

## 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.

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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 –

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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. Pirrene 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).

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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

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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).

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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.

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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 treatises 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

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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*



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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.