it is important to distinguish between the roles of stakeholders of different levels of the holarchy of international industrial cooperation, as well as the contours of operational and strategic logistics management.

The basis of the methodological support for the organization of the logistics management of international industrial cooperation is the development of the formation of a set of organizational capabilities and key competencies necessary for the functioning of the network of international industrial cooperation. Specifically, the process of such formation of competencies is the basis for highlighting the contour of the organization of the logistics management of the network of international industrial cooperation. The main difference from the classical approach to the appointment of the subject of logistical management is the definition of a whole set of performers of this collective role. For example, such performers are companies that joined the output of the network of industrial cooperation as a result of the implementation of the logic of their selection with the introduction of the method of analyzing hierarchies. We should also pay attention to the proposal to use the concept of operation as the basis for organizing the contours of the strategic logistics management of the network of international industrial cooperation. In the context of this proposal, a number of clarifications should be made. The main goal of bringing the concept of exploitation of the created value to the presented contours of the organization of logistics management is to implement the hypothesis for determining the areas of attention of logistics management, taking into account the parameters of managing the competitive behavior of international industrial cooperation. Thus, taking into account the approach to the formation of a consolidated strategic vision of the stakeholders of the network of international production and cooperation, it is possible to divide the proposal on the distribution of the strategic component of the organization of logistics management of the development of international production cooperation into several meaningful blocks. These blocks correspond to the options for using a combination of key competencies and dynamic capabilities of enterprises in the management of cooperative interaction, as well as the contours of the organization and implementation of logistics management. So, it is also proposed to put the connection between planning blocks and implementing the strategy of international production and cooperation cooperation as the basis for the organization of logistics management (such blocks will partially overlap with existing developments in the field of strategic management, and in part will require a certain extension of the traditional practice of developing and implementing the strategy).

The logic of the system-dynamic model of planning and implementing the strategy of international production and cooperation of enterprises is based on the proposal of A. Levenchuk on the development of the practice of «strategy» (A. Levenchuk, 2018) Accordingly, the presence of an enterprise in the global market leads to the fact that the resulting network of international production and cooperation cooperation cannot remain unchanged both in terms of the attributes of the value that is displayed on the selected segment of the global market, and in terms of systems that ensure the emergence of such value. Thus, both the strategy of international production and cooperation cooperation and the parameters of organizing the logistics management of the strategy implementation network cannot remain unchanged. The strategy and parameters of logistics management should be reviewed on

an ongoing basis. In addition, the consideration of strategy as a permanent process is declared by the provision of the concept of managing the development of international industrial cooperation. It is in accordance with it that one of the options for disclosing the logic of strategizing is given, when certain directions for implementing the strategy of production and cooperation interaction are dynamically linked. From the point of view of organizing the organization of logistics management contours, presented as a tool for implementing the strategy of international production and cooperation cooperation, the system-dynamic model contains two key blocks. The first block is reduced to determining the parameters of value at the exit from the network of production and cooperation cooperation and its market positioning. Here there is a certain intersection with the existing developments on the formation of an international marketing strategy.

It is clear that the organization of strategic logistics management must take into account that value is created not by a separate enterprise, but by the result of cooperative interaction. That is, if you do not focus on the presence of an emergent effect, then when planning a strategy, you can focus on developments in the formation of vertical marketing systems. (O. Korolchuk, 2004) or proposals for the formation of networks for coordinating the capabilities and needs of business entities involved in the integrated business structure (Yu. Ivanov, A. Pylypenko, 2012). The whole layer of research from the field of affiliate marketing can also come in handy (N. Antonova, 2015; Ya. Gordon, 2001; D. Igan, 2007; R.Spencer, 2005). Such developments cannot serve as the basis for all forms of international production and cooperation. Separate forms, such as a cluster or contract cooperation, do not provide for the presence of a consolidated management entity. Therefore, the organization of logistics management within the framework of the implementation of the first circuit should be based on the position that the target system, as a product of the functioning of the value chain, is built into the target system of a higher level or used by such a system.

Accordingly, the organization of logistics management, as well as strategy planning, should be guided by provisions to ensure the imitation of life cycle stages. It is this imitation that is described, modeled and formalized in the concept of exploitation. (ConOps). It is appropriate to base the description of the value creation process on the VDML value delivery modeling standard. The movement of logistics flows must also comply with the requirements of this standard. The value according to VDML reflects how the consumer will earn money using the target system formed by international production and cooperation cooperation. That is, the process of organizing logistics management in this case is reduced to modeling how the satisfaction of the interests of the consumer will be ensured by the results of cooperative interaction (logistics management, in turn, will implement such a model). At the same time, the VDML standard does not provide for the mandatory presence of a joint decision-making center, and the value stream in its content is a functional cut of the movement of cash flows between roles to create value (it is clear that taking into account national jurisdiction). That is, focusing on the requirements of the VDML standard, it is possible, within the framework of the organization of logistics management, to correctly establish the area of responsibility of the facilitator of the production cooperation network.

The second block of the system-dynamic model for planning and implementing the strategy of international production and cooperation cooperation between enterprises is directly related to their interaction and consolidation of business processes and activities to support the movement of value flows in global value chains. The planning process in this case consists in the translation of the components of the 5P model of the description of the system formation strategy in ensuring the promotion of the value offered at the output of the global value chain. In this case, it is indicative to consider the interaction of the first and second feedback loops presented in the system-dynamic model of planning and implementing the strategy of international production and cooperation cooperation between enterprises in the context of the conceptual position regarding the combination of process and project approaches to the implementation of international production and cooperation interaction. The logic of combining these two approaches was presented as an implementation of the principle of integrating business processes and practices within the stages of the life cycle of the target system. The project approach provides constructive configurations for the network of international production and cooperation cooperation. The need for the implementation of such a project may arise in the event of the accumulation of a large number of small improvements while moving along the feedback loops. The process approach in this case is presented as a stream of bringing value to the market, implemented through a selected set of practices of activities of participants in production and cooperation interaction.

The movement of value within such a chain will be subject to the logistics strategy of a certain holon of international industrial cooperation. The element of the model basis $\{MB_{st}\}$ is responsible for the development of such a strategy. Moreover, it seems possible to add quantitative parameters to the decision flows using the system dynamics methodology, which assumes that the characteristics of international industrial cooperation are specified through flow models. An example of applying the system dynamics model to modeling the expansion of cooperation relations in a competitive market is shown in Figure 1.

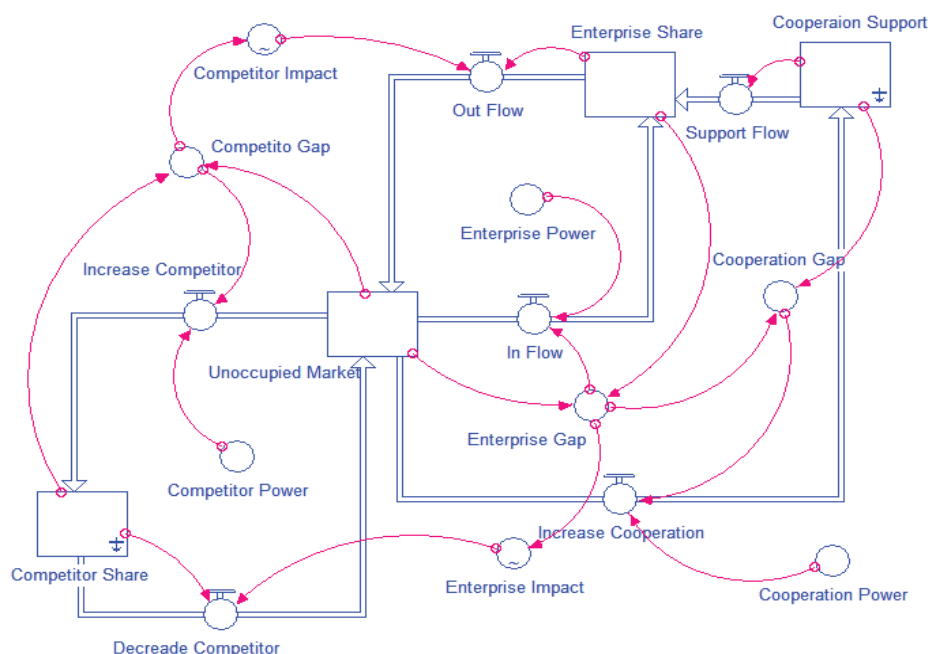


Fig. 1. System-Dynamic Model of the Deployment of Competition in the Conditions of Production and Cooperation Interaction (Source: Author's development)

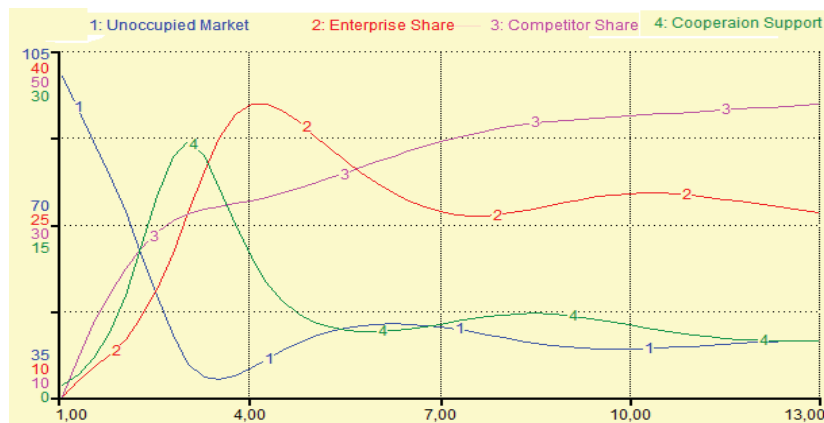
The model is made in the iThink simulation system. The model is based on four tempo variables. The first variable (*Unoccupied_Market*) reflects the potential market capacity, that is, the percentage of users of the enterprise's target system remaining after the enterprise enters the market. The remaining tempo variables reflect the market share of an enterprise that has entered a certain segment of the global market (*Enterprise_Share*), company's competitor's market share (*Competitor_Share*) and market share attributable to cooperative deliveries (to entities with which cooperation relations have been established) within the network of international industrial cooperation (*Cooperation_Support*). The flows in the presented in Fig. 1 models reflect the increase (*In_Flow*) and decrease (*Out_Flow*) in the market share of the enterprise, as well as the increase (*Increase_Competitor*) and decrease (*Decrease_Competitor*) in the market share of competitors. The modeling of relations to support the competitiveness of the network of international industrial cooperation through cooperation is implemented by the flow of transferring market share (*Increase_Cooperation*) through cooperation to the network of international industrial cooperation (*Support_Flow*). A decrease in market share within the framework of cooperation relations occurs through a flow that reflects a decrease in the market share of an enterprise (*Out_Flow*). The logic of the work described in Fig. 1 models constitute the corresponding groups of variables. First, such variables model the difference between free market demand and the market share of an enterprise (*Enterprise_Gap*) and competitors (*Competitor_Gap*). A variable is also introduced that models the maximum possible amount of assistance through cooperation relations. (*Cooperation_Gap*). The second group of variables determines the aggressiveness of the competitive positioning of the enterprise (*Enterprise_Power*) and their competitors (*Competitor_Power*). Also in this group of variables, the strength of the intervention of the enterprise involved in cooperation in increasing the market share of the enterprise is determined. (*Cooperation_Power*). Such variables make it possible to represent the dynamics of the interaction of

the described market participants using the ones shown in Figure 2 of logistics functions. The third group of indicators models the mutual influence of an enterprise (*Enterprise_Impact*) and its competitors (*Competitor_Impact*) on the distribution of market share. These indicators identify the value of the flows that model the decrease in the market share of the enterprise (*Out_Flow*) and its competitors (*Decrease_Competitor*), and are also responsible for the fluctuations shown in Figure 2 logistics functions. In the iThink environment, the value of such variables is presented as a function that determines the strength of influence depending on the market share of an enterprise or competitor. An example of the description of such functions is shown in Figure 3, containing a complete listing of the one shown in Figure 1 model. Within the framework of the mechanism of international production cooperation of enterprises, the application of the indicated in Figure 1 of the model can serve as the basis for determining the features of the competitive positioning of participants in international industrial cooperation (for example, the basis for determining the level of aggressiveness of the competition policy) and the requirements for the parameters of logistical flow management (for example, setting the speed of flow processes responsible for the implementation of the *Out_Flow* variable shown in Figure 1). Also, the mechanism of international production cooperation of companies can use scenarios for the development of logistics interaction within the framework of cooperation relations. An example of such a scenario is shown in Figure 2, and a variant of the alternative scenario is shown in Figure 4.

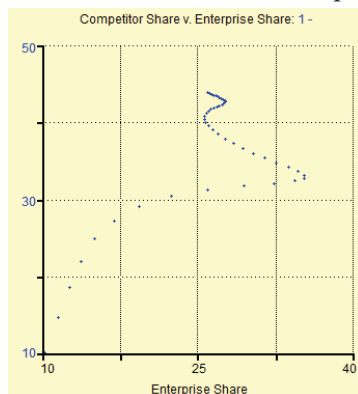
Therefore, taking into account the one shown in Figure 2 dynamics, we will make a proposal that the organization of the logistics management of the network of international production and cooperation between enterprises should consist in coordinating the movement of streaming processes in order to comply with the desired dynamics of the selected indicators. That is, the logistics management must implement the observance by the participants of international industrial cooperation of the global strategic priorities transmitted to their level. Accordingly, the methodological support of the logistical management of the development of international industrial cooperation should provide an opportunity to implement this requirement. In this statement, the aspect of development is of great importance, when the organization of logistics management takes place in parallel with the qualitative improvement of the network of international industrial cooperation. In this context, two key challenges arise. First, the reflection of the imitation of operations within the framework of ongoing business processes. Secondly, the definition of those responsible for the implementation of such operations. Moreover, the appointment of responsible persons should be made taking into account the role structure of international industrial integration described above.

Given these limitations, it is proposed to use the BPMN (Business Process Management Notation) business process modeling notation specifically to describe flow processes and regulate the interaction of participants in international industrial cooperation. The use of BPMN notation makes it possible to formalize and describe the implementation of cooperation processes within the framework of the distribution of elements of business processes performed between the areas of responsibility of individual participants in international industrial cooperation. In this case, BPMN models will act as a detail of the architectural and ontological integration models described above. That is, for each element introduced into the description of the architecture of international industrial cooperation, it is possible to develop a model of the processes of its implementation. But here it seems appropriate to have a top-level BPMN model that describes the interaction of various architectural roles. Since roles in BPMN models are defined through a system of pools and lanes, it seems appropriate to single out the roles of participants in different levels of the holarchy of international industrial cooperation within one model. This will make it possible to develop both regulations for the implementation of the translation of global strategic priorities, and ensure the implementation of selected priorities by modeling business processes for the implementation of such priorities.

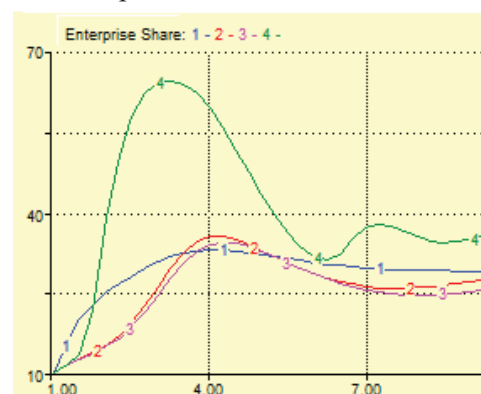
Thus, the formation of descriptions and models of business processes of participants in the international production and cooperation of enterprises is the basis for the organization of logistics management. The basis for the implementation of such management is properly collected information, which can only be formed within the framework of logistics monitoring systems. The organization of such monitoring faces the same difficulties as the organization of logistics management in general. Information for monitoring is accumulated at different levels of the holarchy of international industrial cooperation, which makes it difficult to achieve a sufficient level of reliability for the operation of the mechanism of international industrial cooperation of enterprises.



A) Implementation of the Selected Scenario for Changing the Market Share of all Participants in Competitive and Cooperative Interaction



B) Correlation of Market Shares of Enterprises and Competitors



C) Comparison of Options for the Dynamics of the Company's Market Share under Various Logistical Impacts

Figure 2. Results of Modeling the Mutual Behavior of Participants in Competitive and Cooperative Relations (Source: Author's development)

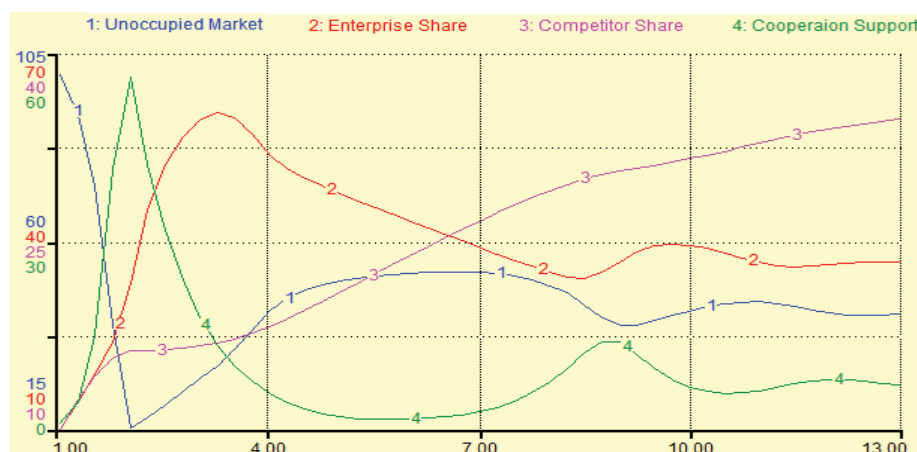
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4 Competitor_Share(t) = Competitor_Share(t - dt) + (Increase_Competitor - Decrease_Competitor) * dt
INIT Competitor_Share = 10
INFLOWS:
    Increase_Competitor = Competito_Gap*Competitor_Power
OUTFLOWS:
    Decrease_Competitor = Competitor_Share*Enterprise_Impact*0
4 Cooperaion_Support(t) = Cooperaion_Support(t - dt) + (Increase_Cooperation - Support_Flow) * dt
INIT Cooperaion_Support = 1
INFLOWS:
    Increase_Cooperation = Cooperation_Gap*Cooperation_Power
OUTFLOWS:
    Support_Flow = Cooperaion_Support
Enterprise_Share(t) = Enterprise_Share(t - dt) + (In_Flow + Support_Flow - Out_Flow) * dt
INIT Enterprise_Share = 10
INFLOWS:
    In_Flow = Enterprise_Gap*Enterprise_Power
    Support_Flow = Cooperaion_Support
OUTFLOWS:
    Out_Flow = Enterprise_Share*Competitor_Impact
Unoccupied_Market(t) = Unoccupied_Market(t - dt) + (Decrease_Competitor + Out_Flow - In_Flow - Increase_Competitor - Increase_Cooperation) * dt
INIT Unoccupied_Market = 100
INFLOWS:

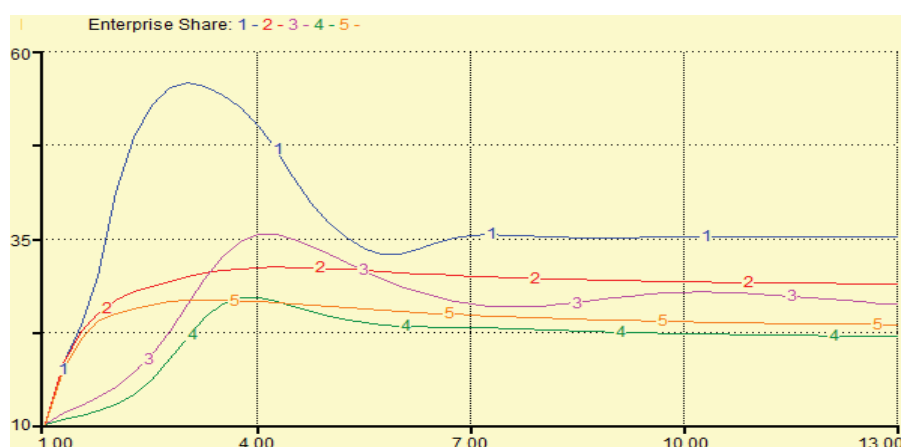
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\Rightarrow Decrease_Competitor = Competitor_Share*Enterprise_Impact*0
 \Rightarrow Out_Flow = Enterprise_Share*Competitor_Impact
OUTFLOWS:
 \Rightarrow In_Flow = Enterprise_Gap*Enterprise_Power
 \Rightarrow Increase_Competitor = Competito_Gap*Competitor_Power
 \Rightarrow Increase_Cooperation = Cooperation_Gap*Cooperation_Power
 ○ Competitor_Power = 0.1
 ○ Competito_Gap = Unoccupied_Market-Competitor_Share
 ○ Cooperation_Gap = Enterprise_Gap*Cooperaion_Support
 ○ Cooperation_Power = 0.15
 ○ Enterprise_Gap = Unoccupied_Market-Enterprise_Share
 ○ Enterprise_Power = 0.19
 ⊗ Competitor_Impact = GRAPH(Competito_Gap)
 (0.00, 0.29), (10.0, 0.215), (20.0, 0.4), (30.0, 0.135), (40.0, 0.31), (50.0, 0.435), (60.0, 0.235), (70.0, 0.155), (80.0, 0.065), (90.0, 0.065), (100, 0.05)
 ⊗ Enterprise_Impact = GRAPH(Enterprise_Gap)
 (0.00, 0.33), (10.0, 0.59), (20.0, 0.34), (30.0, 0.79), (40.0, 0.87), (50.0, 0.13), (60.0, 0.13), (70.0, 0.13), (80.0, 0.54), (90.0, 0.28), (100, 0.81)

Figure 3. Listing of the Competition Deployment Model in the Conditions of Production and Cooperation Interaction



A) Implementation of the Selected Scenario of Behavior of Participants in Competitive and Cooperative Relations



B) The Dynamics of the Market Share of an Enterprise in Various Conditions of the Intensity of Competition and Cooperation Relations

Figure 4. Results of Modeling the Mutual Behavior of Participants in Competitive and Cooperative Relations (Source: Author's development)

Conclusions. After the list of participants in international production and cooperation cooperation is formed, it is necessary to organize the management of their interaction. The orientation of international cooperation to support the creation of value and its promotion through the stages of the life cycle determined the appropriateness of using the principles of logistics in the operation of the mechanism of international industrial cooperation. The complexity of organizing the logistics management of the development of international production and cooperation interaction between enterprises lies in the absence of direct subordination of the participants in such interaction to each other. Accordingly, in the developed model of organization and implementation of the logistics management of the development of international industrial cooperation, it is proposed to introduce the sphere of responsibility of the facilitator of cooperation interaction. Such a facilitator is responsible for translating the requirements of the supersystem to the subordinate levels of the hierarchy of international production cooperation, where the interaction of independent participants in the value chain takes place. The regulation of the facilitator's work is made dependent on the organizational form of the formation of a network of international industrial cooperation. In the developed model of the organization of logistics management, the allocation of the processes of movement of the target system along its life cycle is provided and the business processes of adaptation to the requirements of cooperative interaction are identified. This representation of the processes allows optimizing the structure of the responsibility of the links of the global supply chain for creating value and distributing the components of global logistic flows according to the levels of the economic structure of society. The basis for the implementation of this distribution is the use of the method of analysis of hierarchies, through which the territorial distribution and jurisdiction of the performers of collective roles is determined. In the developed model for organizing the logistics management of the development of international industrial cooperation, submodels are identified that reflect the procedure for performing individual roles of participants in the global value chain.

Methodological support for the organization of logistics management of the development of international industrial cooperation between enterprises was developed. This provision is different from the existing correlation of the concept of planning based on functional abilities with a description of the distribution of the components of global logistics flows according to the levels of the economic structure of society and taking into account the interests of the participants in cooperative interaction when optimizing the structure of responsibility of the links in the global logistics chain of value creation.

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ЛОГІСТИЧНЕ УПРАВЛІННЯ ПОТОКОВИМИ ПРОЦЕСАМИ УЧАСТІ ПІДПРИЄМСТВ У МІЖНАРОДНИХ ВИРОБНИЧО-КООПЕРАЦІЙНИХ ВІДНОСИНАХ

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Розвинуто методичне забезпечення до організації логістичного управління розвитком міжнародної виробничої кооперації підприємств, що відрізняється від існуючого співвіднесенням концепції планування на основі функціональних спроможностей з описом розподілу складових глобальних логістичних потоків за рівнями економічного устрою суспільства та врахуванням інтересів учасників коопераційної взаємодії при оптимізації структури відповідальності ланок глобального логістичного ланцюга створення вартості. Встановлено, що за результатами відбору учасників міжнародної виробничої кооперації виникає потреба організації управління їх взаємодією, що доволі складно з огляду на юридичну самостійність таких учасників. Оскільки кооперація орієнтована на просування цінності, доречними виявилися запровадження принципів логістики до роботи механізму міжнародної виробничої кооперації підприємств та розвиток методичного забезпечення до організації логістичного управління розвитком міжнародної виробничої кооперації підприємств. Організація логістичного управління у цьому випадку зведена до регламентації ролей учасників міжнародної виробничої кооперації, оптимізації структури відповідальності ланок глобального логістичного ланцюга створення вартості та використання концепції планування на основі функціональних спроможностей.

Складність організації логістичного управління розвитком міжнародної виробничо-коопераційної взаємодії підприємств полягає у відсутності прямого підпорядкування учасників такої взаємодії один одному. Відповідно у розробленій моделі організації та реалізації логістичного управління розвитком міжнародної виробничої кооперації запропоновано введення сфери відповідальності фасилітатора коопераційної взаємодії. Також в даній моделі передбачено виділення процесів руху цільової системи за її життєвим циклом та виокремлено бізнес-процеси адаптації до вимог коопераційної взаємодії.

Ключові слова: логістика, управління, організація, міжнародна виробнича кооперація, підприємство, потоковий процес, виробничо-коопераційні відносини.

ECONOMIC UNDERSTANDING OF THE PROPERTY RIGHT WITHIN STATE ADMINISTRATION OF FOREIGN ECONOMIC ACTIVITY

Purpose. The article is devoted to researching the theoretical economic grounds and understanding of the property right in different directions and conditions in order to use the obtained results for further research, in particular, within the area of the state regulation of foreign economic activity.

Methods. The main scientific methods are widely used in the research. Among them the methods of analysis and synthesis, logical search, abstraction and concretization, analogies, modeling are mostly used.

Results. The primary essence, key attributes, typical peculiarities and constituent elements of the property right are researched. Herewith, the corresponding concepts of the property itself and the property relations are analyzed and studied in details.

By that means, the basis and reasons for emergence of the property rights are followed by and shown both in theory and in real practical situations.

Use of the classical Honoré's theory of ownership in modern economic life is examined and exemplified.

Particular attention is paid to applying the above-mentioned concepts connected with the property right theory into the area of interaction between the state and the subjects of the foreign economic activity.

Accordingly, some specific features of the concept of property right and concept of property relations are demonstrated in terms of the state administration of foreign economic activity.

Conclusions. The modern understanding of the concept of property and the concept of property rights is based on a significant theoretically reasoned foundation, that contains numerous results of research conducted.

The most important aspects regarding the economic perception and use of the concept of property rights should relate to: characteristics inherent in the property right; opportunities that provide the property right; and a set of specific elements of the property right.

When using the concept of full property right, it is advisable to take into account the limits and degrees of access to specific property objects and property rights to them.

In area of the state regulation of foreign economic activity it's not necessary to use the detailed bunch of the property right elements but paying attention mostly to the standard set, i.e. controlling the rights of possession, use and disposal.

Key words: ownership; property rights; full property right; attributes and elements of the property right; applying of Honoré's theory of ownership; state regulation of foreign economic activity.

JEL Classification: D23, F00, F52, G28, H10, K11, O34, P14, P26, P48.

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Introduction. The property issue is one of the most important aspects for social and individual life in modern civilized conditions. The world experience of the historical development of mankind demonstrates, in particular, that private property has a decisive influence on the efficiency of organization of business processes, which is a kind of 'engine' for any market economy, as well as motivation of useful human activity.

It should be emphasized that modern economic theory allows us to consider property as a complex system of rights. It involves complexity of the modern property systems, based on a diverse combination of rights of various subjects, as well as the diversity and complexity of real forms of realization of such rights. Therefore, the concept of ownership is complex and ambiguous and can be considered and interpreted from different angles depending on specific situations and directions of research.

It should be noted that certain aspects related to the theoretical study of the concept of relations and property rights were highlighted by many scientists, for instance, A. A. Alchian, L. C. Becker, H. Demsetz, R. I. Kapelyushnikov, A. M. Honoré, S. Pejovich, J. Waldron, E. G. Furuboth and others. The issue of property rights is especially important in the area of intersection of private and state interests, which do not always coincide in real life, and therefore can have a rather drastic effect on the final result of economic activity. In this direction, as a separate group of issues the various aspects of property rights in terms of state regulation of international economic activity can be considered, but receive little attention in practice, unfortunately. Taking this into account, the attempt of a detailed analysis of the application of the property rights theory within the mentioned limits of state administration, raised in this article, has a topical significance in modern practice of economic activity.

The main task of current paper is to determine the theoretical foundations for the economic understanding of the concept of ownership itself, as well as the property rights and relations in order to use the obtained results for further research of the possibilities to influence and manage the transformation of the system of property rights, in particular, within the state regulation of foreign economic activity.

To complete the assigned task, the main scientific methods are widely used in the current research. Among the most important ones there are the methods of analysis and synthesis, logical search, abstraction and concretization, analogies, modeling, etc.

The essence and reasons for emergence of the property rights. Among researchers and scientists in modern literature, there are many options for defining the ‘property’ term, which vary depending on the directions, specifics and goals of the relevant research.

The modern encyclopedic understanding of property (Hrytsenko, 2005) is based on the fact that it is a historically determined social form of distribution (appropriation) of material goods, which expresses social and industrial relations between people and classes in the process of social production, distribution, exchange and consumption. In the economic dictionary, property is understood as an economic category that reflects the belonging of values to one or more persons with the corresponding rights to own, dispose and use them (Zavads’kyi, 2006, P. 48).

Based on this, ownership is actually related to social commodity and property relations between subjects. In other words, according to this approach, property is a set of relations between parties regarding the appropriation of conditions and results of production, i.e. material and spiritual things or values.

Herewith, it is believed that for the first time the most comprehensive description of different aspects of property rights was provided by American economists (Furuboth, 1988; Pejovich, 1990). Western scientific opinion when considering the essence of this concept is inclined to the fact that property is a general term for the rules that regulate the level of access and control over various material and non-material resources (Waldron, 2004), which are limited with a few alternatives due to the scarcity (rarity) of these resources (Pejovich, 1990). These rules are the subject of controversy both as to their general form and as to their specific application. At the same time, separate attention is drawn to the fact that under normal conditions subjects retain these rights regardless of how they dispose them (Breakey, 2012). For example, even if a person wastes his own life, he retains these rights, because these are his own rights, and not those of someone else, society, community, tribe or ethnic group.

Analysis of the economic theory of property. It should be noted that the scientific developments and results obtained by various scientists and researchers over the years were laid in the foundation for the modern economic theory of property. As a result, a generalized interpretation of the concept of property rights was created.

Nowadays, the economic theory of property understands the property rights as sanctioned behavioral relations between people that arise in connection with the existence of goods and concern their use (Kapelyushnikov, 1990). These relations determine the norms of behavior regarding goods that any person must comply in his interactions with other people or take the costs of not complying them. The term ‘goods’ is used in this case to denote everything that brings utility or pleasure to a person.

Based on the fact that the main ideas of the modern economic theory of property are concentrated in this definition, it is necessary to consider more carefully a number of essential points present in this interpretation in order to understand better the existing trends and views.

First, given that property is not the material thing or resource itself, but a share of the rights to use it, the term ‘property right’ is used to emphasize this nuance and to prevent misinterpretation of the meaning of the term ‘property’. A similar opinion is followed by modern Ukrainian scientists (Petrunia, 2011, p.

63), believing that property (or ownership) is the fixing of the right to control economic resources and life benefits for certain subjects.

Second, taking into account the fact that goods are understood as everything that brings utility or pleasure, property rights extend to both tangible and intangible objects. At the same time, as intangible ones there could be thought, in particular: any intellectual property objects, for example, brand names, trademarks, works of art, inventions (Furuboth, 1988); information space, for example, radio communication frequencies (Alchian, 1973, p. 18); or even inalienable personal freedoms (Kapelyushnikov, 2004). Nevertheless, the traditional object of ownership is still considered to be a material object.

Third, property rights are accepted as sanctioned ones, that is, permitted or approved (Kim, 2005, p. 226). At the same time, there is no doubt that the state must perform the formal authorization function, ensuring certain rights by law and controlling their compliance with the help of its own system of executive bodies, including the field of international economic activity (Oleksiienko, 2012, p. 42). However, it should be agreed that property rights can be fixed and protected not only by the power of the state, but also by the authority of traditions, unwritten customs, moral norms, religious commandments (Kapelyushnikov, 2004), etc.

Fourth, under the words ‘behavioral relations’ it is necessary to clearly understand the relations between people precisely, or socio-economic subjects, arising around the realization of property rights as to certain goods and resources. Such behavior authorizes people to have the right to use resources within the limits of permissibility, based on the fact that these rights are always limited, most often by the prohibition of certain actions (Alchian, 1973, pp. 16-17). Obviously, the limitation applies not only to property rights, but also to property objects in the form of certain resources, benefits, assets and so on. This can be explained by the fact that any resources in the world are exhaustible, and therefore limited in one way or another. Moreover, the rarer they are, or the smaller their number, the greater the effort of certain subjects to own and dispose them. Therefore, property rights as sanctioned behavioral relations actually arise between different subjects, primarily around more or less limited resources, and fix the opportunities regarding the use of these property objects.

Fifth, according to the theory, relations regarding the possession and use of certain goods directly depend on the existing norms of behavior. It is clear that these norms of behavior of subjects regarding the realization of property rights provide both main possible options: compliance and violation the established rules and norms (Oleksiienko, 2013, p. 44). There’s no doubt, this essential point is particularly important in the scope of researching the issue of the state regulation of property relations and rights, for instance, as to situations related to possible violations of established customs rules and smuggling, as a result of which the property rights of subjects can be transformed and become limited.

In the historical genesis, as a rule, two main traditions in the understanding of property rights are distinguished: continental, and Anglo-Saxon (Kapelyushnikov, 2004). The continental tradition, in contrast to the Anglo-Saxon one, imagined property rights as something single and indivisible. At the same time, it must be emphasized that it is the Anglo-Saxon tradition that currently prevails and is taken as a basis at the international level, since, as experts note, its inherent flexibility and plasticity are more correspondent with the complex economic, social and political realities of modern society. Ownership or property right is defined in it as a set of permissible economic decisions, or, in the full accordance with this tradition, as a bundle of partial permits.

Therefore, from the understanding of property rights as a set of permissible economic decisions, it follows that any act of interaction between different subjects is nothing more than the interaction of bundles of partial permits. This statement can be considered the basis for the entire economic analysis of property rights, including the issue of the state regulation of property relations in the process of operations by the subjects of foreign economic activity regarding the movement of property objects across the customs border.

At the same time, it is important to emphasize that in order to define and analyze individual options for the existence and change of property rights, it is absolutely necessary to understand what elements are included in the entire property right. To do that properly we should single out the relevant characteristic constituent parts, which in their aggregate state make it possible to undoubtedly and fully identify the property right as such.

Honoré’s theory of ownership. Irreplaceable in the abovementioned intention there is the scientific work of the English researcher Anthony M. Honoré, who proposed an extended definition for understanding

the system of property rights, having highlighted 11 main elements (Honoré, 1961) that, in their essence and complex, make up a complete set of rights. In his opinion, full ownership consists of the following elements shown in the Figure 1.

Herewith, he explained all the proposed elements from the side of their possible application in usual practice of the real life, without paying particular attention to defining the specific economic grounds.

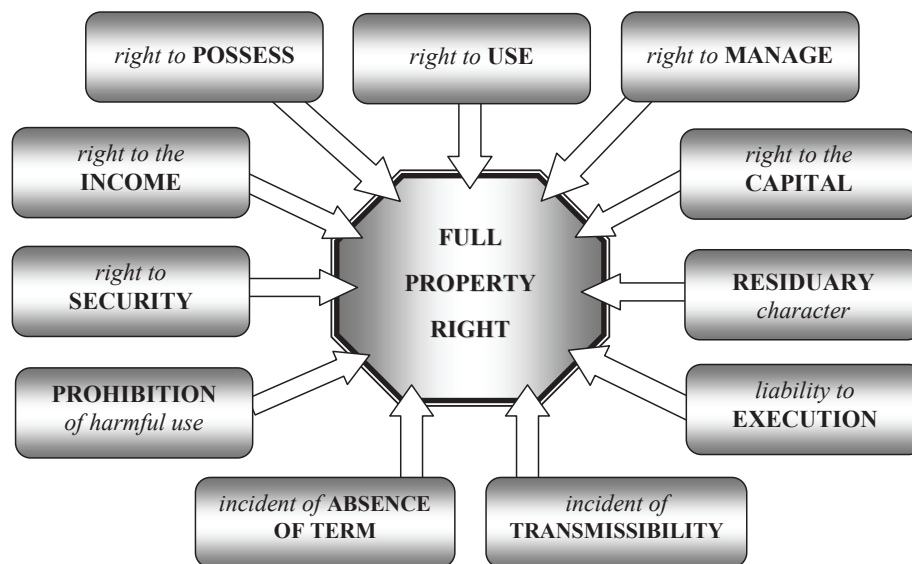


Fig. 1. Elements of full ownership (according to A.M. Honoré).

As a result, Honoré's vision found its realization in the following components of the ownership:

- the right to possess (some exclusive physical control over the property or the right to its exclusive use);
- the right to use (personal use of property, if it does not include the following two rights);
- the right to manage (the right to decide how and by whom the thing owned can be used);
- the right to the income (from the mentioned applying of the right to personal use of the property and permission to other persons to use it);
- the right to the capital (as to capital cost or capital value, i.e. the right to alienate, consume, spend, change or destroy property);
- the right to security (some guarantee against expropriation, i.e. forced deprivation of property);
- the incident of transmissibility (in particular, the right of inheritance or transfer by testament);
- the incident of absence of term (the right to perpetuity, without ownership terms);
- the prohibition of harmful use (the duty to prevent harm, i.e. the duty to maintain and prevent the use of property associated with the detriment of others; or the duty to prohibit harmful use);
- the liability to execution (the right to liability in the form of enforcement, which provides the possibility of seizing property to pay the debt);
- the residuary character (the right to a residual nature, that is, the existence of rules and procedures that ensure the restoration of the owner's violated rights).

We may believe that by now this expanded definition of property rights has actually become one of the classical ones.

It is important to emphasize that in order to consider ownership of a certain thing as complete one, according to Honoré's theory, the subject must possess most (but not necessarily all) of the above-mentioned elements in relation to the given thing (Journal of Medical Ethics, 2007). But it is obvious that these individual deeds can have by themselves some different levels of importance and impact on the possibility of property right to be sufficient to be called complete. Therefore, in our opinion, when determining the completeness and effectiveness of the property right for a specific object, it is advisable to approach the understanding of individual constituent elements of this right in a differentiated manner, highlighting the key and the most important of them.

There is no doubt that combinations with different applying of the rights listed above can be numerous and varied. However, according to Laurence Becker, not all of these combinations deserve the title of the property right. Any combination involving at least one of the first five Honoré's elements in a connection that could constitute ownership may be recognized as such property right (Becker, 1977). At the same time, the researcher considers the right for the capital value (or capital cost) of the resource to be the most important and fundamental. All other components of the property right, in his opinion, are derived from the right for capital value, that is, they are some partial examples of protection, expansion, limitation or development of this basic deed. As we understand, that position can be based on the fact that the right for capital actually allows economic subjects at their own discretion not only to change, destroy and use the resources belonging to them in the process of production and consumption, not only to transfer or lease them, but also to receive their full value upon alienation in the deed of exchange.

Property rights in terms of state regulation of international economic activity. Based on the conducted research and the given arguments, it becomes an obvious fact that not all of the above listed deeds connected with ownership are equally relevant for the field of foreign economy. In such a situation, there is an urgent need to create, adapt and use a specific system of full property right for this area of economic activity.

We propose the following example of the interaction of various elements within the area of full property right in the plane of international economic activity (as shown in Fig. 2).

For a holistic understanding of the potential opportunities for access to full property right, the particular importance and primary value obtains the defining of the most important characteristics that extend to the concept of property rights and property relations.

In the economic theory of property rights, in relation to the concept of property, in particular, such basic qualities as exclusivity, alienability, divisibility and extensibility are fixed (Kapelyushnikov, 2004). Exclusivity means that everyone except the owner is excluded from accessing the resource. Alienability implies the absence of restrictions on free sale and transfer of powers. Divisibility allows to split the property right into separate deeds and to form new combinations from them. Extensibility refers to the spreading of ownership over all existing resources both current and future.

Having analyzed all these characteristics, we tend to conclude that the key peculiarity of the property rights is their exclusivity, i.e. specific privacy. This attribute actually serves as the primary basis for all other characteristics of ownership which can be considered as derived ones from it and each of which contains a part of exclusivity. After all, the essence of all other properties leads down to some of the most important cases of the practical implementation of the exclusivity concept.

At the same time, all these attributes of the property right also arise in the process of state regulation of foreign economic activity, which takes place during the customs control. In particular, the owner of goods who intends to cross the state border, using the exclusivity and alienability granted to him by the right of ownership, at his discretion, may make a decision either to move the given object with his own hands, or to transfer this right and obligation to another person, or to actually sell the property to a foreign entity even before it crosses the border, in accordance with the concluded agreement (Oleksienko, 2012, p. 51). In the next stages during the execution of customs control, some elements of the property right, due to divisibility, can be freely differentiated and temporarily or permanently belong to different subjects. And along that period, the extensibility characteristic guarantees the relevant property right for this object and for future results from its use, etc.

Apart from that, in our opinion, a complete understanding of the right for capital value in the field of the foreign economic activity really distinguishes this element from all others. That's because in the above-mentioned understanding, the right for capital theoretically combines separate parts of the right of possession, use, management and income from the property. Therefore, this deed in the system of full property right should be considered as the key one, on an equal level with the right of possession. It actually determines the possibility of independent decision-making regarding the use of the property object, i.e. it guarantees a sufficient degree of privacy within certain authorized limits of the subject's actions. Accordingly, it can be considered that this privacy attribute is one of the main criteria that determine the essence of ownership, as well as the rights and relationships surrounding it.

Thus, it should be noted separately that it's not by chance that the starting point in the development of the theory of property rights was the appeal to the 'pure' regime of private property (Kapelyushnikov, 2004). Although, despite the selection of this particular form of ownership, the principled approach to the property right as a set of partial deeds remained the same. But, when defining the right of private

property, economists usually limit themselves with a shorter list of its constituent elements, operating with the rights of possession, use and disposal (Furuboth, 1988), which essentially represent a typical set of property rights. Therefore, such a list can be considered as standard both for the theory of property rights and for the practice of state regulation of international economic activity.

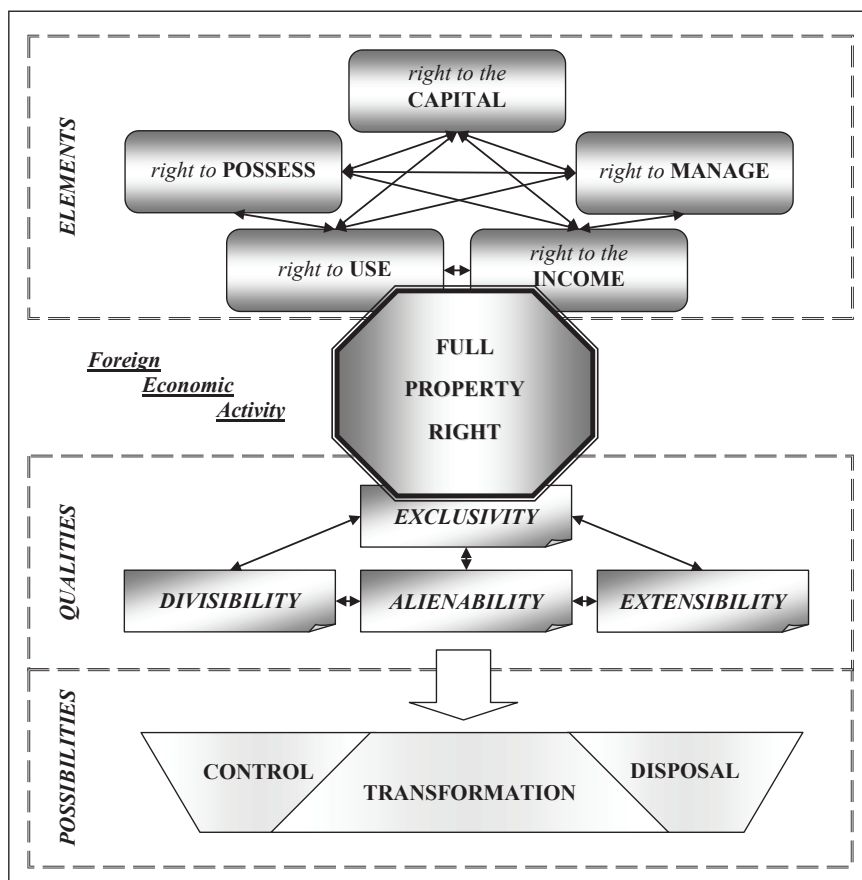


Fig. 2. The interconnection between the main components of full property right in the field of foreign economic activity.

Property relations in the area of state regulation of foreign economic activity. All variations of belonging, interaction and transfer of individual elements of property rights in certain situations to certain specific subjects, in our opinion, can be considered as appropriate property relations. At the same time, it is logical to consider the concept of property relations as secondary, derived from the concept of property rights and the concept of ownership, in general (Oleksiienko, 2013, p. 47).

This can be explained that, in fact, relations as such reflect certain connections between subjects (at least two) regarding the realization of relevant real and potential opportunities. Transferring this statement to the concept of ownership in the field of foreign economic activity, we can note that in this case, property relations will represent a kind of network of interconnections between various subjects, within which their opportunities to make certain decisions as to certain property objects can be realized (Fig. 3). Herewith, these opportunities are the rights that individual subjects have regarding to the relevant objects. In other words, we may consider that the property rights are those opportunities that allow the owner to make the desired decisions within the boundaries defined by the border of these rights.

At the same time, the objects of property relations in theory mean a set of material and immaterial goods that can be appropriated or alienated (Pejovich, 1990). They include, in particular, the production facilities of branches of the national economy, real estate, natural resources, items of personal consumption and household use, money, securities, precious metals, labor, satellites of the Earth, scientific inventions, works of art, etc. In turn, the subjects of property relations represent specific carriers of these interconnections. They can be some private persons and legal entities, the state in the form of its governing bodies and local self-government authorities, the union of states or all the states of the world.

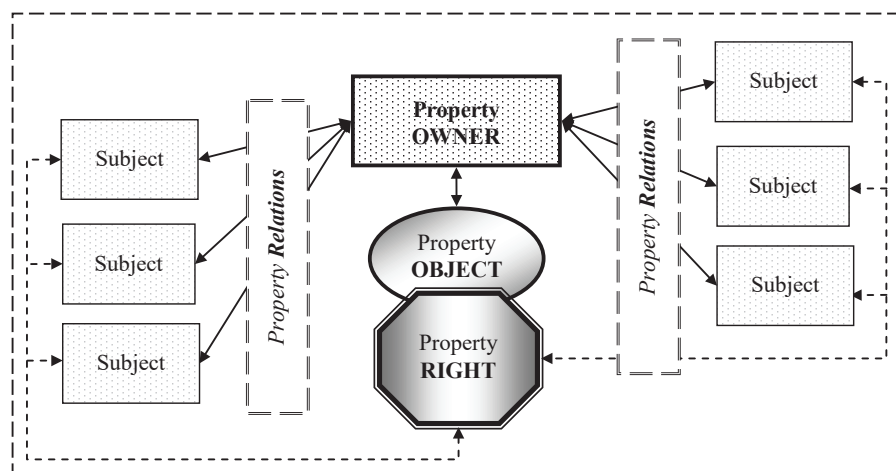


Fig. 3. Simplified scheme of interaction between subjects within property relations.

Concerning the foreign economic activity, it is known, that it's based on material processes appearing along with exchange of certain objects, primarily goods and the results of industrial, scientific and technical cooperation. Herewith, these same objects can be considered as the corresponding objects of property right for the participants of the foreign economy, since in the foreign economic space the concept of ownership is actually equated with the concept of goods, and goods are understood as any products, services, works, intellectual property rights and other immaterial rights intended for sale (Oleksiienko, 2012, p. 39). Of course, in addition to manufactured products, any means of production, vehicles, cash, shares, other securities, as well as other consumer and production property can be also considered as the property objects in the international economy. At the same time, the possibility for sale or alienation refers to the very concept of the property right.

An important moment of the real existence of the property right is the determination of the limits and degree of use of a certain resource as an object of ownership. In such a case, if there is a hundred percent probability (equal to one) that the owner's choice about how a particular right should be applied actually affects the decision-making process as for its real use, then we can say the owner has that particular right. For example, a person may have the right to pick apples from a tree, but not to cut the tree (Alchian, 1973, p. 17). That is, it is possible to speak of absolute property right only in the case when the owner himself determines how his right will actually be fulfilled. Herewith, it is important to take into account the possible relationships surrounding this right, which may affect its completeness.

From this point of view, in the most general form, the property relations could be defined as a system of exclusions from access to material and non-material resources actually operating in society. At the same time, access should mean all the multitude of possible solutions regarding the resource, including those not necessarily related only to the physical impact on it (Kapelyushnikov, 1990). In other words, taking into account the number and variety of potential decisions regarding the realization of property rights, we can say that in the process and in the result of the analysis of property relations, some kind of matrix of all possible interactions can be formed, in particular, between those subjects who do not have access to this or that resource or property, and those whom it is open for.

Accordingly, it can be assumed that free access to a resource or property, when there are no restrictions and prohibitions regarding access to this object, actually means that anyone can use this resource and make any decisions at his own discretion as for it. In this case, it can be declared that this resource does not belong to anyone. But if a specific owner of this resource does not exist in principle, then it can be stated that this resource can theoretically belong to anyone who wants to own it, and therefore it can belong to everybody. In turn, 'belonging to everybody' in practice comes down to the use of resources and benefits that are unlimited, available and sufficient for everyone, in particular, the absorption of oxygen, applying the solar energy and wind power, etc. It is fair to believe that such resources do not need to be distributed among subjects, since they are enough for everybody. Therefore, there is no need to establish any property rights and control over them.

Thus, based on the possible options within the matrix of access to resources, the main element for determining the need to secure the property rights should be considered the criterion of real sufficiency of a given resource. It is then the state authorities should weigh the dependence of degree of rarity of a certain resource and the establishment of property rights for it.

Conclusions. The modern understandings of the concept of property and the concept of property rights are based on a significant theoretically reasoned foundation, that contains numerous results of grounded research conducted by many scientists and explorers. Consequently, having started from the point of legal meaning, now those concepts are spread to different branches and scopes, including the economic one.

The most important aspects regarding the economic perception and use of the concept of property rights should relate to: characteristics inherent in the property right; opportunities that provide the property right; and a set of specific elements of the property right, which may differ depending on the existing conditions of its application in practice.

All the main aspects which are typical for the theoretical and economic understanding of property rights, as a result of appropriate adjustments and clarifications, can be applied for researching the possibilities to impact the system of property rights under the state regulation of foreign economic activity. Herewith, in this area it's not necessary to use the detailed bunch of the property right elements but paying attention mostly to the standard set, i.e. controlling the rights of possession, use and disposal.

When using the concept of full property right, it is advisable to take into account the limits and degrees of access to specific property objects and property rights to them.

That way or another, the property right should provide the owner with a complete and comprehensive bundle of deeds that are available in a clearly defined space and protected from unwanted influence. Entering into property relations within such a space, the subject-owner must be independent of outside influence when making his own decisions and obtaining appropriate results from their implementation. Only in this case it is possible to assert the reality and effectiveness of the property right.

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ЕКОНОМІЧНЕ РОЗУМІННЯ ПРАВА ВЛАСНОСТІ ПРИ ДЕРЖАВНОМУ УПРАВЛІННІ ЗОВНІШНЬОЕКОНОМІЧНОЮ ДІЯЛЬНІСТЮ

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Мета. Стаття присвячена дослідженню теоретичних економічних засад та розуміння права власності в різних напрямках та умовах з метою використання отриманих результатів для подальших досліджень, зокрема, у сфері державного регулювання зовнішньоекономічної діяльності.

Методи. У проведеному дослідженні широко використовуються основні наукові методи. Серед них переважно застосовуються такі методи як: аналіз та синтез, логічний пошук, абстрагування та конкретизація, аналогія, моделювання, тощо.

Результати. У роботі досліджено первинну сутність, основні ознаки, типові особливості та складові елементи права власності. При цьому детально аналізуються та досліджуються відповідні поняття власності, як такої, та поняття відносин власності.

У тому числі, аналізуються основи і причини виникнення права власності, і доводиться їхнє застосування як в теорії, так і в реальних практичних ситуаціях.

Розглянуто та наведено приклади використання класичної теорії власності Оноре в сучасному економічному житті.

Особливу увагу приділено застосуванню вищезазначених понять, пов'язаних із теорією права власності, у сфері взаємодії держави та суб'єктів зовнішньоекономічної діяльності.

Відповідно, продемонстровано деякі особливості поняття права власності та поняття відносин власності з точки зору державного управління зовнішньоекономічною діяльністю.

Висновки. Сучасне розуміння поняття власності та поняття права власності базується на значній теоретично обґрунтованій базі, яка містить численні результати проведених досліджень.

Найважливіші аспекти щодо економічного сприйняття й використання концепції прав власності мають стосуватися: характеристик, притаманних праву власності; можливостей, які забезпечує право власності; та сукупності конкретних елементів права власності.

Використовуючи поняття повного права власності, доцільно враховувати межі та ступені доступу до конкретних об'єктів власності та майнових прав на них.

У сфері державного регулювання зовнішньоекономічної діяльності не обов'язково використовувати деталізований пакет елементів права власності, запропонований свого часу Оноре, а звертати увагу здебільшого на стандартний набір, тобто здійснювати контроль за правами володіння, користування та розпорядження.

Ключові слова: власність; права власності; повне право власності; ознаки та елементи права власності; застосування теорії власності Оноре; державне регулювання зовнішньоекономічної діяльності.

THE MARITIME ANALYSIS AND OPERATIONS CENTER (NARCOTICS) IN LISBON – A BACKGROUND PAPER ON THE FOUNDATION AND SUCSESSES OF THE EU'S PRIME LAW ENFORCEMENT BODY FOR THE PREVENTION OF TRANSATLANTIC NARCOTIC DRUG SMUGGLING

Narcotic drugs are smuggled from the Americas to Europe and many parts of the World. While opium, cannabis, hashish or other drugs are mainly coming out of Asia or Africa and are channelled and smuggled to Europe mostly on a land passage (or very short maritime routes), cocaine is mostly produced in Columbia, Peru and Bolivia but also other South and middle American countries and is trafficked to North America and Europe and other parts of this globe by help of smuggling on airplanes and maritime smuggling pathways. The European War on Drugs concerning cocaine and the transatlantic smuggling pathway is depending on the interception of this maritime smuggling pathway since large quantities are shipped on the sea way and only smaller quantities are trafficked by aircrafts. The smuggling techniques are varying as are the common and joint law enforcement strategies.

This background paper describes the Maritime Analysis and Operations Center (Narcotics) of the European Union that has been founded by seven EU member states in 2007 and which is an EU law enforcement unit that aims at intercepting the drug smuggling in the Atlantic Ocean. It is run by the Portuguese Government in Lisbon, co-financed by the EU and is co-operating with law enforcement units in the USA, South America and Africa as well as INTERPOL and EUROPOL.

The paper starts with the original wording of the MAOC (N) self-description and its mission statement. It focusses on the international cooperation of the MAOC (N): Success stories and seizures of the last two years 2020/2021 are listed and shortcomings and possible future co-operations are discussed.

Furthermore it discusses limitations and omissions of the MAOC (N). Finally it concludes that more EU member states should contribute actively in the management and operations of the MAOC (N).

Key words: International Customs Law, Illicit Trade, Smuggling, Illicit Drugs; War on Drug, Law Enforcement, INTERPOL, EUROPOL, European Commission, Co-operation, Capacity Building.

JEL Classification: F 53, K 33, K 42.

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1. Introduction

The transatlantic drug smuggling from America to Europe and Africa is traditionally of great importance because of the cocaine cultivation in South America and because of the current cocaine production peak of even greater importance for the security and customs authorities, since the smuggling and distribution with Sailboats, motor yachts, fishing or merchant ships (in cavities or outboard), with self-propelled semi-submersible vehicles or drug torpedoes is rising to an all time high. A little-known transnational anti-smuggling unit based in Lisbon/Portugal actively analyzes and combats maritime smuggling – the Maritime Analysis and Operations Center (Narcotics), which is presented in this background paper.

Little is known about the MAOC (N) in the media and even in expert customs circles.¹

2. Foundation of the Maritime and Operations Center (Narcotics) (MAOC-N)

This section investigates the foundation and scope of the MAOC (N) by help of the original wording of the MAOC (N)-homepage:

¹ Entries in two encyclopaedias exist: <https://en.wikipedia.org> and <https://wirtschaftslexikon.gabler.de>.

“The Maritime Analysis and Operations Center – Narcotics (MAOC (N)) based in Lisbon is an initiative of 6 EU member states (France, Ireland, Italy, Spain, the Netherlands and Portugal) as well as Great Britain and is supported by the International Security Fund co-financed by the European Union. The center provides a forum for multilateral cooperation to combat illicit drug trafficking by sea and air. Although the center has been in operation since April 2007, it was officially opened in Lisbon on September 30, 2007 following the signing of an international agreement by the ministers of each partner country.

The MAOC (N) is a European law enforcement unit with military support that coordinates maritime and air transport intelligence, resources and trained personnel to respond to the threat of illicit drug trafficking by sea and air. The headquarters are operated by liaison officers [so-called. Country Liaison Officers (CLOs)] who represent the police, customs, military and maritime authorities of the participating European nations, as well as a permanent observer from the United States through the Drug Enforcement Administration, the Lisbon Country Office and the Joint Inter-Agency Task Force South.

The European Commission, EUROPOL, the United Nations Office on Drugs and Crime (UNODC), the European Center for Drug and Drug Addiction (EMCDDA), the European External Action Service (EEAS), the European Defense Agency (EDA), EUROJUST and FRONTEX are all observers of the MAOC (N). The success of MAOC (N) can be attributed to other factors besides the information provided, such as the working model (liaison officers work together with full transparency and equality) as well as the civil-military liaison and cooperation with West African countries. The MAOC (N) model, labor practices and operations are conducted in a format that aims to minimize bureaucracy while maximizing operational activity.”²

3. Mission statement of MACO (N)

What is the MOAC (N) way of operating? Its mission statement has been published on the MAOC (N)-internet site, highlights its way of action and is printed here:

“The mission of MAOC (N) is to support Europe’s fight against drug trafficking in the maritime areas of the Atlantic and Mediterranean. How do we want to achieve this?

Ensure we are visible, relevant and credible by:

- Bringing together and responding to actionable information and instructions from multinational law enforcement agencies
- Conflict resolution, development and support of coordinated interventions
- Support of investigations and maritime surveillance
- Improving our knowledge and understanding of the maritime sector, identifying development opportunities
- Share more information and work together to fill intelligence gaps
- Build effective partnerships with relevant stakeholders to create a hostile environment to combat drug trafficking
- Innovation – search for better solutions for new and future challenges.”³

4. Global collaboration

The MAOC (N) co-operates with the member states of the EU-27, the UK and countries in Africa, North, Central and South America. And that is a necessary and very successful strategy of combating international drug trafficking.

The MAOC (N) transparently explains on the Internet how it was founded and how it is financed. The successes are obvious (see Section 5).

It is interesting, however, that only six of the 27 EU member states are working openly together with the help of the MAOC (N) in the fight against narcotics smuggling (criticism and call for in-depth cooperation, see Section 6).

5. MACO (N) successes

From 2007 to the end of August 2021 the MAOC (N) supported the coordination and seizure of over 231 tons of cocaine and over 643 tons of cannabis.⁴

² MAOC (N) – description of its history, tasks and successes see URL: <https://maoc.eu>, in particular here “Who we are”, see <https://maoc.eu/who-we-are/>.

³ MACO (N) – Our Mission Statement, see URL: <https://maoc.eu/our-mission>.

⁴ MAOC-N, URL: <https://maoc.eu/who-we-are/>.

List of individual seizures in the years 2020/2021 (going back chronologically):⁵

11/29/2021 Spanish authorities seize 4.7 tons of cannabis resin with the support of MAOC-N.

11/09/2021 MAOC-N supports Senegalese cocaine seizure off West Africa.

10/19/2021 MAOC-N supports Portuguese seizure of 5.2 tons of cocaine.

10/16/2021 2500 kg of cocaine seized by the Spanish authorities with the support of MAOC-N.

10/08/2021 MAOC (N) supports the seizure of 1,100 kg of cocaine in the English channel.

09/30/2021 Brazilian authorities confiscate cannabis cargo from Fernando de Noronha. 09/29/2021 The British Minister for Europe and America in the Foreign, Commonwealth & Development Office visits MAOC-N.

09/27/2021 MAOC-N supports Spanish seizure of 1.2 tons of cocaine from stateless yachts. 09/24/2021 French customs confiscate over 4 tons of cannabis in the Mediterranean. 09/13/2021 MAOC-N supports the seizure of 2.3 tons of cocaine in the UK.

09/06/2021 MAOC-N supports the seizure of cannabis off Sardinia.

08/10/2021 MAOC-N supports the seizure of 20,000 kg of cannabis off the Canary Islands.

07/30/2021 MAOC-N supports the Spanish seizure of 15,000 kg of cannabis in the Strait of Gibraltar.

07/27/2021 MAOC-N supports the Spanish seizure of 1000 kg of cocaine.

07/09/2021 The Prime Minister of Cape Verde visits MAOC-N.

07/01/2021 MAOC-N supports the seizure of 8,400 kg hashish off the Senegalese coast. 06/25/2021 Italian authorities, with the support of MAOC-N, seize 6000 kg of hashish. 06/25/2021 MAOC-N supports the seizure of 1 ton of cocaine as part of a British and Spanish operation.

06/21/2021 Brazilian authorities, with the support of MAOC-N, intercept a sailing ship loaded with hashish.

06/07/2021 MAOC-N supports the Spanish seizure of over 22 tons of hashish off the Canary Islands.

05/02/2021 MAOC-N supports the Spanish seizure of over 7 tons of hashish.

04/20/2021 The French Navy intercepts a sailing ship with 210 kg of cocaine in the Caribbean.

04/09/2021 EU Commissioner Ylva Johansson in Lisbon: Visit of the Maritime Analysis and Operation Center (Narcotics).

03/30/2021 Over 18,000 kg of cannabis were confiscated by the Spanish authorities off the Canary Islands with the support of MAOC-N.

03/23/2021 French authorities, with the support of MAOC-N, seize 6 tons of cocaine in the Gulf of Guinea.

02/24/2021 MAOC-N supports the seizure of 3 tons of cocaine by the Spanish authorities.

02/16/2021 MAOC-N supports the seizure of Brazilian cocaine in front of Recife [Brazil].

02/14/2021 MAOC-N supports the seizure of 100 kg of cocaine by the Portuguese authorities.

01/28/2021 MAOC-N supports the seizure of 4.2 tons of cocaine in the Caribbean by a French frigate stationed in Martinique.

01/04/2021 MAOC-N supports the Spanish seizure of 18 tons of hashish.

11/11/2020 Utilizing behavioral analysis to prevent cross-border crime – WindWard webinar.

10/26/2020 340 kg of cocaine seized by the Dutch authorities.

10/23/2020 1200 kg of cocaine confiscated in Las Palmas, hidden in a load of corn.

10/01/2020 Over 30 tons of hashish were confiscated during a major Spanish operation in the Atlantic.

09/14/2020 1 ton of cocaine intercepted by Spanish authorities on board a sailing ship. Spanish authorities seized 1,200 kg of cocaine from a sailing ship destined for Galicia.

08/24/2020 MAOC-N supports the Portuguese seizure of 326 kg of cocaine in Madeira.

06/19/2020 MAOC-N participated in a multinational anti-drug operation led by the Colombian Navy – Orion V.

05/06/2020 MAOC-N supports the seizure of 500 kg of cocaine in Hamburg, Germany.

04/30/2020 International cooperation leads to the seizure of a large load of hashish off the coast of Senegal.

04/30/2020 400 kg of cocaine for Europe confiscated in Trinidad and Tobago.

04/29/2020 Over 4 tons of cocaine seized by the Spanish authorities in the Atlantic Ocean.

04/06/2020 4000 kg of cannabis confiscated during a Spanish operation in the Mediterranean Sea.

⁵ A list of MAOC-N supported seizures and links to detailed press releases about each case are available under the URL: <https://maoc.eu/news-maoc/>.

04/02/2020 The Spanish authorities seized more than 2500 kg of cocaine in Galicia.

03/06/2020 Over 5000 kg of cocaine were confiscated by the Dutch authorities in Aruba.

02/10/2020 411 kg of cocaine were confiscated in a joint operation by the Ivory Coast and the French Navy.

01/30/2020 Sailing ship loaded with 1820 kg of cocaine intercepted by Portuguese authorities.

01/20/2020 MAOC-N supports the Portuguese seizure of 3500 kg of hashish.

01/20/2020 Sailing ship on its way to the Canary Islands with 1500 kg of coca-in intercepted.

6. Call for participation from Belgium, Denmark, Germany, Finland and Sweden (plus Malta)

It is surprising that only six of the EU-27 member states work openly with the MAOC (N). Major seafaring nations in the North do not officially cooperate, but regularly receive important information: Belgium, Denmark, Germany, Finland and Sweden (in alphabetical order). One of the five largest economies in the world – Germany – officially only has observer status and should in future actively participate in the MAOC (N) and provide personnel and organizational support. In order to make the EU war on drugs a success story, it is of the utmost importance to cooperate on all missions, in particular on irregular sea warfare and drug smuggling at sea, its detection and interception and the funding of such analysis and law enforcement operations. Malta should also be asked to cooperate in order to contribute its experience as a hotspot between Africa and Europe. In addition, a deeper cooperation of the MAOC (N) with Croatia, Greece and Cyprus is urgently advisable and desirable.⁶

7. Summary and Evaluation

The major problem with transatlantic drug smuggling is the voyage in international waters with unclear national responsibilities. Thanks to its international cooperation, the MAOC (N) approach is particularly suitable for countering organized crime. The success model of the MAOC (N) is characterized by close European cooperation and collaboration of various stakeholders (responsible authorities), who put the common success in the foreground. The MAOC (N) is hardly known to the general public and customs circles in Germany (in the international press, however, the MAOC-N appears regularly in the reporting and there is also an English Wikipedia entry).

In 2007, this intergovernmental analysis and operations unit based in Lisbon was founded by (then) seven EU member states with the aim of merging customs administrations with air and naval forces, the national police authorities (EUROPOL and INTERPOL), coast guards and secret services to combat drug smuggling across the Atlantic by sea off Africa, Europe and South and Central America – it represents the most important law enforcement unit of the EU to combat transatlantic maritime narcotic drugs smuggling.

The Brexit at the end of December 2020 made a lot of intelligence and administrative cooperation more complicated in Europe – including the security cooperation. Fortunately, the UK continues to work successfully side by side with the six partnering EU countries in the MAOC (N). Germany has (only) an observer status.

One is inclined to ask why Germany, Belgium, Denmark, Finland and Sweden do not play a more active role in the MAOC (N) in the transatlantic fight against drug smuggling. As soon as the drugs reach the EU mainland, distribution in the entire internal market is ensured from the point of view of the drug cartels due to the open borders.

INTERPOL and the UNODC, as well as US security services and the military in Brazil, Colombia and other South African countries, work with the MAOC (N) to stop drug deliveries.

The European Commission, EUROPOL, the European Center for Drugs and Drug Addiction (EMCDDA), the European External Action Service (EEAS), the European Defense Agency (EDA), EUROJUST and the European border protection agency FRONTEX have observer status.

Perhaps the most outstanding seizure, which was successfully coordinated with the participation and leadership of the MAOC-N, was the seizure of the first transatlantic drug submarine with cocaine from South America, which sailed across the Atlantic and was picked up off the Spanish coast, in November 2019 with its cargo of 3.8 tons of cocaine (a first proven case) – but that was a topic of two other background papers.⁷

⁶ Weerth, What is the Maritime Analysis and Operations Center of the EU? EU's Answer on the War on drugs, Center for Customs Law and Customs Research, 2020, DOI: 10.13140/RG.2.2.10465.53606.

⁷ Weerth, 2020a, Weerth, 2020b.

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МОРСЬКИЙ ОПЕРАТИВНО-АНАЛІТИЧНИЙ ЦЕНТР З БОРОТЬБИ З НАРКОТИКАМИ У ЛІСАБОНІ – ДОВІДКОВИЙ ДОКУМЕНТ ПРО ЗАСНУВАННЯ ТА УСПІХИ ГОЛОВНОГО ПРАВООХОРОННОГО ОРГАНУ ЄС ІЗ ЗАПОБІГАННЯ ТРАНСАТЛАНТИЧНІЙ КОНТРАБАНДИ НАРКОТИКІВ

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Наркотичні засоби контрабандою переправляються з Америки до Європи та багатьох частин світу. У той час як опіум, марихуана, гашиш та інші наркотики в основному надходять з Азії чи Африки та переправляються та контрабандною вивозяться до Європи здебільшого сухопутним шляхом (або дуже короткими морськими шляхами), кокаїн переважно виробляється в Колумбії, Перу та Болівії, а також в інших країнах Південної та Середньої Америки та переправляються до Північної Америки, Європи та інших частин земної кулі за допомогою контрабанди в літаках та морських контрабандних шляхах. Європейська Війна з Наркотиками відносно кокаїну та трансатлантичного шляху контрабанди залежить від перехоплення цього шляху, оскільки великі обсяги перевозяться морем, а літаками перевозяться лише менші кількості. Методи реалізації контрабанди відрізняються, як і загальні та спільні стратегії правоохоронних органів.

Ця інформаційна стаття присвячена діяльності Морського оперативного-аналітичного центру з боротьби з наркотиками у Європейському Союзі, який був заснований сімома державами-членами ЄС у 2007 році та є правоохоронним підрозділом ЄС, метою якого є перехоплення контрабанди наркотиків в Атлантичному океані. Він керується португальським урядом у Лісабоні, співфінансується ЄС і співпрацює з правоохоронними підрозділами США, Південної Америки та Африки, а також з Інтерполом та Європолом.

Стаття починається з формулювання початкового самоопису МАОС (N) та його місії та зосереджена на міжнародному співробітництві МАОС (N): перераховано історії успіху та конфіскації за останні два роки 2020/2021, а також обговорено недоліки та можливе майбутнє співробітництво. Крім того, у ній обговорюються обмеження та упущення МАОС (N). Так, автор робить висновок, що більше держав-членів ЄС повинні активно брати участь в управлінні та діяльності МАОС (N).

Ключові слова: міжнародне митне право, незаконна торгівля, контрабанда, заборонені наркотики; Війна з наркотиками, правоохоронні органи, Інтерпол, Європол, Європейська комісія, співробітництво, розбудова потенціалу

Для опублікування статті

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Мова публікацій: **англійська**.

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Обсяг анотації: мінімум – 300 слів, максимум – 350 слів. Обов'язковою є така структура анотації: Мета, Методи, Результати та Висновки. До анотації обов'язково додають 5–10 ключових слів чи словосполучень, жодне з яких не дублює назву статті.

6. *Класифікація JEL* для ключових слів.

7. *Текст статті*:

Вступ (Introduction) є обов'язковою частиною роботи, в якій автор вказує новизну теми та актуальність наукових рішень. Мета дослідження повинна бути чітко вказана поряд з науково-дослідницькими завданнями. Необхідно вказати методологію дослідження, логіку уявлення дослідженого матеріалу.

Основний текст повинен бути поділений на змістовні розділи з окремими заголовками (до 4–6 слів).

Стаття повинна містити висновки з проведеного дослідження (Conclusions), в яких представлені розгорнуті конкретні висновки за результатами дослідження і перспективи подальших досліджень у цьому напрямку.

8. *References*. Оформлюється відповідно до стандарту APA (APA Style Reference Citations). Автор (трансліт), назва статті (трансліт), назва статті (в квадратних дужках переклад англійською мовою), назва джерела (трансліт), вихідні дані (місто з позначенням англійською мовою), видавництво (трансліт). Наприклад:

Dikhtiievskiy, P. V., Lahniuk, O. M. (2015). Kadrove zabezpechennia sudiv zahalnoi yurysdyksii: administratyvno-pravovyi aspekt [Staff assistance of of courts of general jurisdiction: administrative and legal aspect]. Kherson: Helvetyka. [in Ukrainian]

Bondarenko, I. (2002). Sudova systema Ukrainy ta yii reformuvannia v suchasnykh umovakh [Judicial system of Ukraine and its reforming in the modern conditions]. Pravo Ukrainy, no. 8, pp. 37–39.

Транслітерація імен та прізвищ з української мови здійснюється відповідно до вимог Постанови Кабінету Міністрів України «Про впорядкування транслітерації українського алфавіту латиницею» від 27 січня 2010 р. № 55.

Транслітерація з російської мови здійснюється відповідно до ГОСТ 7.79-2000. Система стандартів по информации, библиотечному и издательскому делу. Правила транслитерации кирилловского письма латинским алфавитом.

9. Наприкінці статті вказується *українською мовою*:

- назва статті;
- прізвище, ім'я, по батькові автора (-ів) статті (не більше двох осіб);
- посада, місце роботи/навчання, науковий ступінь, вчене звання (за наявності), електронна адреса;
- код ORCID ID. Якщо автор не зареєстрований в ORCID, необхідно обов'язково створити обліковий запис за посиланням <http://orcid.org/>;
- анотація та ключові слова;

Обсяг анотації українською мовою: мінімум – 300 слів, максимум – 350 слів. Обов'язковою є така структура анотації: Purpose, Methods, Results, Conclusions. До анотації обов'язково додають 5–10 ключових слів чи словосполучень, жодне з яких не дублює назву статті.

Правила оформлення посилання на літературу та бібліографічного опису:

Посилання на літературу подаються у тексті тільки в круглих дужках відповідно до прикладу:

Many researchers have considered the issues of theory and implementation of international customs law's standards in their publications, thus the analysis of existing developments in the sphere of scientific research indicates the diversity of views upon their understanding. The generalization of published scientific papers allows us to combine the existing diversity of views in understanding the standards of international customs law within the framework of two approaches: scientific and practical (Baimuratov, 2006).

NOTES

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