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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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CONTENTS OF THE CUSTOMS CASE OF UKRAINE

The article is devoted to the analysis of the content of the customs affairs of Ukraine at the current stage. The purpose of the article is to analyze the structure and components of customs affairs from the point of view of an interdisciplinary approach to the topic. The peculiarities of customs regulation in the period of armed conflict are indicated, which requires references to the theory and practice of customs affairs and the formation of changes and additions to the foreign economic activity of Ukraine, since the economic component is part of the security of the state, this issue also requires a balanced attitude and the formation of a picture in accordance with the requirements of the time. The methods used are dialectical, which is the methodological basis of customs affairs, general-scientific method of a systematic approach, dogmatic, formally legal. The results. The customs affairs of Ukraine changed during the period of martial law. There has been a relaxation of duty payment in respect of certain objects of duty imposition, etc. The Verkhovna Rada of Ukraine adapted to the requirements of the times and made changes to national legislation, including customs and tax legislation. During the martial law, it was necessary to revise the provisions of many branches of law, some institutions were forced to fundamentally change in order to adapt to the modern conditions of existence of Ukrainian society. The aggression of the neighboring state affected many spheres of human life, and this is connected not only with the protection of people's lives and health, the most important social relations that are disturbed during the armed aggression of the Russian Federation, but also with other spheres of human existence, society, the state, international community. The state had to review its customs regulations, tax obligations, etc. The country does not live an isolated life, life activities, as a rule, are ensured by the presence of international relations, including in the field of economy. The rate of increase of productive forces requires an appeal to the customs rules and related social relations. Scientific and technical progress allows you to use the goods, services, intellectual property, capital, and labor force of not only your country, therefore customs rules should be as consistent as possible with the realities faced by society, with a clear positive direction of interstate interests, and remove obstacles to compatible activities as much as possible. Conclusions. The study of customs affairs continues to be a timely topic, the subject of consideration of the theory and practice of foreign economic activity of Ukraine, recognized as an independent institute in the field of management with the aim of establishing benefits for the state, society, and man, protecting economic and related spheres of society. The events of recent months have once again proven that customs affairs must be full of content, be in dynamic motion, and respond appropriately to modern realities.

Key words: customs affairs, customs activity, foreign economic activity.

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Introduction. During the period of martial law, it was necessary to revise the provisions of many branches of law, some institutions were forced to change fundamentally in order to adapt to the modern conditions of existence of Ukrainian society. The aggression of the neighboring state affected many areas of human life, and this is not only related to the protection of people's lives and health, the most important social relations that are disturbed during the armed aggression of the Russian Federation (Berezovska, 2022), as well as other spheres of human existence, society, the state, and the international community. The state had to review its customs regulations, tax obligations, etc.

The system of national customs regulation of foreign economic activity of economic entities in Ukraine requires an appeal to the issues of customs affairs.

It is relevant to analyze the content of customs affairs of Ukraine at the current stage, its structure and other components of customs affairs from the point of view of an interdisciplinary approach to the topic.

The **purpose** of the study is to analyze the structure and components of the customs case from the point of view of an interdisciplinary approach to the topic. Scientific and research tasks are to clarify the need for the specifics of customs regulation during the period of armed conflict, which requires references to the theory and practice of customs affairs and the formation of changes and additions to Ukraine's foreign economic activity. The *methods* used are dialectical, which is the methodological basis of customs affairs, general-scientific method of a systematic approach, dogmatic, formally legal.

An interdisciplinary approach makes it possible to see each component ... its content, to analyze the ways of its access to every corner of the life of society or its individual members (Berezovska, 2022).

Economic component as part of state security. Peculiarities of customs affairs in a state of war. The peculiarities of customs regulation during the period of armed conflict require references to the theory and practice of customs affairs and the formation of changes and additions to Ukraine's foreign economic activity, since the economic component is part of the state's security, therefore this issue also requires a balanced attitude and the formation of a picture according to the requirements of the time.

The customs affairs of Ukraine changed during the period of martial law. There has been a relaxation of duty payment in respect of certain objects of duty imposition, etc. The Verkhovna Rada of Ukraine adapted to the requirements of the times and made changes to national legislation, including customs and tax legislation.

During the martial law, it was necessary to revise the provisions of many branches of law, some institutions were forced to fundamentally change in order to adapt to the modern conditions of existence of Ukrainian society. The aggression of the neighboring state affected many spheres of human life, and this is connected not only with the protection of people's lives and health, the most important social relations that are disturbed during the armed aggression of the rf, but also with other spheres of human existence, society, the state, international community. The state had to review its customs regulations, tax obligations, etc.

Interstate relations regarding customs affairs. The country does not live an isolated life, life activities, as a rule, are ensured by the presence of international relations, including in the field of economy. States evaluate the benefit from the use of labor by spheres of activity and enter into interstate relations, which, on the one hand, can minimize the costs of wages or raw materials, on the other hand, makes the state dependent on the presence or absence of a certain supply of goods. The rate of increase of productive forces requires an appeal to the customs rules and related social relations. Scientific and technical progress allows you to use the goods, services, intellectual property, capital, and labor force of not only your country, therefore customs rules should be as consistent as possible with the realities faced by society, with a clear positive direction of interstate interests, and remove obstacles to compatible activities as much as possible. The economic component is part of the security of the state, this issue also requires a balanced attitude and formation of the picture according to the requirements of the time.

The events of recent months have once again proven that customs affairs must be full of content, be in dynamic motion, and respond appropriately to modern realities.

The system of national customs regulation of foreign economic activity of business entities in Ukraine requires addressing the issues of customs affairs, the specific activity of the state, within which the functioning of the customs and, partly, the tax system of Ukraine is ensured, personal, national and interstate interests regarding political and economic security are realized person, society, state, international community.

It is known that the customs business is a specific activity of the state, within which the functioning of the customs and, partly, the tax system of Ukraine is ensured, personal, national and interstate interests are realized in relation to the political and economic security of the individual, society, the state, and the international community.

Normative base of customs affairs. Even in the Declaration on State Sovereignty of Ukraine, Ukraine's economic independence is established, it is indicated that Ukraine independently determines its economic status and enshrines it in laws. The people of Ukraine have the exclusive right to own, use and dispose of the national wealth of Ukraine. The land, its subsoil, air space, water and other natural resources located within the territory of Ukraine, natural resources of its continental shelf and exclusive (marine) economic zone, all economic and scientific and technical potential created on the territory of Ukraine are property of its people, the material basis of the sovereignty of the Republic and are used to ensure the material and spiritual needs of its citizens. The Ukrainian SSR has the right to its share in the all-Union wealth, in particular in all-Union

diamond and currency funds and the gold reserve, which was created thanks to the efforts of the people of the Republic. All-Union property issues (common property of all republics) are resolved on a contractual basis between the republics – the subjects of this property. Enterprises, institutions, organizations and objects of other states and their citizens, international organizations may be located on the territory of Ukraine and use natural resources of Ukraine in accordance with the laws of Ukraine. Ukraine independently creates banking (including the Foreign Economic Bank), price, financial, customs, and tax systems, forms the state budget, and, if necessary, introduces its own currency. The highest credit institution of Ukraine is the National Bank of Ukraine, accountable to the Verkhovna Rada of Ukraine (Declaration, 1990).

The Customs Code of Ukraine (Part 1, Article 7) establishes the procedure and conditions for the movement of goods across the customs border of Ukraine, their customs control and customs clearance, the application of mechanisms of tariff and non-tariff regulation of foreign economic activity, settlement of customs payments, maintenance of customs statistics, exchange of customs information, maintaining the Ukrainian classification of goods of foreign economic activity, carrying out in accordance with the law state control of non-food products when they are imported into the customs territory of Ukraine, preventing and countering smuggling, fighting against violations of customs rules, organizing and ensuring the activities of customs authorities and other measures aimed at implementing the state customs politicians, constitute a customs case. At the same time, it is indicated that customs affairs are carried out in compliance with the forms of declaration of goods accepted in international practice, methods of determining the customs value of goods, systems of classification and coding of goods and the system of customs statistics, other generally recognized norms and standards in the world (part 2 of article 7 of the MK of Ukraine). The principles of customs affairs, in particular, indicate the legal status of customs authorities, the customs territory and customs border of Ukraine, procedures for customs control and customs clearance of goods moving across the customs border of Ukraine, customs regimes and conditions of their application, prohibitions and/or restrictions on importation into Ukraine, export from Ukraine and movement through the territory of Ukraine by transit of certain types of goods, conditions and procedures for making customs payments, customs benefits are determined by this Code and other laws of Ukraine (Part 3, Article 7 of the Code of Ukraine). Direct management of the implementation of customs affairs is entrusted to the central body of the executive power, which implements the state customs policy (Part 4 of Article 7 of the Code of Ukraine of Ukraine) (Customs Code, 2012).

The country does not live an isolated life, life activities, as a rule, are ensured by the presence of international relations, including in the field of economy. States evaluate the benefit from the use of labor by spheres of activity and enter into interstate relations, which, on the one hand, can minimize the costs of wages or raw materials, on the other hand, makes the state dependent on the presence or absence of a certain supply of goods. The rate of increase of productive forces requires an appeal to the customs rules and related social relations. Scientific and technical progress allows you to use the goods, services, intellectual property, capital, and labor force of not only your country, therefore customs rules should be as consistent as possible with the realities faced by society, with a clear positive direction of interstate interests, and remove obstacles to compatible activities as much as possible.

The events of recent months have once again proven that customs affairs must be full of content, be in dynamic motion, and respond appropriately to modern realities.

The customs office protects and regulates the public interests of the state, stands in defense of its foreign economic policy, implements and ensures compliance with the rules regarding the internal and external policy of the state to ensure national economic interests. This also includes the self-organization of customs affairs, which must meet all the requirements for the observance of Ukraine's sovereignty and the functioning of its economy. Each state engages in foreign economic activities, takes care of interstate economic relations, and tries to maintain influence and control over such activities for the sake of national interests. The economic component is the largest stratum considered by customs. Within the framework of the study, a separate institution of state administration called customs affairs is identified, which includes all aspects of the concept of customs affairs, the foreign economic activity of the state and other subjects with which it enters into relations, considers the concept and functioning of customs activities bodies, their main functions, the limits of authority, the purpose of their activities, the main goals of the existence of customs affairs, regulations on the formation of tariff and non-tariff prescriptions, on restrictions on the movement of goods across the customs border of Ukraine, control over the implementation of customs rules, the entire range of activities related to the regulation of state customs policy of Ukraine.

Due to its geographical location, Ukraine is largely dependent on the import of energy resources, which is also taken into account by our state. Active international cooperation in the field of economy affects the further development of our state, but this does not exclude the observance of customs rules by both Ukraine and other states.

Customs regulation includes a certain mechanism of implementation, the structure of control bodies, prescribed objects of such regulation, a system of customs rules that regulate and protect public relations that take place in the field of customs affairs. If the object is certain relations in the economic sphere, which arise, continue or terminate in connection with the movement of money and goods across the customs border in accordance with the rules established by national legislation, then the subjects are a certain structure of competent state bodies, rights and obligations the bonds of which are also provided for by law.

All this is included in the contents of the customs case.

In Ukraine, the committee of the Verkhovna Rada of Ukraine on tax and customs policy functions precisely on these issues. The Committee takes care of issues regarding the approval of draft laws regulating relations in the field of tax and customs law. For example, this referred to Law of Ukraine No. 7190 “On Amendments to the Tax Code of Ukraine and other legislative acts of Ukraine regarding the improvement of legislation for the period of martial law” dated March 22, 2022 (Law, 2022).

The explanatory note reflected the following main points regarding the effect of tax and other legislation during the period of martial law: the document improves the provisions on VAT taxation of self-grown agricultural products and exemption from paying VAT of payers of the single tax of the third group under special conditions; extends from 3 to 6 months the period during which taxpayers who were unable to submit tax returns must fulfill the obligation to submit full returns after the end of the special period; exempts goods imported into the territory of Ukraine under the import regime from import duties and exempts from VAT the operations of importing goods into the customs territory of Ukraine by taxpayers of the first, second and third groups who pay tax at the rate of 2%. At the same time, it is envisaged to simplify the procedures for customs clearance of such goods; for the 2021 and 2022 tax (reporting) years, the tax on real property, other than land, is not calculated and paid for residential real estate objects, including their shares, located in the territories where hostilities are (were) conducted, or in the territories temporarily occupied by the armed forces of the Russian Federation and for objects of residential real estate that have become unfit for living in connection with the armed aggression of the Russian Federation; the import of vehicles by citizens is completely exempt from taxation. Import of vehicles by subjects of the simplified system is exempted from excise tax and VAT; the peculiarities of the functioning of customs bodies during the wartime period are determined. In addition, registration as a VAT payer is suspended; the date of transition to the simplified system is the date specified in the application; for all goods purchased with VAT before the transition to the simplified system and used during the stay on the simplified system, after the end of martial law, VAT will have to be charged; for fuel exporters, the amount of negative value from VAT, determined for the relevant reporting period, which includes the amount of the tax liability for transactions with the application of the VAT rate for fuel of 7%, is also not subject to budgetary compensation. Such amounts will be credited to the tax credit of the next period; a moratorium is introduced on documentary checks of compliance with the requirements of the legislation on customs matters (Law, 2022).

Each country, like Ukraine, develops its own customs policy, which must be consistent with the existing customs system and the customs regulation that meets the requirements of the time, but also take into account the existing rules of other states in order to create the most positive relations in the economic sphere for both individual citizens and for the countries concerned, without forgetting their own interests.

If we define the functions of customs affairs, in addition to the purely economic ones, they are often called regulatory and tax functions in the literature. The tax function takes over, including replenishment of the state budget. The regulatory function is responsible for foreign economic relations, for compliance with the requirements of international legal acts, and on their basis – making changes to national legislation. When forming normative legal acts in the field of customs affairs, the internal and external interests of Ukraine, the economic obligations taken by it, which, among other things, are regulated by the norms of international law developed by international practice, are taken into account. Therefore, addressing the topic of customs affairs is extremely relevant, it has an interdisciplinary complex approach, includes the interests of many subjects, and ultimately can affect the foreign economic activity of Ukraine.

The Verkhovna Rada of Ukraine adapted to the requirements of the times and made changes to national legislation, including customs and tax legislation. In March, they referred to the simplified procedure for the import of essential goods and humanitarian aid to Ukraine. Some rules related to the simplification of the importation of goods into Ukraine, which are relevant during the period of martial law, for example, regarding the exemption from payment and the actual assessment of the environmental tax by certain business entities, those that were taken into account and registered at the location of the sources of pollution, the creation of and temporary storage of radioactive waste in Ukrainian occupied territories or those where hostilities are taking place. Changed the payment of real estate tax for real estate and non-residential real estate located on occupied Ukrainian lands or those where hostilities are taking place or if residential real estate has become unfit for habitation. In order to avoid confusion and abuse regarding the definition of occupied territories, combat zones, as well as regarding the list of residential real estate objects that have become unfit for habitation, the Cabinet of Ministers of Ukraine provides a list of such territories and also establishes a procedure for recognizing such objects. The specified list is formed with the approval of the Ministry of Defense based on the proposals of the relevant regional and Kyiv city military administrations, based on three key criteria for determining territories. These are: territories that are temporarily occupied; territories that are surrounded (blocked); territories where active hostilities are ongoing (Enumeration, 2022).

A special fund for the restoration of property and destroyed infrastructure has been created in Ukraine (Fond, 2022). Ukrainians whose property (private manor houses, country houses, and garden houses, apartments, other residential premises for which the ownership right is registered separately) was damaged during the armed aggression of the Russian Federation, can submit the specified application form for compensation in the Diya electronic application.

It was also decided to make changes regarding benefits regarding the cancellation of customs duties when importing vehicles from any other countries into Ukraine, except for the country of the aggressor.

Changes were established regarding vehicle customs clearance, exemption from excise tax and VAT on the import of vehicles by subjects of the simplified taxation system, etc. were established.

Customs business includes a rather large range of issues. This is the integration of our state into the international economic system, and the entire set of customs norms of international and national law, and the sphere of innovation, based on the rapid development of information technologies, which should become a pillar in the work of the customs system of Ukraine, etc.

If we pay more attention to the functions of customs affairs, then, taking into account the issues outlined in the literature, we can separately talk about such functions as informational, economic, logistic, tariff, control-passage, integrating, innovative, statistical, evaluation, standardization, certification, legal, interaction, development, analytical, dynamic, comparative, etc.

The principles of conducting customs affairs are enumerated in Article 8 of the Customs Code of Ukraine: exclusive jurisdiction of Ukraine on its customs territory; exclusive powers of the customs authorities of Ukraine regarding the implementation of customs affairs; legality and presumption of innocence; unified order of movement of goods and vehicles across the customs border of Ukraine; simplification of legal trade; recognition of the equality and legitimacy of the interests of all economic entities, regardless of the form of ownership; observance of the rights and interests of persons protected by law; encouraging integrity; openness and transparency; responsibility of all participants in relations regulated by the Customs Code (Customs Code, 2012).

The system of norms of customs affairs, in addition to the general ones, consists of a set of international and national acts in the field of customs affairs.

International, in addition to those that are general, since the Universal Declaration of Human Rights of 1948 of the United Nations Organization (Declaration, 1948) includes the United Nations Convention against Transnational Organized Crime, the purpose of which is to promote cooperation in the matter of more effective prevention of transnational organized crime and combating (Convention, 2000), the International Convention on Mutual Administrative Assistance in Deterring, Investigating and Stopping Violations of Customs Legislation Violations of Customs Legislation that Threaten the Economic, Social and Fiscal Interests of States and the Legal Interests of Trade, and Combating Customs Legislation Violations Can Be more effective under the conditions of cooperation between customs administrations (Convention, 2000), the International Convention on Administrative Mutual Assistance in the Field of Customs Relations, developed under the auspices of the Customs Cooperation Council, now known as the

World Customs Organization, where it is recognized that closer cooperation between customs authorities is the main purpose of the Convention, adopted with the assistance of the Council for Customs Cooperation, that more effective cooperation between customs authorities can be achieved thanks to the goodwill of the Contracting Parties, that the importance of the correct assessment of customs duties and other charges and ensuring proper application by customs authorities is taken into account prohibitions, restrictions and control measures regarding individual goods, which violations of customs legislation cause damage to the security of the Contracting Parties, their economic, commercial, tax, social, health and cultural interests (Convention, 2003), etc.

Conclusions and prospects for further research in this direction. So, considering the analysis of the topic, we can come to the conclusion that the events of recent months have once again proven that the customs business should be full of content, be in dynamic motion, and respond accordingly to modern realities. The study of customs affairs continues to be a timely topic, the subject of consideration of the theory and practice of foreign economic activity of Ukraine, recognized as an independent institute in the field of management with the aim of establishing benefits for the state, society, and man, protecting economic and related spheres of society.

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ЗМІСТ МИТНОЇ СПРАВИ УКРАЇНИ

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Стаття присвячена аналізу змісту митної справи України на сучасному етапі. Метою статті є аналіз структури та складових митної справи з погляду міждисциплінарного підходу до теми. Вказані особливості дії митного регулювання в період збройного конфлікту, що вимагає звернень до теорії та практики митної справи і формуванні змін та доповнень щодо зовнішньоекономічної діяльності України, так як економічна складова є частиною безпеки держави, це питання також потребує виваженого ставлення та формування картини згідно вимог часу. Використаними методами є діалектичний, що є методологічною основою засад митної справи, загально-науковий метод системного підходу, догматичний, формально юридичний. Результати. Митна справа України змінилась в період воєнного стану. Відбулося послаблення щодо сплати мита стосовно певних об'єктів накладення мита тощо. Верховна Рада України підлаштовувалась під вимоги часу та вносила зміни в національне законодавство, в тому числі, – митне та податкове. У воєнний стан довелося переглянути положення багатьох галузей права, деякі інститути вимушені були докорінно змінитися, щоб прилаштуватися до сучасних умов існування українського суспільства. Агресія сусідньої держави торкнулася багатьох сфер життєдіяльності людини, і це пов'язано не лише із захистом життя та здоров'я людей, найбільш важливих суспільних відносин, що порушуються в ході збройної агресії рф, а й – інших сфер існування людини, суспільства, держави, міжнародної спільноти. Держава мала переглянути і свої митні правила, податкові зобов'язання та ін. Країна не живе відособленим життям, життєдіяльність, як правило, забезпечується наявністю міжнародних зв'язків, в тому числі в сфері економіки. Темпи збільшення продуктивних сил вимагають звернення до митних правил, пов'язаних з ними суспільних відносин. Науково-технічний прогрес дозволяє скористатися товарами, послугами, інтелектуальною власністю, капіталами, робочою силою не лише своєї держави, тому митні правила повинні максимально співпадати з тими реаліями, з якими стикаються суспільство, при явній позитивній направленості міждержавних інтересів, максимально стирати переешкоди для сумісної діяльності. Висновки. Дослідження митної справи продовжує бути темою на часі, предметом розгляду теорії та практики зовнішньоекономічної діяльності України, визнана самостійним інститутом в сфері управління з метою встановлення користі для держави, суспільства, людини, захисту економічної та пов'язаних сфер існування суспільства. Події останніх місяців знову довели, що митна справа має бути змістовна наповненою, перебувати у динамічному русі, реагувати відповідним чином на сучасні реалії.

Ключові слова: митна справа, митна діяльність, зовнішньоекономічна діяльність.

THE CRIME OF AGGRESSION UNDER THE STATUTE OF THE INTERNATIONAL CRIMINAL COURT

The Statute of the ICC, which was adopted in 1998, in contrast to international legal acts that determine the international responsibility of states and governments, provides for individual responsibility for committing the crime of aggression as one of the most serious crimes that causes concern for the entire international community. The crime of aggression is listed, but is not defined as a crime under the jurisdiction of the ICC. Amendments adopted in May-June 2010 in Kampala (Uganda) define the crime of aggression and the conditions for activating the jurisdiction of the ICC, starting in 2017, which closes the gap in the substantive law and jurisdictional regime of the ICC Statute.

The purpose of the article is to consider retrospectively the formation and development of responsibility for the crime of aggression in accordance with the Statute of the International Criminal Court (the ICC Statute). This study is based on the works of domestic and foreign scientists who at different times studied separate issues related to the definition of the crime of aggression A. Antonovych, J. A. Green, I. Kasyniuk, T. Ruys, J. Trahan, K. Henderson and others

The article highlights the modern interpretation of the term „crime of aggression” in accordance with the provisions of the Statute of the International Criminal Court. Attention is focused on the characteristic features, elements, methods of exercising the jurisdiction of the ICC regarding the crime of aggression, as well as the conditions for the entry into force of the amendments to the Statute of the ICC regarding this crime.

In the course of the investigation, it was established that studying the situation in Ukraine, the Office of the Prosecutor of the International Criminal Court, headed by Prosecutor Karim A.A. Khan, considers the existing grounds to be sufficient for the investigation starting from November 21, 2013. Thus, these appeals provide an opportunity to investigate the situation in Ukraine covering any past and present accusations of crimes committed by any person in any part of the territory of Ukraine, and that they will remain focused on the main goal: ensuring accountability for crimes that fall under the jurisdiction of the ICC

Key words: crime of aggression, International Criminal Court, Statute of the International Criminal Court

JEL Classification: K33, Z18.

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Problem statement. The International Criminal Court (ICC) Statute, adopted in 1998, differs from international legal acts that define the international responsibility of states and governments. It provides for individual responsibility for the crime of aggression as one of the most serious crimes that cause concern for the entire international community. The crime of aggression is listed but is not defined as a crime taking under the jurisdiction of the ICC. Amendments adopted in May-June 2010 in Kampala, Uganda, define the crime of aggression and the conditions for activating the ICC's jurisdiction, starting from 2017. This closes the gap in the substantive law and jurisdiction regime of the ICC Statute.

Analysis of recent research and publications. Ukrainian and foreign researchers such as A. Antonovych, J.A. Green, I. Kasyniuk, T. Ruys, J. Trahan, K. Henderson, and others have dedicated their thesis to particular issues related to defining the crime of aggression at different times. Analysis of the works of these and other researchers provided the scientific basis for writing this article.

Article objective. To investigate the retrospective of the formation and development of responsibility for the crime of aggression under the International Criminal Court Statute (ICC Statute).

Results of the research. Attempts to prohibit and criminalize the illegal conduct of war (the use of force) have been known since the

Hague Conferences of Peaceful Settlement of International Disputes between States in 1899–1907; the preamble to the Charter of the United Nations and its articles also contain provisions on preventing wars; the Geneva Protocol (1924) on the peaceful settlement of international disputes, the Declaration (1927) on aggressive wars – all of these documents became the basis for the development of significant international legal acts that define war as an international crime.

With the entry into force of the UN Charter on October 24, 1945, a system of collective security was initiated. Thus, Article 2(4) of the UN Charter prohibits the threat or use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the purposes of the United Nations. At the same time, the Charter allows the use of force only for the purpose of legitimate individual or collective self-defence or with the permission of the Security Council. In accordance with Article 39 of the UN Charter, the Security Council determines the existence of any threat to the peace, breach of the peace or act of aggression. However, this provision does not define the concept of aggression, nor does it provide for individual criminal responsibility in cases of committing the crime of aggression. The judicial processes conducted in Nuremberg (1945–1946) and Tokyo (1946–1948) by the victorious states of World War II identified a range of international crimes for which international responsibility arises are: crimes against peace, war crimes, and crimes against the humanity. It should be noted that the Nuremberg Tribunal recognized as a crime against peace the planning, preparation, initiation, or waging of an aggressive war in violation of international treaties, agreements, or assurances, or participation in a common plan or conspiracy for the accomplishment of the foregoing, but it does not specify what is meant by aggression. Therefore, in 1974, the United Nations General Assembly adopted Resolution 3314 (XXIX) defining the act of aggression, which pertained to the actions of a state rather than an individual who may be responsible for such an act. Thus, the definition of aggression in this resolution reflects the concept of the illegal use of force contained in Article 2(4) of the UN Charter and lists specific examples of acts of aggression, such as the invasion or attack by the armed forces of a state on the territory of another state (including military occupation), the bombardment the territory of another state by the armed forces of a state etc. Only in 2010 the main provisions of this resolution found their reflection in the amendments to the Statute of the International Criminal Court.

The crime of aggression is one of the four crimes over which the International Criminal Court has jurisdiction under the Rome Statute. Article 5(1) of the ICC Statute states that the Court's jurisdiction is limited to the most serious crimes of concern to the international community as a whole, namely genocide, crimes against the humanity, war crimes, and the crime of aggression.

However, it should be noted that at the time of the adoption of the ICC Statute in 1998, representatives of the participating states were unable to agree on a definition and mechanism for the Court to exercise jurisdiction over the crime of aggression. There were several positions on defining the crime of aggression, such as limiting it to «aggressive wars» or using the broader concept of «act of aggression» contained in the definition of the United Nations General Assembly in 1974. But more complicated issue was determining the need for the ICC to prosecute for the crime of aggression if the Security Council had determined the existence of an act of aggression by one state against another. As a result of lengthy negotiations, delegates reached a compromise, and the crime of aggression was included in the list of crimes taking under the jurisdiction of the Court. However, the definition and conditions for exercising jurisdiction, including the role of the Security Council, were postponed to the Review Conference. Therefore, Article 5(2) of the ICC Statute stipulates that jurisdiction will only be exercised after the adoption of a provision that defines the concept of this crime and establishes the conditions under which such jurisdiction will be exercised.

With the Resolution ICC-ASP/1/Res.1 at the 3rd plenary session on September 9, 2002, the Assembly of States Parties of the International Criminal Court (ICC), in accordance with Article 5(2) of the Rome Statute and paragraph 7 of the Resolution F (1998) adopted by the Diplomatic Conference under the auspices of the United Nations on the establishment of the ICC, created a special working group on the crime of aggression. Any United Nations member state or member of its specialized agencies or the International Atomic Energy Agency may be included in this group on the principle of equality. The main goal of establishing this special group is to develop and adopt an acceptable provision on the crime of aggression and to include it in the ICC Statute (Resolution ICC, 2022).

In May-June 2010, the first Review Conference of the ICC was held in Kampala, Uganda, since the entry into force of the ICC Statute in July 2002. The Conference was attended by ICC member states, as well as those interested in defining and activating the jurisdiction of the crime of aggression. After lengthy

discussions, an agreement was reached, resulting in the adoption of the Kampala Amendments, which exclude the crime of aggression.

On June 11, 2010, at its 13th plenary session, the International Criminal Court (ICC) consensus adopted the Resolution RC/Res.6 on the “Crime of Aggression,” which amended the ICC Statute. Specifically, a new added provision, Article 8 bis, defines the crime of aggression and amends its elements, while attempting to establish jurisdiction over the crime of aggression after the amendments take effect. The activation of jurisdiction (the actual exercise of jurisdiction) over the crime of aggression will take place in accordance with the provisions set out in Articles 15 bis and ter of the ICC Statute. For the first time since the Nuremberg and Tokyo trials, the ICC’s jurisdiction over the crime of aggression represents international criminal responsibility for this most serious crime.

During the development of the definition of the crime of aggression, the conference adopted the United Nations General Assembly Resolution (XXIX) from December 14, 1974, as its legal ground. Therefore, after the adoption of this resolution and the amendment of the ICC Statute with Article 8 bis, the “crime of aggression” means the planning, preparation, initiation, or execution by a person who has the ability to effectively control or direct the political or military action of a state, of an act of aggression that, by its character, gravity, and scale, constitutes a manifest violation of the United Nations Charter. The characteristic features of the crime of aggression are:

- any actions specified in Article 8(2)(b) are recognized as acts of aggression;
- there is no requirement to prove that the perpetrator made a legal assessment of whether the use of force was incompatible with the Charter of the United Nations;
- the term “manifest” is an objective qualification and includes three components: severity, scale, and consequences;
- there are no requirements to prove that the perpetrator made a legal assessment of the “manifest” nature of the violation of the Charter of the United Nations.

The elements of the crime of aggression include:

- the perpetrator planned, prepared, initiated, or executed an act of aggression;
- the perpetrator must be a political or military leader, meaning a person or group of persons who have the effective control or direction of a State’s political or military actions, and who committed an act of aggression;
- an act of aggression was committed – the use of armed force by a State against the sovereignty, territorial integrity, or political independence of another State, or by any other means in violation of the Charter of the United Nations;
- the perpetrator was aware of the factual circumstances that rendered the use of force incompatible with the Charter of the United Nations;
- the act of aggression, by its nature, severity, and scale, constituted a manifest violation of the Charter of the United Nations;
- the perpetrator was aware of the factual circumstances indicating such a manifest violation of the Charter of the United Nations (Resolution RC, 2010).

It is necessary to note positively that the criminalization of aggression has resulted in two facts:

- 1) real limitations defined for jus ad bellum in the sphere of military force application against other states for the first time since World War II;
- 2) clear criteria and standards by which socially dangerous actions are recognized as aggression crimes.

Amendments to the Rome Statute take effect for a state one year after ratification or acceptance by that state. However, the entry into force of amendments regarding the crime of aggression is not sufficient for the ICC to exercise jurisdiction. Two additional conditions must be met for this (ICC – factsheet). These conditions are:

- 1) the amendments must be ratified or accepted by at least 30 State Parties to the Rome Statute, after which it must pass one year before the Court can exercise its jurisdiction; and,
- 2) the Assembly of State Parties (ASP) must adopt a decision after January, 1 2017 by consensus or at least by a two-thirds majority to allow the Court to commence the exercise of its jurisdiction.

On December 3, 2022, 44 State Parties to the ICC have deposited their instruments of ratification regarding the amendments on the crime of aggression (Amendments, 2010).

Both of these conditions have now been met, so the Court can now exercise its jurisdiction over the crime of aggression.

There are disagreements among states regarding the scope of jurisdiction, specifically whether the jurisdiction extends to all ICC member states after ratification by thirty State Parties or only to those that have recognized the ICC's jurisdiction over the crime.

The ways of exercising ICC jurisdiction regarding the crime of aggression. Articles 15 bis and ter outline the process for activating the Court's jurisdiction. Despite other types of crimes taking under the ICC's jurisdiction, the crime of aggression has a unique jurisdictional regime. All three existing mechanisms for activating jurisdiction apply to the crime of aggression. According to Articles 15(1, 6) bis, the Prosecutor may conduct a preliminary investigation for the crime of aggression after using any of these mechanisms:

1) State referral: a state party to the ICC refers the situation to the Court, which can exercise jurisdiction after the amendments have come into force for at least one state party, victim, or aggressor. The Prosecutor determines whether there are reasonable grounds to proceed with an investigation, and if so, informs the UN Secretary General about the situation;

2) Proprio motu investigation: the Prosecutor initiates an investigation;

3) Security Council referral: the UN Security Council refers the situation to the Court. The Security Council has the competency to independently determine whether a crime of aggression has been committed. If the situation is referred by the UN Security Council (Article 15 ter) to the ICC, the Prosecutor has the authority to investigate any of the four core crimes, including the crime of aggression, committed on any territory by a national of any state. In this situation, the Court may exercise jurisdiction over acts of aggression related to ICC member states, regardless of their individual status of ratification or "opt-out," as well as over non-member states. Therefore, a state that is not a party to the ICC Statute, but has been the subject of a UN Security Council decision on an act of aggression, such as the Russian Federation, the Prosecutor may initiate an investigation for the crime of aggression (Resolution RC, 2010).

Aggressor state consent as a condition for exercising jurisdiction. Obtaining consent from the state suspected of committing a crime of aggression is necessary only if the investigation is conducted using the mechanism of referral by a state or proprio motu. However, when a situation is referred to the UN Security Council in accordance with its competency under Chapter VII of the UN Charter, such consent is not required.

At its 16th session held from December 4 to 14, 2017 at the UN headquarters in New York, the Assembly of States Parties to the Rome Statute adopted by consensus a resolution on activating the ICC's jurisdiction over the crime of aggression. In this resolution, the Assembly recognized the historic significance of the decision to activate the Court's jurisdiction as of July 17, 2018, and added three military crimes to the Court's jurisdiction:

1) the use of microbial, biological or toxic weapons;

2) the use of weapons that cause injuries that cannot be detected by X-rays;

3) the use of laser weapons.

Later in November 2018, amendments were made to the Court's Regulations regarding a number of procedural issues that arise from the activation of the Court's jurisdiction for the crime of aggression. The adopted amendments provide for a clear execution of judicial functions by the Pre-Trial Division under Article 15 bis (8) of the Rome Statute, namely the appointment of a presiding judge (Regulations of the Court, 2018).

Studying the situation regarding Ukraine, it should be noted that the preliminary examination of the situation began on April 24, 2014, based on the first special declaration submitted by the Government of Ukraine recognizing the Court's jurisdiction. Later, in 2015, Ukraine submitted a second extended declaration with the aim of covering ongoing and probable crimes committed on its territory since February 20, 2014.

After examining the available information, the Court concluded that potential cases likely to arise from the investigation of the situation in Ukraine would be admissible. At the time of the preliminary examination, there were sufficient grounds to believe that war crimes and crimes against humanity had been committed within the Court's jurisdiction in the context of the situation in Ukraine.

Previous examinations included three broad clusters of victimization: (i) crimes committed in the context of military operations; (ii) crimes committed during detentions; and (iii) crimes committed in Crimea. The prosecutor's office also found that these crimes, committed by different parties to the conflict, were serious enough to warrant investigation (F. Bensouda, 2020).

In December 2020, following a thorough and independent process, ICC Prosecutor Fatou Bensouda announced the results of a preliminary examination of the situation in Ukraine, stating that the necessary legislative criteria for beginning an investigation had been met.

Since the start of the active phase of the Russian-Ukrainian conflict, 38 State Parties, including the Republic of Albania, the Commonwealth of Australia, the Republic of Austria, the Kingdom of Belgium, the Republic of Finland, the French Republic, Georgia, the Grand Duchy of Luxembourg, the Republic of Malta, New Zealand, Romania, the Slovak Republic, and others, have submitted the situation regarding Ukraine to the ICC's Office of the Prosecutor in March-April 2022, in order to expedite the investigation pursuant to Article 14 of the Rome Statute (Rome Statute, 2022).

The support of ICC member states and the international community is crucial for the initiation and conduct of investigations into crimes taking under the jurisdiction of the Court, especially in the situation of Ukraine, which is not a state party to the Rome Statute, but has only recognized the Court's jurisdiction regarding possible crimes committed on its territory from November 2013 (Statement of Ukraine, 2014).

Based on received referrals on March 2, 2022, the Prosecutor of the ICC, Karim A.A. Khan, announced the opening of an investigation into the situation in Ukraine based on the Office's preliminary findings and his personal prior examination of the situation. The Prosecutor emphasized that during the preliminary examination of the situation in Ukraine, his office had already found sufficient grounds to believe that crimes falling under the jurisdiction of the ICC had been committed, and identified potential acceptable cases. He noted that these referrals allowed for the investigation of the situation in Ukraine from November 21, 2013, thereby covering any past and present allegations of crimes committed by any person on any part of the territory of Ukraine. He further stated that they would remain focused on the main objective of ensuring accountability for crimes falling under the jurisdiction of the ICC (Karim A.A. Khan, 2022; Regulations of the Court, 2022).

Conclusion. Aggression is the most serious and dangerous form of illegal use of force. According to the United Nations Charter, in order to determine whether an act of aggression has been committed, all circumstances of each particular case must be taken into account, including the severity of the relevant acts and their consequences. The so-called threshold requirements are also set out in Article 8 bis (1) of the ICC Statute, according to which an act of aggression, by its character, severity, and scale, constitutes a manifest violation of the UN Charter. Therefore, the use of force by an aggressor state must be unequivocally illegal.

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ЗЛОЧИН АГРЕСІЇ ЗА СТАТУТОМ МІЖНАРОДНОГО КРИМІНАЛЬНОГО СУДУ

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Статут ІСС, що був прийнятий у 1998 р. на відміну від міжнародно правових актів, що визначають міжнародну відповідальність держав і урядів, передбачає індивідуальну відповідальність за вчинення злочину агресії як одного з найбільш тяжкого злочину, що викликає занепокоєння всього міжнародного співтовариства. Злочин агресії наявний у переліку, але не має визначення як злочин, що підпадає під юрисдикцію ІСС. Поправки прийняті у травні-червні 2010 р. у Кампалі (Уганда), визначають злочин агресії та умови активації юрисдикції ІСС, починаючи з 2017 р., що закриває прогалину в матеріальному праві та режимі юрисдикції Статуту ІСС.

Метою статті є розгляд ретроспективи становлення і розвитку відповідальності за злочин агресії відповідно до Статуту Міжнародного кримінального суду (Статуту ІСС). Дане дослідження ґрунтується на роботах вітчизняних та зарубіжних науковців, котрі в різні часи вивчали окремі питання пов'язані із визначенням злочину агресії А. Антонович, Дж. А. Грін, І. Касинюк, Т. Руйс, Дж. Трахан, К. Хендерсон та інші.

У статті виокремлена сучасна інтерпретація терміну «злочин агресії» відповідно до положень Статуту Міжнародного кримінального суду. Акцентовано увагу на характерних ознаках, елементах, способах здійснення юрисдикції ІСС щодо злочину агресії, а також умовах набрання чинності поправок до Статуту ІСС щодо даного злочину.

В ході проведення дослідження констатовано, що вивчаючи ситуацію в Україні офіс Прокурора ІСС, на чолі з прокурором Карім А.А. Ханом, вважає достатніми наявні підстави, для розслідування починаючи з 21 листопада 2013 р. Таким чином, дані звернення дають можливість розслідувати ситуацію в Україні охоплюючи будь-які минулі та теперішні звинувачення у скоєні злочинів будь-якою особою на будь-якій частині території України, а також, що вони залишатимуться зосередженими на головній меті: забезпеченні відповідальності за злочини, котрі підпадають під юрисдикцію МКС.

Ключові слова: злочин агресії, Міжнародний кримінальний суд, Статут Міжнародного кримінального суду.

THE EXPEDIENCY OF PRESENCE OF THE LAW ENFORCEMENT BODIES IN THE AREAS OF CUSTOMS CONTROL

Today's complex conditions, caused by the development and growth of globalization processes, political and legal transformations, informatization and digitalization of many processes related to the transformation of economic systems, there is an urgent need for an adequate and prompt response of the state to the challenges of modernity. Taking into account the essential circumstance that today most of such challenges are converted into clear or, even worse, latent threats to the national economy, there is an objective need for the existence of an effective administrative and legal mechanism for the systematic provision of the economic security of the state.

The article is devoted to the issues of highlighting the peculiarities of the organization of interaction between customs and law enforcement agencies in the process of customs control. It is emphasized that one of the main tasks assigned to customs authorities is, among other things, prevention and counteraction to smuggling, combating violations of customs rules throughout the customs territory of Ukraine. It is emphasized that the law enforcement agencies with which the customs authorities actively interact in the process of performing the tasks assigned to them by law include: the national police, the Security Service of Ukraine, the prosecutor's office service and others. The main powers of law enforcement agencies enshrined in the Customs Code of Ukraine are systematized. The legal nature of the competence of law enforcement agencies in cooperation with customs authorities has been studied. The content of the concept of law enforcement agencies is investigated on the basis of scientific researches and normative legal acts. The main features of law enforcement agencies and their functions are highlighted. The main feature of the concept of law enforcement is its functional purpose – a certain area of activity, tasks, competence and possession of special powers to protect human rights and freedoms, as well as the interests of society and the state. There are also a number of characteristics, that are inherent in law enforcement.

Key words: customs authorities, customs control, interaction, powers, law enforcement agencies, fight against smuggling, customs offenses.

JEL Classification: K23.

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Introduction

In the conditions of further globalization of world relations, the confirmation of the direction of Ukraine's movement towards decentralization and deconcentration of authority creates new challenges and threats. The development of international trade involves the simplification of customs formalities. One of the ways is to organize on a single window basis and conduct a preliminary documentary control by the customs authority. A clear division of powers, the identification of a technology for joint actions and responsibility for their improper performance. All this makes the system predictable and transparent. The need to respect to protect their own national interests emphasizes the leading role of customs authorities in the process of organizing and conducting customs control and clearance of goods in accordance with the chosen customs regime. The issue of counteracting international crime in the economic sphere, preventing terrorist acts and so on is possible only in close cooperation with other state authorities, their coordination and elimination of duplicate functions.

The main thrust of public administration as a function of the state's implementation of a managerial process to meet the tasks, functions and interests of the state (according to Article 3 of the Constitution of Ukraine the rights and freedoms of the person and their guaranteed determine the content and direction of the state activity) is the system of public administration in general and in its separate components (branches) that depends on clear hierarchical definition and normative fixing of boundaries competences of each level of government.

Problem statement. During the study of issues related to the theory of public administration, the supplying of the national security system, the introduction of the latest technologies we are faced with attempts to mechanize the transfer of experience or hopes and wishes of officials in various areas of public administration. It causes contradictions or conflicts of interest in the implementation of various bylaws, which may not comply with the laws for which they are adopted, and not to be in accordance with the aims their acceptance is declared. In our opinion, the example of such a premature policy is the Cabinet of Ministers of Ukraine Resolution No. 479 “On the implementation of a pilot project to create conditions for avoiding customs tax evasion” dated June 20, 2018. The extreme politicization of issues related to the implementation of customs clearance, the desire to implement reforms for the sake of reforms, or the need to report on the implementation of reform played a cruel joke with the government.

Analysis of recent research and publications. The essence of state regulation is considered in the works of Averyanov V., Bityak Yu., Koval L., Komzyuk A., Lukyanets D., Starikov Yu. and others. The problems of the implementation of customs formalities, harmonization of customs procedures in accordance with international standards are considered in the works of Garmash Ye., Berezhnyuk I., Mazura A., Prymachenko D., Tereschenko S. and others.

Purpose of the work. To investigate the state of affairs that developed after the adoption of the Cabinet of Ministers of Ukraine Resolution No. 479 “On the implementation of a pilot project to create conditions for avoiding customs tax evasion” dated June 20, its impact on the work of customs authorities and units of the national police.

Presenting main material

The need to respond to the challenges of today, the desire to show the reform process, the understanding of the inconsistency of existing management models, the ability to emphasize their own significance and influence on the processes of public administration led to the implementation of a pilot project, legal assessment of which and expected results from the implementation of which nobody tried to conduct and evaluate. By the Cabinet of Ministers of Ukraine Resolution No. 479 “On the implementation of a pilot project to create conditions for avoiding customs tax evasion” dated June 20, the participation of law enforcement agencies during the customs inspection was introduced.

Rights of law enforcement agencies within the framework of this Resolution:

– Police have the right to stay 24 hours a day in customs control zones at the state border crossing and in other places of the customs territory of Ukraine, in which the bodies of the State Fiscal Service (SFS) carry out customs formalities (hereinafter – customs control zones), in order to detect the facts of the violation customs rules;

– Police officers and officers of the Ministry of Interior have the right to access the Automated system of customs registration (ASCR) “Inspector-2006”.

Thus, on the site of the State Tax Administration, an algorithm of actions and access of the National Police to the customs control zones (CCZ) was published in the framework of the access of law enforcement to the customs control zones.

The mechanism contains two blocks: the access procedure and the round-the-clock stay of representatives of the Ministry of Interior in the areas of customs control and the possibility of using the Automated system of customs registration “Inspector-2006”.

The essence of the first section is as follows.

Officials of state bodies, in this case it is about representatives of the National Police, are in the customs control zones in accordance with the regime of the zone and with the written permission of the head of the customs post, and at the points of entry through the state border – also in agreement with the Chief with appropriate body of the State Border Service.

The national police will inform the customs in writing (the coordinator will be assigned for each one) about the availability of operative information on possible cases of movement of goods in violation of the legislation.

The basis for conducting an inspection (re-inspection) of goods, vehicles is a written order in the framework of criminal proceedings (an exhaustive list of grounds is enshrined in the decree of the Cabinet of Ministers of Ukraine dated May 23, 2012 No. 467).

Means of photo and video fixation will be applied during the inspection (re-inspection) on the initiative of law enforcement authorities.

The act about the inspection (re-inspection) will contain information about the persons who were present at the time of the inspection and their signatures.

As for the second block of the algorithm of action, an agreement on granting access to the Automated system of customs registration “Inspector-2006” is concluded between the State Fiscal Service and the Ministry of Interior.

In addition, the fiscal service has already received a list of officials of the National Police, which will be granted the right to be in the customs control zones.

Consequently, the mechanism of joint action involves responding exclusively within the framework of the current legislation. The actions of law enforcers will not hinder customs registration and will not lead to unreasonable delays. All decisions will be aimed at detecting violations of customs rules and smuggling.

Nowadays the management of the SFS has directed the List of National Police staff of the Department of National Economy of the National Police of Ukraine to the Customs. The list provides access to the ASCR Inspector and unhindered round-the-clock access to the customs control zone for each Customs SFS separately.

During this “pilot project” policemen have the right to stay 24 hours a day in customs control zones at checkpoints across the state border and elsewhere in the customs territory of Ukraine, in which the bodies of the State fiscal service carry out customs formalities, in order to identify the violation of customs rules.

It is clearly defined in Article 19 of the Constitution of Ukraine that public authorities, their officials are obliged to act only on the basis, within the limits of authority and in the manner provided for by the Constitution and laws of Ukraine (the provision in part two of Article 19 is given an official interpretation in accordance with the Decision of The Constitutional Court of Ukraine of 16 April 2009 7-rp / 2009).

Article 8 of the Customs Code of Ukraine states that the state customs is carried out on the basis of the exclusive powers of the bodies of revenue and duties of Ukraine. It is emphasized by Article 318 that customs control is carried out exclusively by the bodies of revenue and duties so the legislator directly prohibits persons who are admitted to the customs control zone to interfere with officials of the customs (customs post) who carry out customs control and customs registration as well to take any actions as for the goods, vehicles, and also other persons who are in the zone of customs control, unless otherwise provided by law.

In accordance with Article 320 of the Customs Code of Ukraine, the forms and volumes of control sufficient to ensure compliance with the legislation on state customs matters and international treaties of Ukraine in the customs registration are selected by customs (customs posts) on the basis of the results of the system’s application risk management. It is not allowed to determine the forms and volumes of customs control by other state authorities, as well as the participation of their officials in the implementation of customs control. Article 336 of the Customs Code of Ukraine defines customs registration as one of the forms of customs control. In accordance with part five of Article 338 of the Customs Code of Ukraine, except the cases specified in parts two and four of this article, inspection (re-inspection) of goods, vehicles of commercial purpose may be carried out if there is sufficient evidence to consider that the movement of these goods, vehicles through the customs border of Ukraine is carried out outside customs control or with concealment from customs control, including in the case of obtaining relevant official information from law enforcement agencies. An exhaustive list of sufficient evidence is determined by the Cabinet of Ministers of Ukraine. The list of evidence was approved by the decision of the Cabinet of Ministers of Ukraine dated 23.05.2012 N 467 “On approval of an exhaustive list of evidence for the inspection (re-inspection) of goods, vehicles of commercial purpose by the customs authorities of Ukraine”. Item 14 of the exhaustive list approved by this resolution, the basis for conducting inspection (re-inspection) of goods, vehicles of commercial purpose, determined receipt in accordance with the established procedure from law enforcement agencies information on the movement of goods and vehicles of commercial purpose in violation of the requirements of the legislation on the state customs. In accordance with Articles 482, 483 of the Customs Code of Ukraine, information received from law enforcement agencies must be such that it allows its recording, identification and processing; it must contain data sufficient to form the conclusion about the movement of certain goods, vehicles with signs of violations customs rules. In accordance with Article 332 of the Customs Code of Ukraine, movement through the borders of the customs control zone and within this zone by the officials other than customs, territorial bodies of the central executive authority, which ensures the formation and implementation of state tax and customs policy, as well as officials state bodies which do not carry out the types of control specified in the first paragraph of Article 319 of the Customs Code of Ukraine shall be adhered to with the regime of the customs control zone and shall be allowed only

with the written permission of the head of the relevant customs (customs post) or the person performing his duties, and in zone customs control located at the points of entry through the state border of Ukraine – in addition, in agreement with the head of the relevant body of state border guard. Each decision on admission to the customs control zone should have an individual character and one-time action.

The Laws of Ukraine “On the Security Service of Ukraine”, “On National Police”, “On Operational Investigative Activity”, “On the Organizational and Legal Foundations of Combating Organized Crime” do not provide the direct involvement of personnel of the bodies whose activities are regulated by these laws carrying out customs control and registration. In accordance with Article 1 of the Law of Ukraine “On Organizational and Legal Foundations of Combating Organized Crime”, organized crime refers to a set of crimes committed in connection with the creation and operation of organized criminal groups. The types and crime signs, as well as criminal measures against the perpetrators of such crimes, are established by the Criminal Code of Ukraine. In accordance with article 12, paragraph 4 (a), when carrying out the fight against organized crime, members of special units under the written order of the head of a special unit have the right to enter checkpoints across the state border of Ukrainian customs upon presentation of the service official identification. The above rule relates solely to the implementation of measures aimed at combating organized crime and does not provide for the right to enter and stay in customs control zones. Section XXI, paragraph 3, of the Customs Code of Ukraine “FINAL AND TRANSITIONAL PROVISIONS” stipulates that the Laws of Ukraine, acts of the Cabinet of Ministers of Ukraine, normative acts of the central executive body, which ensure the implementation of the state policy in the field of state customs, and other central executive authorities, adopted in pursuance of the laws of Ukraine on the issues of state customs matters before the entry into force of this Code, and normative legal acts that are used in applying the norms of laws on state customs (including acts of legislation of the USSR), are applied in a part that does not contradict this Code until the adoption of corresponding acts in accordance with the requirements of this Code. Paragraph 9 of the same Section stipulates that changes to the Customs Code of Ukraine may be introduced only by the laws on amendments to the Customs Code of Ukraine, namely, amendments introduced only by the Verkhovna Rada of Ukraine, and not by any Resolution of the Cabinet of Ministers of Ukraine. In accordance with part 1 of Article 30 of the Customs Code of Ukraine, officials and other employees of the bodies of revenue and duties who have taken unlawful decisions, committed wrongful acts or afford omissions, including for personal mercenary purposes or in favour of third parties, bear criminal, administrative, disciplinary and other liability in accordance with the law.

At the same time, Article 23 of the Law of Ukraine “On National Police” defines an exhaustive list of police powers, among which there are no powers to “identify the facts of violation of customs rules”, which is indicated in the text of the said resolution as the purpose of police officers stay in customs control zones. In accordance with Article 24 of the same law, the execution of other (additional) powers may be entrusted to the police solely by law.

The basis for a legal conflict is stipulated by the provisions of Article 8 of the Law of Ukraine “On National Police”, which states that the police are acting solely on the basis of, within the limits of authority and in the manner prescribed by the Constitution and laws of Ukraine. A policeman is prohibited from doing criminal or explicit illegal instructions and orders. Instructions, orders and assignments of supreme bodies, executives, officials and officers, service, political, economic or other expediency can not be the basis for the police violation of the Constitution and laws of Ukraine.

Thus giving the police the right to be around the clock in the customs control zones, not defining their duties or tasks and not giving them any legal authority, in effect forcing them to take actions outside the current legislation.

One particular danger is the admission of law enforcement officers with uncertain powers to the databases of revenue and duties bodies that contain information related to the state customs. In accordance with Article 11 of the Customs Code of Ukraine, this information may be used by them solely for customs purposes and can not be disclosed without the consent of the entity, persons or the authority that provided such information, in particular, to third parties, including other public authorities, except cases determined by this Code and other laws of Ukraine.

Special attention should be paid to the Resolution of the Cabinet of Ministers itself dated June 20, 2018, No. 479.

In accordance with Article 117 of the Constitution of Ukraine and Part 1, Article 49 of the Law of Ukraine “On the Cabinet of Ministers of Ukraine” the Cabinet of Ministers issues binding acts – decrees

and orders. In accordance with paragraph 29 (2) of Chapter 1, Section 4 of the Resolution of the Cabinet of Ministers of Ukraine No. 950 dated 18 April 2007 “On Approval of the Regulation of the Cabinet of Ministers of Ukraine” Decrees of the Cabinet of Ministers are issued in the following areas: approval of the provision, statute, order, regulation, rules, methodology and others cases when public relations require legal regulation; approval, acceptance or accession to an international treaty.

Each legal act issued by public authorities must contain mandatory requisites and normative techniques. Thus, it is established by the Resolution of the Cabinet of Ministers of Ukraine dated 6 September 2005 No. 870 “On adoption of the Rules for the preparation of draft acts of the Cabinet of Ministers of Ukraine”, namely, in accordance with paragraph 11 the draft resolution consists of the title, introductory and decree and, if necessary, applications.

The title of the draft resolution should be concise and reflect the main content of the act.

In the introductory part of the resolution: the purpose of the adoption and (or) an act of legislation, according to which or in the performance of which the resolution is adopted, is determined (in a concise form); it is stated: “The Cabinet of Ministers of Ukraine decides:”. For example: In order to improve the order of realization of military property, provision of housing for servicemen of the Armed Forces and in accordance with Article 101 of the Law of Ukraine “On the State Budget of Ukraine for 2005”, the Cabinet of Ministers of Ukraine decides:

As you can see, the Resolution of the Cabinet of Ministers of Ukraine No. 479 dated June 20, 2018 does not have an introductory part at all, which in turn violates the rules of rulemaking and the Resolution of the Cabinet of Ministers of Ukraine No. 870 dated September 06, 2015. In general, the goal of the adoption of the document and in implement of which act of law this resolution was adopted is not known.

In addition, in accordance with paragraph 14 of the Resolution of the Cabinet of Ministers of Ukraine No 870 dated September 06, 2015, the decree of the resolution must contain: legal provisions; concrete instructions to subjects of public relations in the relevant area; conditions and procedure of other resolutions (separate norms); links to attachments (if they are available); norms related to the entry into force of the resolution (separate norms). If necessary, the body (bodies) of the executive power or the official (persons) exercising control over the implementation of the resolution is determined.

However, in the Resolution of the Cabinet of Ministers no. 479 dated June 20, 2018, the following is stated in the decree: “To approve the proposal of the Ministry of Interior, the Ministry of Finance and the State Fiscal Service regarding the implementation of the pilot project on creation of conditions to avoid tax evasion from June 21, 2018 to December 31, 2018 (hereinafter referred to as the pilot project).”

That is, this regulation contains no normative provisions, as the normative provisions can be considered as new norms that regulate the new legal relations and do not contradict the provisions of the current legislation of Ukraine. But only some kind of agreement between the Ministry of Interior, the Ministry of Finance and the State Fiscal service and their proposals are mentioned.

Conclusion

Taking into account the above, we note that the adoption of the Resolution of the Cabinet of Ministers of Ukraine is premature without proper preparation, examination, discussion and substantiation. Reports of the results of the experiment were not made public, the method of their calculations is unknown. The development of the concept of reforming customs authorities can be the subject of further research.

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ДОЦІЛЬНІСТЬ ПРИСУТНОСТІ ПРАВООХОРОННИХ ОРГАНІВ У ЗОНАХ МИТНОГО КОНТРОЛЮ

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У складних умовах сьогодення, зумовлених розвитком і зростанням процесів глобалізації, політико-правових трансформацій, інформатизації та цифровізації багатьох процесів, пов'язаних із трансформацією економічних систем, постає нагальна потреба в адекватному та оперативному реагуванні держави на виклики сучасності. Враховуючи ту суттєву обставину, що сьогодні більшість таких викликів перетворюється на явні або, що ще гірше, приховані загрози національній економіці, існує об'єктивна необхідність існування ефективного адміністративно-правового механізму системного забезпечення економічного безпеки держави.

Стаття присвячена питанням висвітлення особливостей організації взаємодії митних та правоохоронних органів у процесі здійснення митного контролю. Наголошується, що одним із основних завдань, покладених

на митні органи, є, зокрема, запобігання та протидія контрабанді, боротьба з порушеннями митних правил на всій митній території України. Наголошується, що до правоохоронних органів, з якими митні органи активно взаємодіють у процесі виконання покладених на них законодавством завдань, належать: Національна поліція, Служба безпеки України, прокуратура та інші. Систематизовано основні повноваження правоохоронних органів, закріплені в Митному кодексі України. Досліджено правову природу компетенції правоохоронних органів у взаємодії з митними органами. На основі наукових досліджень та нормативно-правових актів досліджено зміст поняття правоохоронних органів. Висвітлено основні ознаки правоохоронних органів та їх функції. Основною ознакою поняття правоохоронної діяльності є її функціональне призначення – певна сфера діяльності, завдання, компетенція та володіння спеціальними повноваженнями щодо захисту прав і свобод людини, а також інтересів суспільства і держави. Існує також низка характеристик, які притаманні правоохоронним органам.

Ключові слова: митні органи, митний контроль, взаємодія, повноваження, правоохоронні органи, боротьба з контрабандою, митні правопорушення.

UNECE ASSESSMENT ON THE PRACTICAL APPLICATION OF THE DATA PIPELINE CONCEPT FOR IMPROVING THE GRAIN CORRIDOR EFFICIENCY USING UN/CEFACT STANDARDS

Purpose. This article describes the results of the UNECE assessment of a feasibility study of the practical application of the Data pipeline concept. The scope of the assessment is the humanitarian transport corridor under the Black Sea Grain Initiative (BSGI). The efficiency of this transport corridor is of exceptional importance in connection with the political and economic situation in the country and its impact on world food security. The main objective of the project was to discover a way to improve the efficiency of this transport corridor through trade facilitation and digital transformation of data exchange and business processes.

The concept of the Data pipeline was introduced in 2014 and is actively developed by the UN/CEFACT till then. The approach develops the authors' deliverables, presented in their's previous work on the GUAM transport corridor – such as the functional transformation of data requirements sets and distributed convertors concept. The authors also considered the experience from the participation in several single window projects in the maritime and port domain and the influence of the European eFTI Regulation.

The key concept of the assessment is the use of UN/CEFACT standards and artifacts, as a holistic set of requirements that provide the possibility to harmonize data stemming from various trade operations, transport modalities, and jurisdictions.

Methods. During this assessment, the data analysis and compliance analysis method were used to demonstrate the feasibility of the concept described.

Results. The key deliverable of the assessment is the defined approach for the practical implementation of the IT solution for certain transport corridor (BSGI) that can also be used on other transport corridor. The other deliverables are the dataset for the BSGI transport corridor; mapped with the canonical UN/CEFACT reference data model, compliance analysis results, bottlenecks elicitation, and recommendations.

Conclusions. The authors developed further their own approach to apply the UN/CEFACT standards and recommendations in general and particularly the data pipeline concept for the practical projects focused on the facilitation of trade and transport procedures. This assessment shows the feasibility of the approach and can be used both as a roadmap for piloting real-world projects and as a basis for further assessments.

Key words: Optimization Techniques, Programming Models, Dynamic Analysis, Transportation: General Government Policy, Technological Change: Choices and Consequences, Diffusion Processes, Government Policy, Information and Market Efficiency, Event Studies, Insider Trading, Government Policy and Regulation, Hypothesis Testing: General.

JEL Classification: C61, L91, L98. O33, O38, G14, G18, C12.

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Introduction

The military aggression of the Russian Federation against Ukraine led to a humanitarian catastrophe not only for Ukraine, but it also provoked a global food crisis. The blockage of Ukrainian seaports and the impossibility to export Ukrainian grain and other agricultural products to the world market led to a risk of famine in many countries and a significant increase in world food prices.

Out of the thirteen Ukrainian seaports, only three (Izmail, Reni and Ust-Dunaysk) continued to operate. In accordance with the indicators of cargo handling for 2021, these three ports handled about 3% of the total amount of cargo in the seaports of Ukraine. A critical factor before February 2022 was the significant orientation of cargo flows to maritime transport – about 75% of the total cargo turnover and about 90% for grain and vegetable oil.

The objective limitations of the transport infrastructure of the land routes accessible for cargo transportation after February

2022 did not allow for the transshipment of goods in volumes necessary to compensate for the loss of maritime traffic.

The complexity of the situation, and the impossibility to implement promptly large-scale infrastructure projects to provide for the physical expansion of the needs for logistics infrastructure became evident. Consequently, the Government of Ukraine, the EU, Ukraine's neighboring countries, and many international organizations made efforts to reduce obstacles on these inland routes, which led, in particular, to reduction of losses due to 3.5 times increase of cargo turnover of the Ukrainian ports on the Danube River in January-September 2022 compared to the same period of 2021 – which means an increase of more than 11 million tons.

In addition, independent experts proposed projects aimed at facilitating trade and improving the efficiency of transport processes. In particular, the DUETs initiative (Ukraine-EU Digital Transport Solutions), proposed by experts of the UN Centre for Trade Facilitation and Electronic Business (UN/CEFACT) and supported by the UN Economic Commission for Europe (UNECE) and the International Port Community System Association (IPCSA), aims to apply international standards and best practices to integrate existing and proven solutions in the market and, thereby, eliminate bottlenecks and reduce the obstacles in the transport of goods between Ukraine and the EU.

Despite the positive dynamics of such initiatives, it was not possible to fully compensate for the losses of maritime transport.

The limited capacity of existing transport corridors and the impossibility of radically increasing it by traditional methods in feasible time has led to the need to find ways and approaches to improve the efficiency of the existing logistics infrastructure by trade facilitation and digital transformation of data exchange and business processes.

A significant factor for the re-establishment of exports of Ukrainian agricultural products was the Black Sea Grain Initiative (BSGI) – an agreement signed between the UN, Turkey, and Ukraine (and between the UN, Turkey and the Russian Federation) on July 27, 2022, unblocking the three largest Ukrainian sea ports (Odesa, Chornomorsk and Pivdenny) for grain exports. Already on August 1, 2022, the first ship with grain left the port of Odesa. By the end of December 2022, the BSGI allowed for additional exports of more than 14 million tons of agricultural products. This helped prevent a humanitarian catastrophe in many developing countries and stabilize world grain prices. The logistics corridor within the BSGI began to play an important role in the total volume of Ukrainian exports, and the efficiency of its functioning is critical not only for Ukraine, but for the whole world.

Based on the results of the UN Development Account COVID-19 project on digitalization of multimodal and cross-sectoral data and document exchange (<https://unttc.org/stream/electronic-trade-and-transport-documents-and-data>), following the recommendation of the 2022 UNECE Odessa workshop to support the digitalization of multimodal information exchange in the context of the UN Black Sea Grain Initiative (BSGI) (1), UNECE initiated an assessment to investigate the practical application of the data pipeline concept to data exchange in this emergency corridor to improve the efficiency of this logistics route using UN (UN/CEFACT) standards and recommendations. The UN/CEFACT trade facilitation recommendations (2) (currently over 40) are of utmost importance to government agencies and participants in supply chains, which investigate the development of such data pipeline projects.

Data pipeline concept definition

The assessment included an analysis of the existing flows of documents required for the clearance of goods handled under the BSGI. This included collecting the documents used for clearance under BSGI, extracting the data set from each document and mapping it to the UN/CEFACT Multimodal Transport Reference Data Model (MMT RDM).

The MMT RDM is currently the only functionally complete data model that combines data used by all modes of transport. As part of the hierarchy of UN/CEFACT data models, the MMT RDM provides the possibility to present information exchanged in trade and transport operations along the whole supply chain at both the administrative and business levels. The model also allows for the transformation of data from trade and transport documents into the data model format of the World Customs Organization (WCO DM), which provides a full cycle of data use in the supply chain. The model is based on a harmonized data dictionary – the UN/CEFACT Core Components Library (UN/CEFACT CCL), which allows to represent accurately links to entities from a specific domain area and transform such entities between domain areas (or jurisdictions).

The key concept of the assessment is the use of UN/CEFACT standards and artifacts, such as the MMT RDM, as a holistic set of requirements that provide the possibility to harmonize data stemming from various trade operations, transport modalities and jurisdictions. Based on this concept, the underlying data structure is directly the MMT RDM. Using a single data model for a holistic view of a logistics corridor as an element in an international supply chain allows for a practical approach to the implementation of the data pipeline concept, first introduced by David Hesketh (3) in 2014 and further developed by UN/CEFACT within its “transport and logistics domain” (4). The assessment explores the possibility of practical implementation of the data pipeline concept in compliance with the UN/CEFACT recommendations and standards.

Following the data pipeline concept, data is captured directly at its source and only once. It is reused throughout the supply chain, regardless of the mode of transport, the party or regulator that needs access to this data.

The basic principles of the concept of the data pipelines are as follows:

- Getting data from the right source at the right place and at the right time,
- Data acquisition once and multiple use in the supply chain,
- Passing data to the pipeline at the point of origin,
- Data to be requested from the pipeline on demand and then sent to the recipient upon assessment of their responsibility.

The main goal of data pipelines is to improve the quality of data and ensure its seamless transmission within the information flow of the supply chain by shifting the paradigm from the “documentary” exchange of information to support international trade to the concept of the “datasets”. The key difference between these two concepts is that the documentary model is based on a rigid (paper or electronic) document structure, while the dataset model involves the presentation of information in the form of flexible structures – datasets (business information entities and aggregated business information entities – BIE and ABIE). The latter can be formed based on universal data models on the fly upon request for the information by the recipient in a form that meets the specific requirements of the business process.

For the practical application of the data pipeline concept in a specific logistics corridor, the degree of readiness of the IT systems of its participants is of the essence. The study analyzed the degree of adoption of UN/CEFACT standards in the documents and documentary procedures required for the clearance of goods in the framework of the BSGI. A total of 17 documents were analyzed in 6 domain areas. Further, we will take a closer look at two examples.

Road transport (Consignment note)

The implementation of the electronic road consignment note system (e-TTN) inside Ukraine is carried out in partnership between the Ministry for Communities, Territories and Infrastructure Development of Ukraine and the Ministry of Digital Transformation of Ukraine with the support of the USAID / UK AID project “Transparency and Accountability in Public Administration and Services / TAPAS” and with the participation of the NGO “Institute of Analytics and Advocacy”.

The goals of the project are to reduce the cost of paperwork by participants in the transport process in the amount of UAH 740 million per year and increase the speed of document processing by 90%.

The project involves building a peer-to-peer network of logistics service providers acting as access points for all participants in the transport process (B2B). The role of the State is as follows:

- formation of uniform transparent requirements for the workflow, interaction protocols and the providers,
- creation of a gateway for interaction with the government agencies,
- maintaining a unified register of consignment notes (trust anchor).

Notably, this approach is correlated with the European Regulation on electronic freight transport information (eFTI), which determines the strategic directions for the development of digital logistics in the region.

The second version of the structure of the electronic documents of the project is harmonized with the UN/CEFACT eCMR profile with the participation of UN/CEFACT experts and demonstrates consistency with the standard (according to the classification proposed under UN/CEFACT Recommendation 36 (5)). This approach is justified both from the point of view of ensuring multimodality within Ukraine – to enable interoperability with documents for other modes of transport, and possibility to create a national logistics platform in the future – and from the point of view of cross-border interaction, for example

when introducing an electronic version of the international road consignment note (e-CMR) as well as the requirements of the EU eFTI Regulation ((EU) 2020/1056 (6)).

UNECE, in collaboration with experts from the European Commission and UN/CEFACT organized on 22 December 2022 a webinar for Ukraine to show how the experience in implementing the eFTI Regulation in parallel with supporting UN/CEFACT standards and the MMT RDM. Ms Elisabeth Türk, Director of the UNECE Economic Cooperation and Trade Division, stressed that fragmented digitalization of information flows in the international supply chains makes no sense, hence the usefulness of the global UN/CEFACT semantic standards and reference data models, which provide a common language for electronic interchange. The moderator of the webinar and UNECE Regional Adviser Mario Apostolov noted that the EU's recent Customs Single Window and eFTI Regulations emphasize the need for mapping digitalization solutions to the global standards via the UN/CEFACT reference data models as the glue, providing the basis for interoperability in the supply chain.

Anatolii Komirnyi – Deputy Minister of Communities, Territories and Infrastructure Development of Ukraine for Affairs digital development, digital transformations, and digitalization noted that the application of international standards and tools, in particular those presented by the UN/CEFACT, is a key stone of the digital transformation strategy for public services implemented in Ukraine. Harmonization of requirements for documents and data allows transforming Ukraine's information flows into a legally significant linked chain of the electronic records, and integrate these flows into regional and global projects, such as the European eFTI Regulation, Customs and maritime single window systems, as well as ensure the sustainability of investments in such projects both by the State and by the Ukrainian business.

Thus, this example is positive in terms of readiness to adopt the concept of UN/CEFACT data pipelines as a tool to improve the efficiency of digital transport corridors.

Seaports (Port Community Information System)

In a transport corridor, the port is a point where jurisdiction changes – both national and mode of transport jurisdiction. In a modern port, there are more than 140 points of information interaction within the operational chain of cargo handling.

Port Community Systems (PCS) have become widespread around the world due to increased economic efficiency and improved interaction between public and business parties. The concept of such community information systems has gone far beyond seaports – similar systems are being created at airports (7). The concept of Cargo Community Systems has appeared, covering the handling of goods in certain directions, closely intersecting with the concept of the Transport Corridor Information System (8).

In Ukraine, as in many countries of the post-Soviet area, the need to orchestrate interaction of public and private partners in ports arose only in the 1990s. This, among other factors, made it necessary to learn the rich international experience in building electronic interaction systems in ports, as well as the UN/CEFACT recommendations and EU directives and regulations. As a result, in 2012, with the support of the UNECE, the Port Community Information System (ISPC) project was launched in the seaport of Odessa. Its operation was subsequently extended to all 13 seaports of Ukraine.

The main normative act regulating the work of this port community system is the Decree of the Cabinet of Ministers of Ukraine No. 451 dated 21.05.2012.

A valuable feature of the Ukrainian PCS project was the combination of the positive aspects from two concepts – port single window (PSW) and port community system (PCS), which made it possible to implement both B2B and B2G flows within the framework of a single harmonized information exchange system.

The basis for organizing data processing in the system is the UN/CEFACT Multimodal Transport Reference Data Model (MMT RDM) and the UN/CEFACT Core Components Library (UN CCL). Based on these building blocks, documents and application programming interfaces (API) are implemented to support business processes defined by international agreements and standards, as well as local requirements.

As a result, it was possible to implement the transformation of data between linked records (datasets) in accordance with the documentary flow of cargo handling in the port. As an example, a maritime bill of lading and a cargo manifest for a vessel can be generated based on data from documents available at previous stages of the business process, in particular (road or rail) waybills, acceptance notes, loading orders, etc. Consequently, the Ukrainian Port Community System ISPC (PPL 33-35) is a unique example of the practical implementation of the UN/CEFACT data pipeline concept.

Transformation of the data in datasets

An analysis of the transformation of data in datasets from real-world business documents involved in the cargo handling process in the BSGI logistics corridor allowed to identify several other significant factors influencing the possibility to apply the concept of data pipelines in practice.

Much has already been done to facilitate trade and achieve the digital transformation of processes and data along this logistics corridor. The results of the study showed that most of the documents involved in this supply chain are available in electronic form (either exclusively or in parallel with paper versions). Moreover, the degree of acceptance of international standards in the digitalization projects is significant.

We can argue that a digital logistics corridor (or, more precisely, a digital information flow in this logistics corridor) exists.

The main obstacle that needs to be highlighted from the results of the assessment is the fragmentation of efforts at digitalization, which cut this information flow. Existing electronic documents are de facto used only within the framework of individual local business transactions and are not transferred along the entire corridor from its beginning to the end. In some cases, data in derived documents is automatically converted from the source documents, as in the ISPS. In other cases, data in derived documents is not automatically converted from the source documents and re-entered manually. This cancels much of the benefit offered by the UN/CEFACT data pipeline concept.

The use of local code lists that are not harmonized with international requirements also complicates the automation of the process of converting data between trade and transport documents within the supply chain, even in the case of unambiguous identification of the data attribute class.

It is important to emphasize the key role of the State in supporting the utilization of already implemented projects and the development of new ones, which will accelerate the process of digital transformation of processes and data in a significant part of business operations.

Conclusions

Our analysis allowed to identify both strengths and obstacles on the way to the implementation of a seamless data pipeline in the supply chain of goods exported under the Black Sea Grain Initiative. As a result, we formulated several recommendations aimed at the practical implementation of mechanisms that promote trade facilitation and harmonization of electronic data exchange using UN/CEFACT global standards for transport, trade, and logistics. The harmonization of data sets with the UN/CEFACT data models hierarchy demonstrates the feasibility of providing better quality data from trade and transport documents to regulatory agencies to deliver their decision-making and control functions. The use of data pipelines, as a step in the digital transformation process, is an effective tool for increasing the efficiency of the supply chain through the seamless transformation of data presented in the form of linked datasets (records).

The data pipeline concept is still a desirable objective for the BSGI, Ukraine, and the region. Yet with every step in building harmonized data exchanges, using the UN/CEFACT standards, we are getting closer to it, as our study demonstrates. It cites the concrete actions that need to be taken in this direction.

The authors express the hope that this work will help mitigate the global food security crisis caused by the military aggression of the Russian Federation against Ukraine and strengthen Ukraine's position as a trade hub using UN standards.

The full version of the assessment report will be published on the <https://unttc.org/stream/electronic-trade-and-transport-documents-and-data> site.

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ДОСЛІДЖЕННЯ ЄЕК ООН ЩОДО ПРАКТИЧНОГО ЗАСТОСУВАННЯ КОНЦЕПЦІЇ КОНВЕЄРУ ДАНИХ ДЛЯ ПІДВИЩЕННЯ ЕФЕКТИВНОСТІ ЗЕРНОВОГО КОРИДОРУ ВИКОРИСТАННЯМ СТАНДАРТІВ СЕФАКТ ООН

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Мета. У цій статті описано результати дослідження ЄЕК ООН щодо можливості практичного застосування концепції конвеєру даних. Сферою оцінки є гуманітарний транспортний коридор в рамках Чорноморської зернової ініціативи (ЧЗІ). Ефективність цього транспортного коридору має виняткове значення у зв'язку з політичною та економічною ситуацією в країні та її впливом на світову продовольчу безпеку. Основною метою проєкту було виявлення способу підвищення ефективності цього транспортного коридору через спрощення процедур торгівлі та цифрову трансформацію обміну даними та бізнес-процесів. Концепція конвеєрів даних була представлена в 2014 році і до цього часу активно розробляється СЕФАКТ ООН. Авторський підхід розвиває попередні результати роботи над транспортним коридором ГУАМ, такі як функціональна трансформація наборів вимог до даних і концепція розподілених перетворювачів. Автори також використовували власний досвід від участі в кількох проєктах «єдиного вікна» у морській та портовій сфері та вплив Європейського регламенту eFTI.

Ключовою концепцією дослідження є використання стандартів та артефактів СЕФАКТ ООН як цілісного набору вимог, які забезпечують можливість узгодження даних, що створюються різними торговельними операціями, видами транспорту та юрисдикціями.

Методи. Під час цього дослідження для оцінки можливості практичного застосування концепції що описано було використано методи аналізу даних аналізу відповідності.

Результати. Ключовим результатом дослідження є визначений підхід до практичного впровадження IT-рішення для певного транспортного коридору (ЧЗІ), який також можна використовувати на інших транспортних коридорах. Іншими результатами є набір даних для транспортного коридору ЧЗІ, зіставлений з канонічною еталонною моделлю даних СЕФАКТ ООН, результати аналізу відповідності, виявлення вузьких місць і рекомендації.

Висновки. Автори розвинули власний підхід щодо застосування стандартів і рекомендацій СЕФАКТ ООН загалом і, зокрема, концепції конвеєру даних для практичних проєктів, спрямованих на спрощення торговельних і транспортних процедур. Це дослідження показує можливість практичної реалізації підходу та може бути використано як дорожня карта для пілотування реальних проєктів, а також як основа для наступних досліджень в цій галузі.

Ключові слова: методи оптимізації; моделі програмування; динамічний аналіз, транспортні засоби, транспортні засоби; державна політика і регулювання, науково-технічний прогрес: вибори і наслідки; процеси поширення, науково-технічний прогрес: політика уряду, інформаційна і ринкова ефективність, дослідження подій, загальні фінансові ринки: державна політика і регулювання, перевірка гіпотези.

COMPONENTS OF THE EU'S PUBLIC ADMINISTRATION FOR THE AGRICULTURAL ECONOMY SECTOR

The importance of agriculture for society goes far beyond safe and healthy food provision or jobs promotion. The EU is one of the world's leading producers and exporters of agricultural products. The effective public administration of agriculture as a whole and agro – exports in particular gains increasing importance in the current disruptive times. The following goals have been stated while conducting the presented research – to analyse the institutional and normative – legal components for the EU's public administration of the agricultural economy sector and to assess its effectiveness through the analysis of the extra-EU27 agricultural products exports by products type. The time frame under analysis is ten years from the year 2012 to 2021 included. The agricultural products are used in the sense of Groups 0 (Food and live animals) and 1 (Beverages and tobacco) of the Standard International Trade classification (SITC). In order to achieve the research goals and make the analysis more profound, the following research methods and techniques were used – dialectic method, analytic generalization method, empirical analysis, trend analysis, comparative analysis, statistical analysis, data visualization tools, etc. The research results indicate, that the extra – EU27 Product 0 exports dynamics is upward through the whole time frame under analysis, while the one of Product 1 has the same dynamics with two exceptions of its decrease in 2014 and 2020. The trend lines are upward through the analysed timeframe and the next two years taken for the projection making in both data sets under research. The research results allow us make the conclusion about the public administration of the EU's agricultural economy sector being effective with its institutions working efficiently and the policies composed and implemented in the best appropriate way. The research presented in the paper as well as its results are of great theoretical interest and practical usefulness for public administrators of all the levels, agricultural and industrial enterprises connected with agriculture, institutions and organizations employees indulged in agriculture and agricultural products trade, decision and policy makers, academic community representatives as well as statisticians and data analysts.

Key words: public administration, CAP, agriculture, the EU, agricultural products exports, DG AGRI, Farm to Fork strategy

JEL Classification: F17, F53, H59, H83, Q1, Q17, Q18

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Introduction

The importance of agriculture for society goes far beyond safe and healthy food provision or jobs promotion in farming itself as well as in agri-food and associated industries, because agriculture has a direct and indirect impact on the viability of rural areas, the scenic value of landscapes, climate change processes, water quality, ecosystem services as well as Europe's heritage preservation (European Commission, 2020(b)). Thanks to its varied climate, fertile soil, the technical skills of its farmers and the quality of its products, the EU is one of the world's leading producers and exporters of agricultural products (European Union, n.d.). The EU agricultural production is dominated by livestock products (including dairy), grains, vegetables, wine, fruits, and sugar, while the major export commodities include grains (wheat and barley), dairy products, poultry, pork, fruit, vegetables, olive oil, and wine (ERS/USDA, 2022).

As the agriculture in general and therefore the exports of the agricultural products in particular has such a vital importance either for the world as a whole or for every single human being, there are plenty of scientific works, in which different aspects of agriculture, agro – exports, etc. were researched by the academics. Among those

worth paying attention at are Stiglitz J. E., De Pauw E., Göbel W., Adam H., Ayer H. W., Schuh G. E., Pierce F. J., Nowak P., Krishna R., Rösch M., Abolagba E. O., Onyekwere N. C., Agbonkpolor B. N., Umar H. Y., Pick D. H., Park T. A., Ferro E., Otsuki T., Wilson J. S., Barham B., Clark M., Katz E., Schurman R. and others. The topicality of the presented research goes without saying, taking into account the vital significance of both agriculture as an economy sector and agricultural products exports as a means of food security provision, the effective public administration of the said economy spheres gains increasing importance especially nowadays, when humanity is facing more and more challenges threatening its functioning and even existence. As the representatives of the academic community have always been on the edge of the humanity problems trying to research and find solutions for them, many of the scientists are interested in the public administration structure, functioning, peculiarities, etc. The academics indulged into different aspects of the EU's public administration are Thijs N., Hammerschmid G., Palaric E., Zahariadis N., Wright V., Trondal J., Peters B. G., Pierre J., Radaelli C. M., Van de Walle S., Saurugger S., Nunberg B., Torres L., Pina V., Kuhlmann S. and others. As far as we can see the available scientific works contain research on agriculture/agricultural products exports and public administration analysed separately, that, in turn, may be presented as a knowledge gap, the research presented in the paper tried to fulfil. The attempt to combine the research of public administration and agricultural products exports, while analysing the effectiveness for the functioning of the former through the analysis of the latter is considered to be the novelty of the given research. Therefore, the following goals have been stated while conducting the presented research – to analyse the institutional and normative – legal components for the EU's public administration of the agricultural economy sector and to assess its effectiveness through the analysis of the extra-EU27 agricultural products exports by products type.

In order to achieve the research goals and make the analysis more profound, the following research methods and techniques were used – dialectic method, analytic generalization method, empirical analysis, trend analysis, comparative analysis, statistical analysis, data visualization tools, etc. The time frame under analysis is ten years from the year 2012 to 2021 included. The EU27 is used in the meaning of 27 member states of the European Union – Estonia, Italy, France, Finland, Lithuania, Belgium, Malta, Latvia, Slovenia, Hungary, Bulgaria, Cyprus, Austria, Germany, Luxembourg, Netherlands, Denmark, Greece, Croatia, Ireland, Portugal, Czech Republic, Spain, Slovakia, Poland, Romania and Sweden. Extra – EU exports means exports of the European Union outside the EU and is calculated as the amount of the whole EU exports minus intra-EU ones. The agricultural products are used in the sense of Groups 0 (Food and live animals) and 1 (Beverages and tobacco) of the Standard International Trade classification (SITC). The formula for a polynomial function of order 2, used to build the trend line with the projection for the next two periods for extra-EU27 Product 0 exports, is the following one:

$$y = a_2 \times x^2 + a_1 \times x + b, \quad (1)$$

where ' a_2 ', ' a_1 ' and ' b ' are calculated parameters of the function (also named function coefficients or constants) that describe the relationship between 'x' and 'y' (Officetooltips, n.d.).

The exponential function used to build the trend line and make two years projection for extra-EU27 Product 1 exports is of the following formula:

$$f(x) = b^x, \quad (2)$$

where ' b ' is a constant and ' x ' is a variable (Cuemath, n.d.).

Results and Discussion

Food, along with clean water, drives the world; that's why access to adequate food is the primary concern for most people on earth, that, in turn, makes agriculture one of the largest and most significant industries in the world (Simpson, 2022). Apart from its vital significance for the humanity as a whole, agriculture and food related industries and services provide over 44 million jobs in the EU alone, including regular work for 20 million people within the agricultural sector itself (European Union, n.d.). The EU food and drink industry works closely with farmers to facilitate the supply of safe and sustainable agricultural raw materials (Fooddrinkurope, n.d.). not only inside, but outside the union as well.

The public administration of such an important and promising economy sphere as agriculture is rather complicated, especially taking into account the supranational level for administration of major functioning spheres of the European Union. The institutional component of the EU's public administration for

agriculture is represented by the Directorate-General for Agriculture and Rural Development (DG AGRI), which has such activities scope as:

- the implementation of the Common Agricultural Policy (CAP);
- the contribution to the Instrument for Pre-accession assistance (through IPARD1);
- programming and monitoring of the agricultural research as well as participation in the implementation of the Horizon 2020 Framework Programme for Research and Innovation;
- the conduction of the policy and economic analysis, evaluation and impact assessments as the formulation and implementation of the CAP;
- the legislative proposals preparation and their implementation monitoring to ensure their harmonised application;
- the management of the European Commission regulations laying down detailed implementing rules for them as well as their adaptation over time;
- handling various kinds of infringements, the *acquis* implementation control as well as complaints and Ombudsman inquiries;
- the verification of the conditions under which payments and controls have been carried out by the EU Member States;
- the contribution to the negotiations and implementation of international agreements as well as the management of the relations with third countries related to agriculture (European Commission, 2020(b)).

A rather illustrative example of the normative – legal component for the public administration of the EU's agricultural economy sector is Strategic Plan 2020–2024: Directorate-General for Agriculture and Rural Development – the document, that either develops the specific objectives through which the Directorate-General contributes to the achievement of the Commission's general objectives, delivering on the Commission's priorities, or shows how the DG AGRI helps modernising the agricultural economy sector administration (European Commission, 2020(b)). In addition, the Strategic Plan also shows the strategic importance of the Common Agricultural Policy (CAP) for European Union (EU) citizens and the central role of DG AGRI in ensuring an effective and efficient implementation of the policy (European Commission, 2020(b)).

As an integral part of the normative – legal component of the public administration for the EU's agriculture, different policies are to be considered as being a direction pointer as well as the guide to action to develop the European agriculture in an upward way, transferring it into a more sustainable economy sector. Having in mind everything stated above, the new CAP has been discussed and further introduced on the supranational level. The European Commission considers the CAP reform proposal to be compatible with the Green Deal's ambitions as the one being based on the flexible, performance and results-based approach that takes into account local conditions and needs, while increasing EU level ambitions in terms of sustainability and complemented by the new CAP tools (European Commission, 2020(c)).

In accordance with another EU policy, the Green Deal, all the EU Member States pledged to reduce emissions by at least 55% by 2030, compared to 1990 levels as it will create new opportunities for innovation development and investment increase as well as create jobs, motivate growth, address energy poverty, reduce external energy dependency and improve people's health and well-being (European Commission, n.d.(b)). The new CAP and the Green Deal have nine common objectives, which cover, among the others, economic, social and environmental dimensions, having the aim to increase the contribution of the EU agriculture to climate change action, improve the natural resources management, ensure a fair income for farmers as well as reinforce the biodiversity protection (European Commission, 2020(a)). The European Green Deal also contains a set of initiatives, aiming at making food systems fair, healthy and environmentally- friendly. That mentioned set is called the Farm to Fork Strategy, having its goal in accelerating the transition to a sustainable food system, that, in turn, should:

- have a neutral or positive environmental impact;
- help mitigate climate change and adapt to its impacts;
- reverse the loss of biodiversity;
- ensure food security, nutrition and public health, making sure that everyone has access to sufficient, safe, nutritious, sustainable food;
- preserve affordability of food, while generating fairer economic returns, fostering competitiveness of the EU supply sector and promoting fair trade (European Commission, n.d.(d)).

To further research the EU's agro – policies, it should be noted, that one of the central components of the European Green Deal is the biodiversity strategy, by implementing of which the European

Commission aims to ensure the EU's agriculture strong contribution to the agricultural biodiversity of the European Union (European Commission, n.d.(c). In addition, the European Commission set the target of 'at least 25% of the EU's agricultural land under organic farming and a significant increase in organic aquaculture by 2030' under the Green Deal's Farm to Fork strategy. In order to achieve the said target as well as to help the organics sector reach its full potential, the European Commission put forward an action plan for organic production in the EU, in the course of which, the European Commission, the European Economic and Social Committee (EESC), the European Committee of the Regions (CoR), COPA-COGECA and IFOAM Organics Europe launched the first EU organic awards, with the aim to recognise excellence along the organic value chain, rewarding the best and most innovative actors in the EU organic production (European Commission, n.d.(g). The action plan mentioned above is divided into three interlinked axes that reflect the structure of the food supply chain and the Green Deal's sustainability objectives, which are:

- axis 1: stimulate demand and ensure consumer trust;
- axis 2: stimulate conversion and reinforce the entire value chain.
- axis 3: improve the contribution of organic farming to environmental sustainability (European Commission, n.d.(a).

Besides, the European Commission announced two pesticide reduction targets in May 2020, as a part of the Farm to Fork strategy. To be more precise, the Farm to Fork and Biodiversity Strategies set two key targets for pesticides, incorporating the following ones:

- target 1: to reduce by 50% the use and risk of chemical pesticides by 2030;
- target 2: to reduce by 50% the use of more hazardous pesticides by 2030 (European Commission, n.d.(e).

As food safety is not less important than food security, the requirements of the nutrition labelling was implemented in the EU, according to which the nutrition declaration is to be provided on every food package as to the requirements of the Regulation (EU) № 1169/2011 adopted in December 2016, in which it is stated, that such information as the energy value and the amounts of fat, saturates, carbohydrate, sugars, protein and salt of the food is to be presented in a legible tabular or linear format on the back of food packaging. The said information must be expressed per 100g or per 100ml or, in addition, per portion or per consumption unit of the product (European Commission, n.d.(f).

Another EU policy, that aims to promote a more sustainable agriculture production for agri – products of better quality either for the intra-EU consumption or intra – and extra-EU exports, increasing alongside the EU competitiveness on the global agro – market, is the EU agricultural promotion policy. The mentioned policy is designed to open up new market opportunities for the EU farmers as well as for agriculture and the industries connected with it, helping them build their existing business (European Commission, n.d.(h). The practical results of the public administration in general are difficult to be accessed directly. That's why the public administration for the EU's agriculture effectiveness is to be accessed indirectly by means of the extra – EU27 agricultural products exports dynamics by products type (Figure 1).

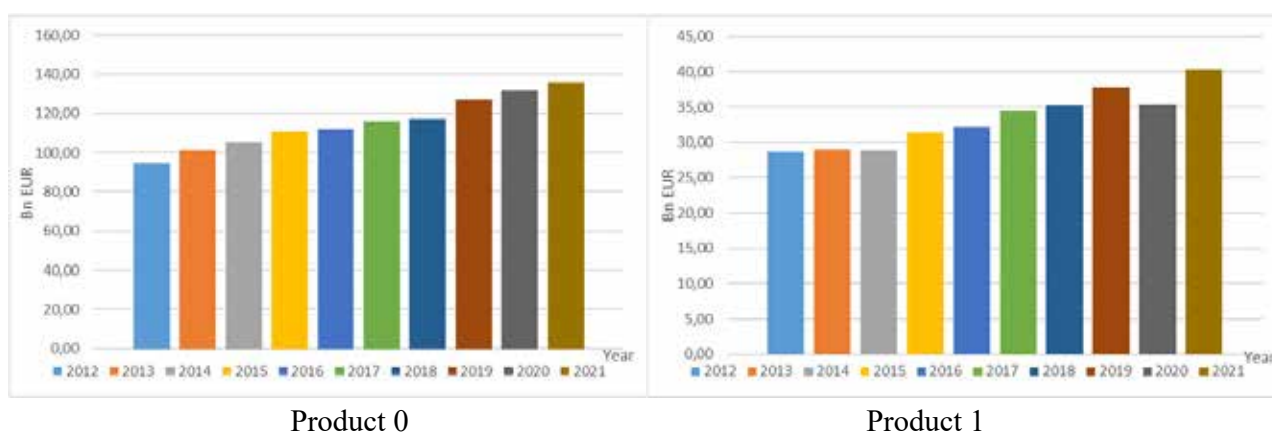


Figure 1. Extra – EU27 Exports of Agricultural Products by Product Type, Bn EUR

Source: author's elaboration based on the data from (Eurostat, 2022(b).

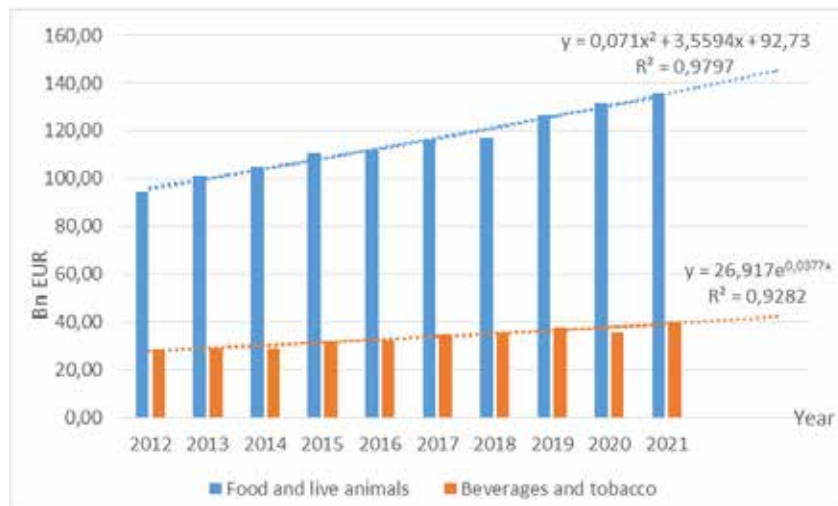


Figure 2. Extra – EU27 Exports of Agricultural Products by Product Type with Trends and Projections, Bn EUR

Source: author's elaboration based on the data from (Eurostat, 2022(b)).

Having observed the data visualized in the figure given above, we see an obvious similarity in the data dynamics being researched, at least, from the first sight. The closer look reveals the difference of the said dynamics for Product 1 if compared to that of Product 0, meaning – the Product 0 exports dynamics is upward through the whole time frame under analysis, while the one of Product 1 has the same dynamics with two exceptions of its decrease in 2014 and 2020. The explanation of the mentioned exports decrease in 2020 may be the consequences of the COVID-19 pandemics, while the ones for 2014 is not quite obvious – was that because of the administration peculiarities for Greece taken over the European union presidency or Latvia's adoption of euro as a national currency, etc. The similarities between the exports dynamics of Products 0 and 1 take their place in terms of their smallest and biggest values – in both cases the smallest exports values can be observed during the first year under research while the biggest values – during the last analysed year. Another observation, that will add to the data analysis, is that the biggest positive change of the extra-EU27 Product 0 exports can be noted in 2013, while the smallest positive one – in 2018. As it has already been stated above, the extra-EU27 Product 0 exports dynamics is upward through the whole time frame under analysis, therefore there are no negative changes of the said exports amount. In the case of extra-EU27 Product 1 exports, the biggest positive change can be noted in 2021 while the smallest one – in 2013. The biggest negative change was in 2020, while the smallest one – in 2014. To make the data analysis more profound, the trend line of the researched data dynamics through the analysed time frame as well as for the next two periods of time taken for the projection was built and visualized by product type in Figure 2.

Having observed the data visualized in the figure given above, it should be stated, that the trend line for the extra-EU27 Product 0 exports was built with the help of the polynomial function, while the one for Product 1 – with the help of the exponential function. The used functions have been chosen from the exponential, linear, logarithmic, polynomial and power ones judging by the values of the R^2 coefficient. The trend lines are upward through the analysed timeframe and the next two years taken for the projection making in both data sets under research, though the trend line of the Product 0 exports is steeper if compared to that of Product 1. The projection amount of Product 0 for the next two periods is supposed to be higher according to the trend line direction, while the one for Product 1 – of the same amount or a little bigger if compared to the one of 2021, under the circumstances unchanged.

Conclusions

Over the past eight years, hunger and malnutrition have been rising steadily, reversing several decades of progress with climate change and the Covid-19 pandemic further exposing the challenges of the global food system to feed an increasing population in a sustainable manner (Members' Research Service, 2022). Thereby, the subjects of the agricultural products market having potential to supply their compatriots with a sufficient amount of food in the agro – exports form acquire an increasing authority on the global

economic and political stages. The effective public administration of agricultural economy sector is the direct way to the agro produce increase, creating enough production surplus to export more.

As the European Union is one of the biggest agro producers and exporters, the way the union administers the said economy sector as well as what consequences the said administration has on the agro – products exports have been researched as that being of great interest and usefulness. In this manner, in 2021, the extra-EU trade in agricultural products accounted for 8.1% of the total extra-EU international trade in goods at the same time as between 2002 and 2021, the EU trade in agricultural products more than doubled, equivalent to an average annual growth of 4.8% (Eurostat. (2022)(c). In this period, exports (5.4%) grew faster than imports (4.2%) (Eurostat. (2022)(a). In addition, in the very year 2021, the value of trade (imports plus exports) of agricultural goods between the EU and the rest of the world hit €347.0 billion, €20.7 billion more than in 2020 as the EU exported €196.9 billion worth of agricultural products and imported €150.0 billion, generating a surplus of €46.9 billion (Eurostat. (2022)(a).

Such an export performance has been driven mainly by the EU agricultural policies, structural change and technological progress in the agri-food sector, as well as EU trade policies. As the EU market is relatively saturated, income and employment in the EU agri-food sector are dependent on access to export markets (European Commission, 2016). The EU financially supports its farmers and encourages sustainable and eco-friendly practices, while also investing in the development of rural areas, with the EU institutions collaborating on food and farming policy-making, implementing, monitoring and evaluating it (European Union, n.d.). More precisely, the institutional component of the EU's public administration for agriculture is represented by the Directorate-General for Agriculture and Rural Development (DG AGRI). An example of the normative – legal component for the public administration of the EU's agricultural economy sector is Strategic Plan 2020-2024: Directorate-General for Agriculture and Rural Development. The integral part of the normative – legal component of the public administration for the EU's agriculture, the following policies are to be considered the direction pointer as well as the guide to action to develop the European agriculture in an upward way, transferring it into a more sustainable economy sector – CAP, the European Green Deal, the biodiversity strategy, Farm to Fork strategy, the EU agricultural promotion policy, etc.

The practical results of the public administration for the EU's agriculture effectiveness were accessed by means of the extra – EU27 agricultural products exports dynamics analysis by products type. The extra – EU27 Product 0 exports dynamics is upward through the whole time frame under analysis, while the one of Product 1 has the same dynamics with two exceptions of its decrease in 2014 and 2020. The trend line for the extra-EU27 Product 0 exports was built with the help of the polynomial function, while the one for Product 1 – with the help of the exponential function. The trend lines are upward through the analysed timeframe and the next two years taken for the projection making in both data sets under research, though the trend line of the Product 0 exports is steeper if compared to that of Product 1. The projection amount of Product 0 for the next two periods is supposed to be higher according to the trend line direction, while the one for Product 1 – of the same amount or a little bigger if compared to the one of 2021, under the circumstances unchanged. The research results given above allow us make the conclusion about the public administration of the EU's agricultural economy sector being effective with its institutions working efficiently and the policies composed and implemented in the best appropriate way. Nevertheless, in order to make Europe even stronger on the world scene, the EU's main objectives, among the others, are to strengthen its global leadership, to promote free trade in agriculture, becoming the global standard for sustainability (European Commission. (2020)(b). The research presented in the paper as well as its results are of great theoretical interest and practical usefulness for public administrators of all the levels, agricultural and industrial enterprises connected with agriculture, institutions and organizations employees indulged in agriculture and agricultural products trade, decision and policy makers, academic community representatives as well as statisticians and data analysts.

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СКЛАДОВІ ПУБЛІЧНОГО УПРАВЛІННЯ АГРАРНИМ СЕКТОРОМ ЕКОНОМІКИ ЄС

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Важливість сільського господарства для суспільства виходить далеко за межі забезпечення здоровими продуктами харчування та сприяння створенню робочих місць. ЄС є одним із провідних світових виробників та експортерів сільськогосподарської продукції. Ефективне державне управління сільським господарством у цілому та аграрним експортом зокрема набуває все більшого значення в нинішні неспокійні часи. При проведенні представленого дослідження були поставлені наступні цілі – проаналізувати інституційні та нормативно-правові складові публічного управління аграрним сектором економіки ЄС та оцінити його ефективність шляхом аналізу експорту сільськогосподарської продукції з країн ЄС-27 за типом продукції. Аналізовані часові рамки становлять десять років – з 2012 по 2021 рік включно. Сільськогосподарська продукція використовується, як така, що входить до груп 0 (харчові продукти та живі тварини)

та 1 (напої та тютюн) Стандартної міжнародної торгової класифікації (SITC). Для досягнення цілей дослідження та поглиблення аналізу були використані наступні методи та прийоми наукових досліджень – діалектичний метод, метод аналітичного узагальнення, емпіричний аналіз, аналіз трендів, порівняльний аналіз, статистичний аналіз, засоби візуалізації даних, тощо. Результати дослідження вказують на те, що динаміка експорту екстра-ЄС27 продукту 0 є висхідною протягом усього аналізованого періоду часу, тоді як експорт продукту 1 має таку саму динаміку за двома винятками – у 2014 та 2020 роках.

Лінії тренду є висхідними протягом досліджуваного періоду часу та наступних двох років, взятих для складання прогнозу в обох аналізованих наборах даних. Результати дослідження дозволяють нам зробити висновок про ефективне публічне управління аграрним сектором економіки ЄС із оперативним функціонуванням його інституцій та найкращим чином розробленими та реалізованими політиками та стратегіями. Дослідження, представлене у статті, а також його результати, становлять великий теоретичний інтерес і практичну цінність для управлінців усіх рівнів, сільськогосподарських і промислових підприємств, пов'язаних із сільським господарством, працівників установ й організацій, які займаються сільським господарством і торгівлею сільськогосподарською продукцією, політиків, представників академічної спільноти, а також початківців та досвідчених спеціалістів у галузі статистики та аналізу даних.

Ключові слова: публічне управління, САП, сільське господарство, ЄС, експорт сільськогосподарської продукції, DG AGRI, стратегія «Від ферми до виделки».

FACTORS OF INCREASING THE EFFICIENCY OF AUDIT CONTROL IN THE CUSTOMS SPHERE

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

Building an effective system of preventing and counteracting threats to economic security is one of the most important tasks of public administration, and the state of security can be achieved only under the conditions of risk management and taking appropriate measures to overcome it: optimization, avoidance, prevention, acceptance. One of the important components of the economic security of the country is an effective customs control. Such threats to customs security as inefficient work of the customs and the corresponding low level of quality of customs control and clearance may adversely affect a number of indicators of the Ukrainian economy: increase the budget deficit, inflation, reduce the solvency of the real sector of the economy, the country's creditworthiness, contribute to devaluation in the foreign exchange market and others. On the other hand, the improvement of economic security of Ukraine depends on the introduction of new mechanisms of public administration, including those in the field of customs control. Therefore, we consider the issue

of improving the existing mechanisms and finding modern tools for effective customs control, which is focused on the stage after the release of goods, taking into account the best international practices, to be fundamental.

State of the research. Modern scientists have devoted scientific works to the analysis of the forms and methods of customs audit activities, as well as the problems of improving the efficiency of its results: L.O. Batanova, I.G. Berezhnyuk, O.M. Vakulchyk, L.V. Gutsalenko, A.D. Voitseshchuk, L.M. Dorofeieva, O.L. Koptseva, V.P. Martyniuk, U.O. Marchuk, I.V. Nestorishen, O.I. Omelchenko, P.V. Pashko, T.V. Ruda, V.A. Turzhansky, M.O. Kharkavy, A.V. Khomutenko, V.P. Khomutenko. Despite a sufficiently large number of developments on the outlined issues, we are convinced that there is still a need for a modern analysis of international and European standards of customs audit, identification of problematic issues of customs post-release control and the search for the main directions of improving the effectiveness of audit control in the customs sphere.

Summary. Threats to the economic security of Ukraine are defined as factors that directly or in the future make it impossible or complicate the realization of national economic interests, creating obstacles to the normal development of the economy and a threat to the independent state existence and well-being of the people (Skliar, 2015:53). Threats to the national interests and national security of Ukraine in the economic sphere in recent years are: a significant amount of the state budget deficit, a high level of «shadowing» of the economy, excessive dependence of the national economy on foreign markets, loss of budget revenues due to the widespread phenomena of «gray» imports and smuggling. Thus, according to the information published by the International Association of Certified Public Accountants, five years ago the level of shadow economy of Ukraine amounted to UAH 1.95 trillion or 45.96% of the Ukrainian GDP, which included it in the ranking of countries with the largest share of the shadow economy. According to Transparency International estimates, the level of shadow economy in Ukraine is 30% of GDP. According to the Ministry of Economy, it amounted to 31% of the official GDP in 2020 (Shadow Economy, 2020). The state of foreign economic security during 2010-2019 was assessed as dangerous (On the decision of the National Security and Defense Council of Ukraine of August 11, 2021). Thus, the search for new approaches to the organization of the work of modern customs, focused on the facilitation of international trade, is an important element in the system of minimizing, blocking, preventing and countering threats to economic security.

At the same time, it is also necessary to take into account the threats that have significantly complicated economic security over the past 5 years: military aggression, loss of purchasing power and investment attractiveness of Ukraine, deterioration of macroeconomic indicators, curtailment of industrial production, increased debt pressure (Makarchuk, 2015: 88). One of the main factors for an investor when choosing a country to invest in is the clarity and compliance with international standards of the tax and customs system, including the rules and procedures for conducting inspections by regulatory authorities. Therefore, effective customs control is one of the important components of the economic security of the country, and the improvement of economic security of Ukraine depends on the introduction of new mechanisms of public administration, including in the field of customs audit.

Customs post-release control

Within the framework of this study, we consider the issue of improving the existing mechanisms and finding modern tools for effective customs control, which is focused on the stage after the release of goods, taking into account international standards, to be fundamental. Due to a number of changes in the organization and implementation of customs control that have taken place under the auspices of the WCO over the past fifty years, a significant amount of procedures of the controlling authorities has been gradually transferred to the stage after the release of goods and a system of risk management of violations of customs legislation has been created.

In accordance with international standards and successful foreign practices, inspections within the framework of customs post-release control are carried out using a system of selection of entities for inspections based on risk management. The results of the inspections, respectively, are taken into account in the further formation of risk profiles. Scientists give «post-audit» an important place in the application of the risk management system and call it «the main element of further improving the efficiency of customs authorities» (Sheremetynska, 2016), with which we fully agree. Accordingly, the development and implementation of a risk management system for customs post-release control is an important determinant of the development of the customs system, the implementation of international standards and the satisfaction of economic interests.

Global implementation of the risk management system was introduced by the WCO Framework of Standards to Secure and Facilitate Global Trade and the International Convention on the Simplification and Harmonization of Customs Procedures. In addition, the application of the risk system was provided for by the Community Customs Code.

The WCO defines customs risks as the potential for non-compliance with customs legislation. According to the EU Customs Code, «risk» means the probability and impact of an event that may arise in relation to the import, export, transit, transfer or end use of goods moving through the customs territory or beyond, which may interfere with the correct application of customs control measures, jeopardize the financial interests of the EU and its Member States, and pose a threat to the security and protection of the EU. As for Ukraine, well-known theorists and practitioners of customs affairs Polischuk A., Pashko P., Semka S., Chentsov V. noted that the risk management system allows optimal use of the resources of customs authorities, while not reducing the effectiveness of customs control, including by abandoning excessive bureaucratic control (Risk Management in Customs: Foreign Experience and National Practice, 2014:55-56).

International standards of risk management in the field of customs control

The role and place of risk management in the customs control system is regulated by key international documents on customs affairs.

The SAFE Framework of Standards to Secure and Facilitate Global Trade and the Standard Rules of the International Convention on the Simplification and Harmonization of Customs Procedures regulate the application of the risk management system in customs control. It is determined that the risk management system is based on a set of tools for assessing the likelihood of non-compliance with the law, in order to identify potentially dangerous goods and vehicles, includes a mechanism for validating threat assessments, identifying objects of inspections and determining the most effective methods of work (International Convention on the Simplification and Harmonization of Customs Procedures, 1973; WCO Framework of Standards to Secure and Facilitate International Trade, 2005). These international rules are based on the customs risk management standard ISO 31000:2018.

According to Article 46 of the EU Customs Code (The Union Customs Code, adopted as Regulation (EU), 2013), customs control is carried out using a risk management system. The risk management system is based on the introduction of common criteria and standards for risk assessment, control measures, priority areas of control and the exchange of information on risks and the results of risk analysis between customs administrations. It is determined that the criteria can be developed both at the national level and at the international or EU level. The information obtained from the results of inspections should be taken into account in the risk management system for customs clearance and the system of selection of enterprises for customs audit. Standard 14 of the Customs Blueprints duplicates the already mentioned norm and stipulates that the audit of enterprises and operations should be carried out in relation to those with a high level of risk (Customs Blueprints, Pathways to modern customs. Luxembourg: Office for Official Publications of the European Communities, 2007).

In national legislation, there is no interpretation of the «risk management system», while there is a need to unify and define its components for a common understanding of the essence and characteristics in the course of scientific research and practice. The author, taking into account the norisk management system of international documents and research of scientists, proposes to define the «risk management system» in the context of customs control as «a set of tools, methods and actions used to detect, identify, formalize and systematize signs of violation of the legislation of Ukraine on state customs affairs, and ensure the implementation of selectivity of customs control and increase its efficiency».

Considering the experience of other countries in building a risk management system, attention should be paid to the interaction of risk management systems during and after the release of goods. The customs administration of the Federal Republic of Germany has implemented separate risk management systems used during pre-release control, during customs control, clearance of goods, passage of goods, vehicles across the customs border and after release of goods. Subjects of foreign economic activity for customs post-release control, in accordance with international standards, are selected using an automated risk management system: 90% by means of the risk management system and 10% by random selection. At the same time, the number of inspections is selected immediately taking into account the number of employees to form a balanced workload. The formed list of selected entities is adjusted by the employees of audit departments taking into account the relevance of a particular audit. At the same time, such inspections are carried out annually in respect of 2-3% of the entities registered by the customs.

A unified risk analysis system has been developed for the customs administration of the Republic of Lithuania, which integrates several modules – for risk management during pre-release customs control, during customs control and clearance and after release of goods. The system contains lists of criteria, risk profiles, which are evaluated on a point scale of «significance» and «probability» of risks. In addition, the system has a built-in functionality of automatic updating of the relevant scores of criteria, risk profiles after their development, taking into account the positive or negative results. That is, the information obtained from the results of customs control and clearance is taken into account in the formation of risks for the selection of entities for inspections after the release of goods, and the results of inspections are taken into account in the formation of criteria, risk profiles that are triggered during customs control and clearance. Similar systems for the selection of foreign economic operators for customs post-release control are used in other EU member states.

Problems of risk management in the field of customs audit in Ukraine

The Customs Code of Ukraine, according to the author's opinion, gives not enough attention to the issue of risk management, and the definition of the term «risk» available in it, firstly, does not take into account cases of non-compliance with international legislation on customs issues, and secondly, does not cover possible violations of rules, legislation on other branches of law, which may result in violations of customs legislation. Control with the use of the risk management system is limited to risk assessment by analyzing the submitted documents in a particular case of movement of goods, commercial vehicles across the customs border of Ukraine. At the same time, the study of possible risk during customs post-release control is not limited to the analysis of the submitted documents, but also includes the study of all operations and tax history of the entity, comparison of indicators of operations and activities of different entities, assessment of available information and information received from other state and foreign authorized bodies, etc.

In practice, the State Customs Service has no appropriate software and methodology for risk management for customs post-release control, including customs audit. There is no technical possibility to automatically accumulate detailed information on the conditions under which the risks were triggered during customs control and clearance of goods, detected violations or confirmation of the absence of violations established by the results of previous control and verification measures identified by other units or state bodies, the results of the appeal procedure.

The effective operation of the risk management system is the determining basis for reducing the time of customs clearance and passage of goods and vehicles across the customs border. Therefore, the development and implementation of a system for managing risks during post-release control, as well as taking into account the results of post-release control in such an ASUR is an important component in ensuring state control in the modern realities of international trade.

In order to analyze the actual work processes related to risk management and selection of foreign economic operators in the framework of documentary inspections, we applied the modeling method. As a result, it was found that the process of analyzing foreign economic operations and other data is full of subprocesses that are not valuable for the final result. Part of the information is obtained from the risk management system that is triggered during customs border crossing and customs clearance. Another part of the risks is obtained from the Unified Automated Information System and manually processed by the employees of customs audit units using Microsoft Excel product.

In our opinion, in the current conditions, the material and technical base does not allow the state body to carry out a more detailed and in-depth analysis of data for post-release inspections. Thus, there is no separate unit for data analysis, there are no objective tools for monitoring, analysis of work and updating risks, including software. The data cannot be processed fully automatically due to the use of outdated technologies, lack of unified approaches to the analysis of the systems. Taking into account the volume of customs clearance, we are absolutely convinced that high-quality data analysis can be carried out only with the use of modern analysis tools and software.

As a drawback of organizational support, we would like to note that the acts of inspections, which are formed by the audit units, are not currently transferred to the risk management units of the customs authorities. That is, the results of control activities are not actually taken into account in the development of risk profiles, which contradicts international standards for risk management in the field of customs (WCO Customs Risk Management Compendium:11).

It should be noted that today the practice of the State Customs Service provides for the exchange of information in three areas: data exchange between the units of the State Customs Service, with other

state bodies, with the authorized bodies of other countries. Instead, in the EU, customs offices have established such partnerships with foreign economic operators that allow them to receive documents and information from other countries through branches, representative offices of foreign economic operators in other countries, which is an important information resource in the formation of risks and a source of documentary evidence of violations.

Unfortunately, statistics on the quality of the selection criteria based on the results of inspections by the State Customs Service are not kept. At the same time, as a result of participation in the experiment on updating the criteria, the author collected data that in 2016-2018, the risks of violation of customs legislation, according to which the business entities – legal entities were selected for scheduled inspections, were confirmed during the inspection for about 20% of the selected business entities. At the same time, the risks for which violations of the law were confirmed during the inspection amounted to less than 5% of the total number of risks for which the selection of business entities was carried out. In our opinion, today, in order to improve such control activities, it is necessary to develop more detailed risk indicators and introduce the possibility of their continuous improvement and development depending on trends in foreign economic processes.

The formation of a risk management system during customs post-release control requires a study of the basis for categorizing violations of the law and established rules. Depending on the types of violations of customs rules, the risk areas can be divided into the following: incorrect data on the characteristics/properties of goods; smuggling/hiding from customs control; understatement (overstatement) of the customs value of goods; incorrect classification of goods according to the Ukrainian classification of goods of foreign economic activity; false data on the origin of goods; illegal receiving of tax benefits and exemptions; failure goods declaration; declaration of goods under a different name (Rudnichenko, 2012:17).

At the same time, given that the purpose and peculiarity of post-release control is also due to the study of various aspects of the activities of economic entities, and not only their import-export operations, the list of risk areas for customs post-release control should include: tax burden, profitability; data on the characteristics / properties of goods; data on logistics, storage of goods; counterparties; classification of goods according to the Ukrainian classification of goods of foreign economic activity; origin of goods; customs value of goods; benefits and exemptions from taxation; undeclared goods; undeclared goods; concealment from customs control; subjective circumstances (changes in the industry, market, legislation, etc.).

In general, the risk criteria for such control can be conditionally divided into those that characterize the reliability of the subject of foreign economic activity (duration of the period of work, number of employees, results of previous inspections of regulatory authorities, analysis of counterparties, arrears of customs payments, etc.) and those that characterize the results of customs clearance (comparison of the level of customs value, analysis of classification decisions, route of delivery of goods, volume of balances in the processing mode, risks that were triggered during customs clearance and the results of their development, etc.)

Within the classification of risk factors used in the customs sphere, based on the study of scientific literature, open sources of information, the author has formed the main objective and subjective risk factors during customs post-release control. Objective risk factors (regardless of the actions of customs officials): the level of military and economic security, changes in customs legislation, the level of information support of foreign economic activity entities, established prohibitions and restrictions, the level of tax rate (payment, fee). Subjective risk factors (depend on the quality of the work of the State Customs Service): clarity, transparency, frequency of changes in the rules of customs control technology and work processes, clarity, simplicity of information systems of the State Customs Service; quality of training during employment and throughout the period of work; transparency of the career development procedure, level of information exchange with other state and foreign authorized bodies.

Mechanisms for guaranteeing the payment of customs duties

An important component of trade facilitation and the transfer of customs controls to the post-release stage is the guarantee of payment of customs duties. Standard Rule 3.14 of the Kyoto Convention states that, subject to the provision of the necessary guarantees to ensure the collection of any duties and taxes payable, the release of goods shall not be delayed. The legislation defines the list of cases that require the provision of guarantees, the form of presentation of guarantees and the amount of guarantees (Standard Rules 5.1 – 5.3 of the Convention). According to the EU Customs Code (Article 89), the guarantee provided for a certain declaration shall apply to the amounts of customs payments corresponding to the customs

debt in respect of all goods under such declaration or exempted from payment under such declaration, regardless of whether such declaration is correct. The guarantee shall cover the amounts of payments determined to be payable as a result of control measures carried out after the release of goods.

Thus, the application of simplified procedures during customs border crossing and customs clearance is ensured in the EU by guarantees of payment of customs duties for most customs regimes. In Ukraine, such a system of guarantees is currently absent, but its implementation is appropriate.

Experience of the Customs Administration of the Czech Republic is interesting in the part of guarantee system, where the legislation defines full (for more than one transaction) and individual (for one transaction) guarantees, which meets the requirements of international standards. The forms of guarantee that can be used are: deposit (cash), guarantor's obligation or other forms that provide equivalent security. Guarantees can be provided for 100%, 50%, 30% and 0% of the calculated amount, depending on the type of debt and positive or negative history of the subject of foreign economic activity, subject to the provision of additional information to the customs (Customs Act of the Czech Republic. Dated July, 2016).

The full guarantee is valid throughout the EU and is limited to the dates indicated in the permit. The guarantee of payment of the monetary obligation is provided both for the already accrued customs «debt» during the regimes of release for free circulation, final use, temporary importation with partial exemption from import duties, and for the potential one that may arise in the future, during special regimes: transit (external, internal), storage (in a customs warehouse, temporary storage), special use (temporary importation, final use), processing (in the customs territory). Such guarantees cover almost 100 percent of customs declarations submitted for customs clearance. At the same time, such guarantees apply to additional amounts of customs payments during post-release control, fines and other monetary obligations, debts.

Conclusions and prospects of the research

Summarizing the above, we can state that improving the economic security of Ukraine depends on the introduction of new mechanisms of public administration, including in the field of customs control. Therefore, we consider it fundamental to improve existing mechanisms and find modern tools for effective customs control, including after the release of goods, taking into account the best international practice.

Taking into account that the scientific literature has not yet developed a unified approach to the definition, and there is no definition of «risk management system» in the national legislation, there is a need for its unification to simplify and unify the understanding of this term in the course of scientific research and practice. In the context of customs control, the «risk management system» is proposed to be defined as a set of tools, methods and actions that are used to detect, identify, formalize and systematize signs of violation of the legislation of Ukraine on state customs affairs, and ensure the implementation of selectivity of customs control and increase its efficiency.

A real step towards simplification of trade procedures, including by reducing the time of customs clearance and passage of goods and vehicles through the customs border by transferring a significant part of the activities carried out by customs authorities to the stage after the release of goods, may be the development of detailed unique risk indicators to be applied during pre-release, release and post-release customs control, as well as the introduction of a system of guaranteeing the payment of customs duties for most customs regimes based on the EU model.

We are convinced that important components in ensuring state control in the modern realities of international trade are the development of risk (selection) criteria and risk management system for post-release control, as well as taking into account the results of post-release control in the ASUR. The objects of customs risk analysis for post-release inspections are extremely specific, due to a wide range of legal requirements, the control of compliance with which is entrusted to the State Customs Service of Ukraine, processes and factors affecting the economic activities of foreign economic operators. To improve the efficiency of audit control, the List of risk (selection) criteria for customs post-release control, which are comprehensively formed in the context of industries, is proposed.

In the current conditions of the economic and organizational crisis of the customs authorities, their material and technical base does not allow to fully carry out a detailed and in-depth analysis of data for post-release inspections due to the use of outdated technologies, lack of objective tools and methods for data analysis and monitoring, as well as staffing problems. Taking into account the volumes and dynamics of customs clearance, we consider the development of a special software package for the formation of risks (selection criteria) in relation to foreign economic operators during post-release control measures to be a priority.

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ФАКТОРИ ПІДВИЩЕННЯ ЕФЕКТИВНОСТІ АУДИТОРСЬКОГО КОНТРОЛЮ В МИТНІЙ СФЕРІ

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Статтю присвячено аналізу ефективності митного контролю після випуску товарів, з'ясуванню місця та значення системи аналізу ризиків у перевірочній діяльності, а також впливу цієї системи та інших факторів на результативність аудиторського контролю. Дослідження проведено з урахуванням міжнародних та європейських стандартів митного пост аудиту, нормативно-правових та організаційних засад такої діяльності в Україні.

Метою статті є економічний аналіз результативності аудиторського контролю в митній сфері, порівняння базових засад його здійснення митницями України та зарубіжних країн, відшукування факторів підвищення його ефективності.

Методи. Для підготовки статті використано методи аналізу та синтезу (для виявлення факторів підвищення економічної результативності перевірочної роботи), структурно-функціональний (для виокремлення форм та впливу системи аналізу ризиків), компаративний (для систематизації

відомостей про характер, завдання та наслідки митного контролю після випуску товарів у різних країнах), моделювання (для проведення аналізу фактичних робочих процесів, пов'язаних з управлінням ризиками та відбором суб'єктів в рамках проведення перевірок), діалектичний (для розуміння взаємозв'язку базових елементів контрольної діяльності митних органів).

Результати. В сучасних умовах економічної та організаційної кризи функціонування митних органів їх матеріально-технічна база не дозволяє у повній мірі здійснювати деталізований та глибокий аналіз даних для проведення перевірок після випуску товарів через використання застарілих технологій, відсутність об'єктивних інструментів та методик аналізу й моніторингу даних, а також проблеми кадрового забезпечення.

Для підвищення ефективності митного контролю у тому числі через скорочення часу оформлення та пропуску товарів через митний кордон завдяки перенесенню значної частини заходів на етап після їх випуску, наголошено на необхідності розробки деталізованих індикаторів ризику, що застосовуватимуться під час попереднього, поточного та наступного митного контролю, а також впровадження системи гарантування сплати митних платежів для більшості митних режимів за моделлю ЄС.

З метою впровадження в практичну діяльність митних органів автором розроблений Перелік критеріїв ризик (відбору) для митного контролю після випуску товарів, які комплексно сформовано у розрізі галузей.

Висновки. Основні засади митної аудиторської діяльності ґрунтуються на рекомендаціях Всесвітньої митної організації (ВМО) та є уніфіковано впровадженими в практичну діяльність переважної більшості митних адміністрацій країн світу. Важливими складовими у забезпеченні державного контролю у сучасних реаліях міжнародної торгівлі є розробка критеріїв ризику (відбору) та системи управління ризиками для здійснення контролю після випуску товарів, а також врахування результатів контролю після випуску товарів в АСУР. Об'єкти аналізу митних ризиків для проведення перевірок після випуску товарів є вкрай специфічними, що обумовлено широким спектром вимог законодавства, контроль дотримання яких покладено на Держмитслужбу, процесів та факторів, що впливають на господарську діяльність суб'єктів ЗЕД.

Ключові слова: економічна безпека, митний контроль, аудит, індикатори ризику, гарантії сплати платежів.

IMPACT OF THE RUSSIAN-UKRAINIAN WAR ON MIGRATION PROCESSES IN THE REGION

The purpose of this research is to identify some problematic aspects of the migration processes that resulted from the large-scale Russian aggression against Ukraine, as well as to identify possible ways to address these problems.

Methods. A method of content analysis of existing publications over the past few years has been used, which have been published in the mass media and address the problem of migration processes around Ukraine. Also, a statistical method was used, which analyzed official statistics for 2020-2021 and the first half of 2022, collected by border institutions of Ukraine, Moldova and other countries, adjacent to Ukraine.

Results. The Russian-Ukrainian war declared by Russia in 2022 has a significant impact on migration processes in this region. It has influenced both the qualitative and the quantitative characteristics. The traditional and already habitual migration of citizens from other continents has been completely replaced by the mass movement of Ukrainian citizens to neighboring countries in search of international protection. At the same time, military operations continue and therefore migration flows are consistently high. The simultaneous mass movement of people across the State border leads to an accumulation of people at checkpoints and the need for their rapid registration and evacuation from territories dangerous for their lives. This was difficult for Ukraine, so it had to simplify border control procedures and stop entering information on border crossings into the relevant database, as well as simplifying the availability of passport documents for border crossing. However, other problems may arise when simplifying classic border control procedures. We are talking about the possibility of criminals escaping from the search and the possibility of trafficking in persons, including children.

Conclusions. The solution of the problem of fast and safe border crossing by the seekers for asylum could be implemented via joint border control of people on the territory of a neighboring State, where there are safer conditions for processing migrants. It will also provide an opportunity for representatives of the two countries to simultaneously check the problems that may arise during border control.

Key words: migration processes; regional migration; international migration; war; immigration law; Ukraine.

JEL Classification: F22, H56, R23, K37, O15.

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Introduction

In 2020–2021, the world community implemented a series of activities to contain the spread of the Covid-19 pandemic. This has made it possible to make the world's migration processes more controlled, safe and orderly. After prolonged isolation, the borders of many states have opened, the rules of crossing state borders have become clear to travelers and are already familiar to a certain extent.

At the same time, another threat was “smoldering” and brewing in the center of Europe, which could radically affect migration in this region. More specifically, it is the annexation by Russia of part of the territories of neighboring states.

This has resulted in more than 280,000 internally displaced persons from Abkhazia and the Tskhinvali region / South Ossetia registered in Georgia as of 31 December 2020, for example (UNGA, 2021). The number of internally displaced persons in Georgia has increased. In Ukraine (as of 2019), the number of internally displaced people from the illegally annexed Crimea by Russia and occupied Donbas amounted to more than 1.4 million people (In Ukraine, 2020). More than 51,000 civilians were registered as internally displaced persons in the right-bank part of Moldova (Moraru, 2012).

Russia's local territorial claims in Georgia, Moldova, Ukraine and other countries have clearly led to massive movements of migrants from the occupied territories both within the country and to other countries, especially neighboring states.

Since 24 February 2022, when Russia launched a large-scale war with Ukraine, such migratory movements have changed their nature and became of global rather than local concern.

Internal displacement of citizens increased dramatically to more than 8 million (UNCM, 2022). At the same time, it is worth noting the transformation of these processes and the departure of migrants from the country to seek temporary protection in countries of Western Europe and other continents.

In the first four months of the war alone, more than 7 million people left Ukraine. Of these, 89% went to the EU member states and 11% to Moldova. Many migrants left neighboring countries for the American continents, and residents of areas bordering Russia were forcibly deported by the aggressor state to their territory.

The problems of migration in the modern world, and in particular in the Central European region bordering Ukraine, have been studied by a small number of authors. These include studies by N. Bortnyk, A. Górný, E. Libanova, O. Malynovska, S. Odyneć, S. Khalymon, M. Jaroszewich and some others. At the same time, the problem of the impact of the Russian-Ukrainian war on migration processes in the region has not been the subject of research and is of significant research interest. That problem was linked to a new wave of migration that would go down in history and should be studied in greater depth, including through the perspective of neighboring countries.

Purpose and methodology

The purpose of this research is to identify some problematic aspects of the migration processes that resulted from the large-scale Russian aggression against Ukraine, as well as to identify possible ways to address these problems.

General scientific and special methods were used to achieve this goal. Thus, a method of content analysis of existing publications over the past few years has been used, which have been published in the mass media and address the problem of migration processes around Ukraine. Also, a statistical method was used, which analyzed official statistics for 2020-2021 and the first half of 2022, collected by border institutions of Ukraine, Moldova and other countries, adjacent to Ukraine.

Migration on the Ukrainian-Moldovan section of the state border

Migration has been, is and will continue to be a widespread phenomenon due to a number of factors. For most of the world's nations, this was a tangible and growing phenomenon until 2020. Over the years, the influx of migrants has increased dramatically, primarily due to the unstable situation in the Middle East, the emergence of terrorist organizations, the difficult economic situation, etc. (Kuryliuk, 2020). It is known that from the existing problems, especially from illegal migration, EU member States have been suffering for quite some time, as there has been a significant influx of refugees from Syria, Iraq and other countries into the region for many years.

Over the past 20 years, Ukraine and Moldova have become transit countries for illegal migration to EU countries. According to various analytical estimates, over the past ten years, from 800 thousand to 1.6 million illegal immigrants have been permanently housed on the territory of Ukraine alone (Luptakova, 2009). They were patiently waiting for their chance to move to one of the neighboring member States of the European Union. Therefore, Ukraine and Moldova, having a good geographical location, have significant opportunities for significant migration flows.

Moldova is a country in southeastern Europe that borders Ukraine and Romania. The total population is 3.3 million people. About 12.3% of the territory is occupied by unrecognized Transnistria. The total length of Moldova's border is 1,906 km, of which 1,222 km is the border with Ukraine.

For 2.5 decades, migration flows from Ukraine were divided by almost half between Russia and Europe, with a pronounced circular nature of the labor exchange with Russia, and a large number of Ukrainian citizens ate to stay in European countries for a long time (Libanova, 2018).

The situation with Moldova is similar. Thus, labour migration in Moldova is considered to be one of the highest in the world. Approximately 300,000 persons, or 25% of the economically active population, who recently returned to the country, worked or intended to work abroad (Cajka, 2014).

At the same time, labour migration to Russia, compared to 2019, is becoming less diversified, as more than 80% of Russian migrant workers are mainly citizens of Tajikistan, Uzbekistan and Kyrgyzstan. Their number decreased by only 12%. If you look at the number of migrants from Ukraine and Moldova,

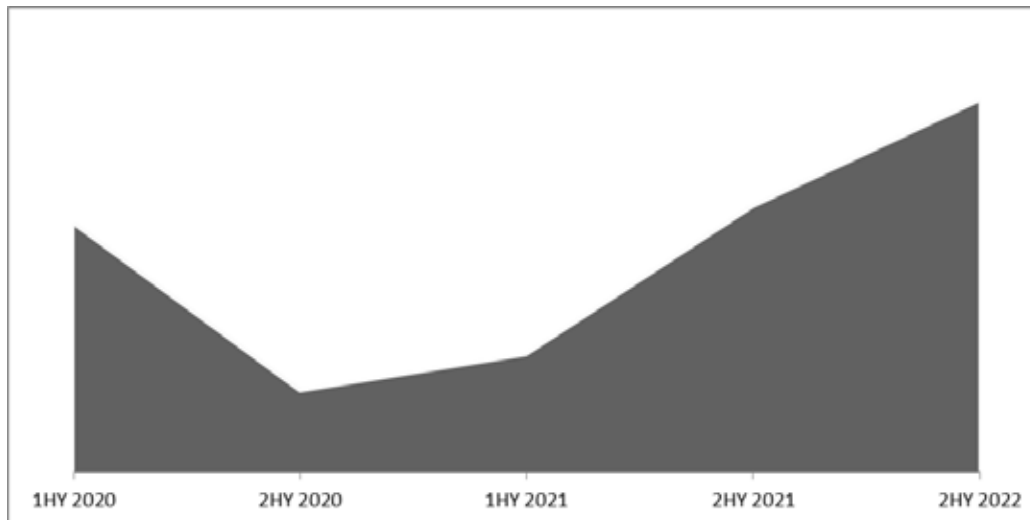


Figure 1. Dynamics of Moldovan-Ukrainian state border crossing

it decreased by 5 times. At the same time (compared to the end of 2014 and the beginning of 2022) the number of Moldovans in Russia decreased by 7.5 times (Moldovans, 2022).

However, this decline was short-lived. With the establishment of clear rules for crossing state borders in the conditions of COVID-19, a gradual increase in cross-border mobility began by mid-2021, and by the end of the same year it became even greater than it was before the quarantine. At the same time, the proportion of Ukrainian citizens crossing the Ukrainian-Moldovan part of the border varied annually around 32%, until the beginning of the open military aggression of Russia against Ukraine on February 24, 2022.

Migration on the Ukrainian-European section of the state border

Migration processes on the Ukrainian-European section of the state border have always been characterized by the active movement of citizens, both to European countries and to Ukraine.

Ukraine is a State in the geographical center of Europe that borders with Moldova, Romania, Slovakia, Hungary, Poland, Belarus, Russia, as well as by sea with Georgia, Bulgaria and Turkey. The total length of the border of Ukraine is almost 7 thousand km.

Over the past decades, the number of trips of Ukrainian citizens to the EU has increased markedly and only in 2015 amounted to 12.5 million, and in 2014 – 10.5 million. In conditions of sharp impoverishment of the population, the purpose of leaving for Europe, as a rule, was employment. A survey conducted in 2015 by GfK-Ukraine commissioned by IOM showed that the number of Ukrainians planning to find a job abroad in the near future or who have already found such a job increased by 2% compared to 2011 (IOM, 2015).

Between 2020 and 2021, the COVID-19 pandemic undoubtedly had a major impact on these processes. It was reflected in various fields and could not help influencing migration processes. However, restrictions on cross-border mobility caused by the pandemic did not stop migration from Ukraine to the EU, although they significantly hindered its implementation. Departure from Ukraine was in some way not so much reduced, but simply suspended, postponed for some time.

Since the introduction of the lockdown, according to some estimates, 300–400 thousand Ukrainians have returned to Ukraine in 2020, who faced serious difficulties in finding job and immediately tried to return to the country of employment at the first opportunity. Thus, according to a survey of Ukrainians who lived in Poland before lockdown, conducted in June 2021, a third of them could not find a job in Ukraine, 70% expressed a desire to return to work in Europe in the near future (Malynovska, 2021).

In total, 3.1–4.3 million people leave Ukraine annually to the EU member states. Of these, the share of Ukrainians is about 88%. On average, more than half of these crossings take place on the Ukrainian-Polish border and a quarter on the Ukrainian-Hungarian border (see fig. 2)

Analyzing statistical information on the Figure 2, it can be concluded that, unlike the situation on the Ukrainian-Moldovan border, restrictions on movements introduced in 2020 to prevent the spread of COVID-19, did not lead to a sharp decrease in the mobility of citizens to Hungary and Romania and only contributed to a decrease in the number of crossings of the Ukrainian-Polish and Ukrainian-Slovak parts

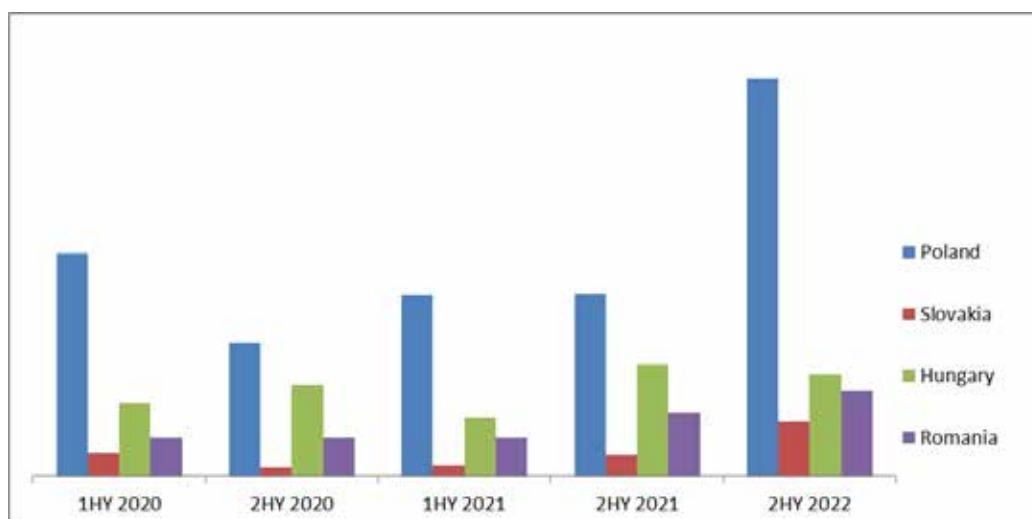


Figure 2. Dynamics of border crossing from Ukraine to EU countries

of the state border. This can be attributed to the different approaches in the implementation of countries' health policies and related restrictions (Nikitin et al, 2020).

Significant changes in the migration processes of these member states of the European Union have already occurred since Russia's open military aggression against Ukraine, which began on February 24, 2022, which is clearly visible in the results of statistics on border crossing from Ukraine to the EU.

Changes in migration processes in the region after February 24, 2022

Since Russia unleashed a large-scale Russian-Ukrainian war on February 24, 2022, a sudden migration of people to the European Union countries and Moldova began, as well as transit through these countries and other states, seeking temporary refuge for themselves and their family members.

Such a sharp migration flow is undoubtedly historical, but it is incomparable in its consequences with the migration crisis of 2015, when European countries resisted the flow of migrants. In the same year, Moldova and the EU demonstrated their commitment to the principles of humanism and good-neighbourliness and created an opportunity for the residents of Ukraine to leave as quickly as possible the dangerous region and move to their countries. At the same time, crisis centres and camps for asylum seekers were established in their territories. The European, Moldovan and other international community, including human rights organizations, united in one rush and provided humanitarian support to Ukrainian refugees, accommodated them in their homes, gave them clothes and everything they needed, since many Ukrainians abandoned everything and left in almost what they were in and with children in their arms.

Undoubtedly, the beginning of the Russian-Ukrainian war on February 24, 2022 led to qualitative and quantitative changes in migration flows in the region.

Qualitatively, compared to previous years, and logically, among both internally displaced persons and international migration, Ukraine has seen a significant increase in its citizens, and the traditional migration of East and Asian citizens has virtually ceased. In addition to armed conflict, this trend is due to the complete closure of the Belarusian-Ukrainian and Russian-Ukrainian sections of the state border and the blocking of traffic routes in southern Ukraine, including maritime.

Also, due to the war, there is an increase in cases of illegal crossing of the state border by EU citizens to leave Ukraine. Thus, for the whole year 2020, 60 illegal crossings of the Ukrainian border, both for entry and exit, committed by citizens of EU member states were recorded. Whereas, in the first half of 2022 alone, and only for departure from Ukraine, Ukrainian border guards recorded 64 attempts to illegally cross the border by such a category of citizens. However, it should be noted that Ukrainian citizens, when leaving Ukraine, crossed the state border in various ways (legally and illegally), and the incidences of illegal border crossing increased six fold.

The greatest "blow" to the border infrastructure from the simultaneous influx of a significant number of migrants (see fig. 2) was taken by Poland, which allowed more than 4.5 million people into its territory in the first half of the year, which is three times more than, for example, in the second half of 2020,

when only 1.5 million people entered Poland from Ukraine. Also, the flow of Ukrainians to Slovakia increased significantly, which annually let about 370 thousand people to pass. However in the first half of 2022 the number of Ukrainians to Slovakia was estimated more than 623 thousand people. Hungary received a relatively smaller influx of migrants, where the number of people crossed the country this year (1.1 million) was even less than in the second half of last year (1.2 million).

However, it should be noted that, unlike refugees from the East and Asia, the stay of Ukrainian citizens in the EU member states is temporary. This trend has been noted by other researchers before (Gorny, 2020) and is confirmed now. Despite the ongoing hostilities in Ukraine, the citizens of this country are returning to their homes. This is evidenced by official statistics. Starting from February 24 to August 1, 2022, more than 5.1 million Ukrainians have been registered to enter Ukraine.

However, the analysis of statistical data of the Ukrainian authorities and border institutions of the EU member states neighboring Ukraine (Romania, Hungary, Slovakia and Poland) demonstrated significant quantitative differences between persons who left Ukraine and those who are officially registered to enter the EU.

In particular, since the beginning of the active phase of the large-scale Russian–Ukrainian war until August 1, 2022, according to the Ukrainian border service, 8.7 million people have left Ukraine for the EU, including more than 7.7 million citizens of Ukraine. At the same time, according to information received from the countries of entry of these citizens, almost 780 thousand more citizens of Ukraine were registered for entry.

The situation is similar on the Ukrainian–Moldovan section of the state border. If Ukraine accounted for 1 million 43 thousand people to travel to Moldova in the first half of 2022, then Moldovan border guards accounted for 1 million 348 thousand.

Such statistical differences are due to the fact that in the first few weeks of an unforeseen increase in the intensity of departure from Ukraine, which arose due to military aggression on the part of Russia, the Border Agency of Ukraine decided to simplify the border control procedure. The simplification included the temporary suspension of the entry into the relevant database of information on the crossing of the state border by women and children from the number of citizens of Ukraine.

In addition, during the mass and almost simultaneous departure from Ukraine in search of temporary protection, many citizens of Ukraine did not have foreign passports, including biometric ones, which would give them the right to enter the EU and other countries. In this regard, the host states, due to the real danger to the lives of Ukrainian citizens, gave them the opportunity to enter their territory using other documents that confirmed their identity (common civil internal passports, identity cards, driver's licenses, birth certificates, etc.), and in some cases by photocopies of such documents.

However, differences in border crossing statistics are not such a big problem that may arise when simplifying border control procedures. In our view, more dangerous consequences may arise if the verification of persons by databases is abolished. Such simplification can lead to the fact that the following people can leave the country: wanted people, or people prohibited from leaving the country due to existing tax or alimony obligations, as well as persons who are under investigation with a written undertaking not to leave the country.

The threat of child smuggling can also be quite dangerous when border controls are simplified. These may be cases of children leaving on their birth certificates and accompanied by one of the parents, who will only have a copy of the passport. In addition, there may be situations in which citizens will not be checked against the database, and it will contain information about the ban on the departure of a minor child according to one of the parents, due to unresolved family relationships between parents at the place of residence of their child. Such actions are on the verge of trafficking and require special attention to prevent criminal acts against vulnerable categories, such as children. These problems indicate the huge role of each of the classical border control procedures and the need to carry them out even in case of crisis or emergency situations. This can protect both the state of departure and the host country from the risk of a threat to their national security.

It also avoids the violation of fundamental human rights, including possible gender-based violence or sexual exploitation of persons leaving with copies of passports, as well as the violation of the rights of children who may be trafficked out of the country.

Conclusions

The study showed that the Russian-Ukrainian war declared by Russia in 2022 has a significant impact on migration processes in this region. It has influenced both the qualitative and the quantitative characteristics.

The traditional and already habitual migration of citizens from other continents has been completely replaced by the mass movement of Ukrainian citizens to neighboring countries in search of international protection. At the same time, military operations continue and therefore migration flows are consistently high. A significant number of internally displaced persons are becoming asylum seekers, and the attitude of EU member states to this influx of migration is significantly different from that of the 2015 migration crisis. Migration caused by the Russian-Ukrainian war demonstrated the commitment of Moldova, the EU and many other States to the principles of humanism and good-neighborliness.

However, such mass movements have demonstrated some organizational problems affecting the speed and effectiveness of border control, ensuring international protection, etc.

In particular, the simultaneous mass movement of people across the State border leads to an accumulation of people at checkpoints and the need for their rapid registration and evacuation from territories dangerous for their lives. This was difficult for Ukraine, so it had to simplify border control procedures and stop entering information on border crossings into the relevant database, as well as simplifying the availability of passport documents for border crossing.

Of course, this simplification makes it possible to quickly let people through the border and save their lives, which is fully consistent with the Universal Declaration of Human Rights of 1948. However, other problems may arise when simplifying classic border control procedures. We are talking about the possibility of criminals escaping from the search and the possibility of trafficking in persons, including children.

The solution to this problem can be the possibility of implementing joint border control of people on the territory of a neighboring state, where there are safer conditions for processing migrants. It will also provide an opportunity for representatives of the two countries to simultaneously check the problems that may arise during border control. In our view, it is in the settlement of such problems that States should deal with in the future, as in the experience gained by Ukraine.

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ВПЛИВ РОСІЙСЬКО-УКРАЇНСЬКОЇ ВІЙНИ НА МІГРАЦІЙНІ ПРОЦЕСИ В РЕГІОНІ

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Метою цього дослідження є визначення окремих проблемних аспектів міграційних процесів, що стали наслідком широкомасштабної російської агресії проти України, а також визначення можливих шляхів вирішення цих проблем.

Методи. Використано метод контент-аналізу наявних публікацій за останні кілька років, які публікувалися у ЗМІ та присвячені проблемі міграційних процесів в Україні. Також було використано статистичний метод, за допомогою якого проаналізовано офіційну статистику за 2020-2021 роки і перше півріччя 2022 року, зібрану прикордонними відомствами України, Молдови та інших суміжних з Україною країн.

Результати. Значний вплив на міграційні процеси в цьому регіоні має російсько-українська війна, оголошена у 2022 році. Це вплинуло як на якісні, так і на кількісні характеристики. Традиційну і вже звичну міграцію громадян з інших континентів повністю замінило масове переміщення громадян України до сусідніх країн у пошуках міжнародного захисту. Водночас військові дії тривають, тому міграційні потоки залишаються стабільно високими. Одночасне масове переміщення людей через державний кордон призводить до скупчення людей у пунктах пропуску та необхідності їх швидкого оформлення та евакуації з небезпечних для життя територій. Для України це було важко, тому їй довелося спростити процедури прикордонного контролю та припинити внесення інформації про перетин кордону до відповідної бази даних, а також спростити наявність паспортних документів для перетину кордону. Однак при спрощенні класичних процедур прикордонного контролю можуть виникнути інші проблеми. Мова йде про можливість втечі злочинців від розшуку та ймовірність торгівлі людьми, в тому числі дітьми.

Висновки. Вирішення проблеми швидкого та безпечного перетинання державного кордону шукачами захисту може бути реалізовано шляхом спільного прикордонного контролю осіб на території сусідньої держави, де є більш безпечні умови для оформлення мігрантів. Це дасть також можливість одночасної перевірки представникам двох держав тих проблем, які можуть виникнути під час прикордонного контролю.

Ключові слова: міграційні процеси; регіональна міграція; міжнародна міграція; війна; міграційне право, Україна.

INTERNATIONAL RATING INDICATORS OF THE STATE OF THE BUSINESS ENVIRONMENT AND THEIR USE IN MANAGEMENT

The purpose of the article is to determine the features and potential of international rating indicators for assessing the state of the business environment in the country, the possibilities of their use in management practice and ways to improve such an assessment.

On the basis of a system analysis, the advantages and limitations of international rating indicators as indicators of the state of the business environment in the country are analyzed. Methods of scientific generalization were used to formulate the conclusions of the study. Statistical analysis made it possible to compare the dynamics of international rating indicators and the dynamics of foreign direct investment inflows on the example of the Ukrainian economy. Graphical analysis was used to evaluate the components of the international ranking for Ukraine. The comparison method was used to characterize the features of the business environment assessment using the most famous international rating indicators.

A comparative analysis of the most well-known international rating approaches to assessing the state of the business environment has been carried out. Their indicator possibilities and limitations are determined. They were assessed for their complexity, validity and possibilities of practical use at the macro- and micro-levels of management. It has been determined that international ratings perform a certain signalling function for both residents and foreign investors, which creates opportunities for their use in the analytical work of managers at the business level. At the same time, the example of Ukraine shows the lack of correlation between rating indicators (such as Doing Business indicators) and indicators of foreign direct investment. This testifies to the „loyal” influence of international ratings on the behaviour of foreign investors. It has been determined that international ratings are based on methods that do not provide a sufficiently comprehensive coverage of the problem of assessing the business environment; to a greater extent, they are “aspect indicators” (primarily of legal and regulatory assessment). It is noted that in international ratings, mainly expert data is used, which makes the subjective factor dominant. Methods of international ratings provide for the assessment of the business environment due to the characteristics of its conditions, and not because of the resulting indicators of its functioning. Further developments to improve the assessment of the state of the business environment can be aimed at reducing the role of the subjective factor and introducing indicators of an actual resultant nature, in particular, indicators of attracting foreign direct investment. If the assessment “by conditions” occurs mainly on the basis of expert assessments, then the use of assessment methods “by results” means the transition to the use of actually statistical indicators. It is proposed to use foreign investment indicators as the resulting actual indicators of the state of the business environment.

Key words: International Ratings, Business Environment, Management, Business Environment Indicators, Foreign Investments.

JEL Classification: M1, E66, F21.

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Introduction

In each country, a certain business environment is being formed. The country's business environment can be viewed as a system of factors and subjects whose action affects the conditions, opportunities and results of the market activity of businesses.

Assessment of the state of the country's business environment, on the one hand, is an important component in determining the potential of its economy, opportunities and development prospects. On the other hand, it is believed that the state of the business environment has a certain foreign economic significance, primarily in the context of the formation of the corresponding interest of foreign investors. In addition, assessing the state of the business environment is one of the important analytical aspects of the work of managers at the business unit level. A prerequisite for effective management decisions is a qualitative analysis of the operating environment,

as a result of which business chances should ultimately be found and business risks for subjects of market competition should be identified.

The state acts as one of the key regulators of the economic sphere of public life. The quality of regulation affects the state, dynamics and prospects for changes in the business environment, the capabilities and behavior of enterprises, both residents and non-residents.

The quality of state regulation of the state of the country's business environment implies the creation of attractive conditions for foreign investment to enter the country's economy. Attraction of foreign investments takes place in the conditions of global competition for investment resources. The Ukrainian economy needs a significant influx of foreign investment, which, of course, actualizes the issue of improving the business environment in the country.

Analysis of recent research and publications. First of all, attention is drawn to regular studies of the business environment as a whole and its individual components, conducted by certain international organizations. In particular, projects Doing Business (*Doing Business, 2022*), World Economic Forum (*World Economic, 2022*), IMD World Competitiveness Center (*IMD World, 2022*), European Business Association (*European Business, 2022*), Corruption perceptions index (*Corruption perceptions, 2022*). Among the publications on the issues of the business environment of Ukrainian authors, one can, in particular, mention the study by A. Zadoia (determining the impact of a country's place in the DB rating on the scale of foreign direct investment (*Zadoia, 2018*)), Yu. Vizniak, R. Skrynkovskyi, T. Protsiuk (corruption factor of the environment (*Vizniak, Skrynkovskyi, Protsiuk, 2016*)), H. Shvets (assessment of the business environment of small and medium-sized businesses (*Shvets, 2017*)), I. Bila та N. Nasikan (features of the business environment in Ukraine (*Bila, Nasikan, 2017*)), N. Kuharska (innovative component of the environment (*Kuharska, 2017*)), S. Strashnyi (the role of the state in shaping the environment (*Strashnyi, 2010*)). In general, in the context of diagnosing, assessing the state and dynamics of the business environment in different countries, international rating studies are best known. At the same time, it should be recognized that the problem of assessing the state of the business environment is quite complex, and existing approaches require some critical reflection and further development.

The purpose of the article is to determine the features and potential of international rating indicators for assessing the state of the business environment in the country, the possibilities of their use in management practice and ways to improve such an assessment.

Presentation of the main material of the article

Quite well-known in the theory and practice of management is the division of the environment of enterprises into internal and external. Their differentiation occurs according to the criterion of control possibilities: internal – created and controlled by the enterprise (owners and managers); external is a certain “present”, a systemic multicomponent component, which in an absolutely greater number of cases cannot be controlled by an enterprise, significantly change as a result of its activities.

At first glance, it may seem that the concepts of “business environment” and “external environment” are almost identical. However, it should be borne in mind that not every enterprise has a commercial focus. Given the non-commercial nature of the enterprise's activities, there is no reason to interpret such activities as business activities. In the economic system, there are many state and communal enterprises, the external environment of which does not acquire sufficient features of the business environment. Such an environment may differ from the usual one in the absence of competition. Therefore, in our opinion, it is advisable to consider the “business environment” as a variety – common, typical – of the “external environment”. The last one is a broader concept than the concept of “business environment”.

It is rightly believed that the state of the business environment plays a significant role in the efficiency of entrepreneurial activity and the entire economic system. That is why research and practical interest is being formed in the development of indicators for assessing the state of the business environment in a particular country. It is reflected in the search for such a set of indicators of the state and dynamics of the environment, which, firstly, provided enterprise managers with sufficiently acceptable accuracy characteristics of the conditions of entrepreneurial activity in a particular country or within the framework of any other broader entity. The presence of such a system of indicators could play a certain “compass” role in the possible directions and prospects for business development, and help in making strategic management decisions. Secondly, the presence of qualitative indicators of the state and dynamics of the business environment is important from the point of view of assessing the quality of state regulation, its individual components.

In world practice, rating indicators for assessing the state of the business environment are being actively distributed, first of all. One of the most well-known in this regard is the World Bank's Doing Business (DB) ranking of the ease of doing business in different countries. The country's final rating indicator is formed as an average of a number of parameters (indicators) – for example, conditions for starting a business, granting building permits, registering property rights, conditions for obtaining loans, protecting minority investors, taxation, international trade.

On fig. 1 shows the main components of the DB rating and, accordingly, the position of Ukraine in the latest rating – DB-2020 (currently, the World Bank has announced the suspension of index calculations and work to improve the methodology). In recent years, Ukraine has demonstrated a fairly stable positive trend in the DB ranking: for example, 2003 (first inclusion in the ranking, 152 position), 2017 – 80, 2018 – 76, 2019 – 71, 2020 – 64 (out of 190 countries). During DB-2020, Ukraine has achieved positive changes in five groups of indicators, the most significant is the protection of minority investors (from 72 to 45) and obtaining building permits (from 30 to 20).

The analysis of the set of indicators of the database project in terms of the level of information content of the selected indicators, their ability to accurately and comprehensively assess the business environment and its individual parameters allows, in our opinion, to draw the following conclusions:

1. *Potential and advantages of the Research:*

- the project really implies a certain integrated approach in assessing the state of the country's business environment (identifying areas of assessment, structuring areas according to assessment indicators, etc.);
- in its focus, the study can be considered primarily as a certain aggregate and structural-functional assessment of the activities of state regulatory institutions in establishing and improving the “rules of the business game”;
- the study provides a fairly wide array of indicators on the quality of the “rules of the game” (simplicity, business-friendliness, etc.), which is undoubtedly an important characteristic of the country's

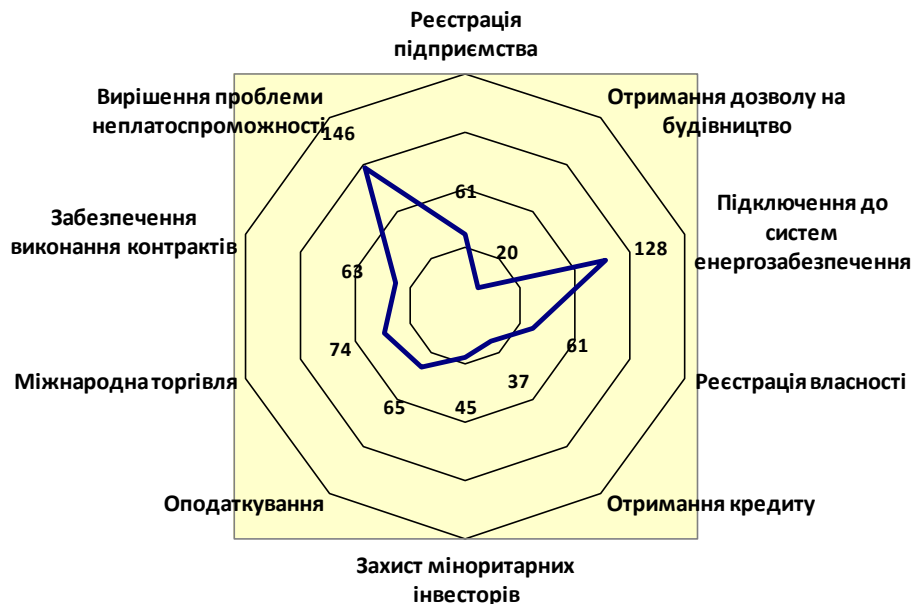


Figure 1. The main components of the Doing Business rating and the position of Ukraine

(decoding of symbols in the figure: реєстрація підприємства – registration of an enterprise, отримання дозволу на будівництво – obtaining a construction permit, підключення до систем енергозабезпечення – connection to energy supply systems, реєстрація власності – property registration, отримання кредиту – obtaining a loan, захист міноритарних інвесторів – protection of minority investors, оподаткування – taxation, міжнародна торгівля – international trade, забезпечення виконання контрактів – enforcement of contracts, вирішення проблеми неплатоспроможності – solving the problem of insolvency)

Source: compiled by the authors in Ukrainian based on (Doing Business, 2022).

business environment, and therefore it should fall into the system for assessing the state of the business environment – in as an important component, a subsystem for displaying the general state of the business environment;

– the practical, managerial significance of the study lies primarily in the possibility of quantitatively assessing the level of compliance of state regulation with the conditions of efficiency, the conditions for facilitating the conduct and development of business (primarily small and medium), as well as assessing the real dynamics, changes in public administration (macro-management) of a particular another country.

2. *Limitations and shortcomings of the research:*

– the project cannot claim a sufficient level of complexity in assessing the state of the country's business environment. The question of the “rules of the game” cannot cover all the essential problems of the state of the state of the business environment in the country. For example, the system of rating indicators does not include resource factor characteristics, assessments of the state of infrastructure, macroeconomic parameters, stability and reliability of the financial and banking system, business traditions, etc. In our opinion, these components cannot be attributed to secondary or less significant components than the “rules of the game”;

– the study is dominated by expert assessments, which has a significant impact on the results of assessing the state of the business environment in a particular country on the part of the subjective factor. The selection of experts, their qualification characteristics and the degree of non-engagement remain outside the public space;

– for micro-level management (business management), the study can be practically useful in the context of opportunities to improve the quality of analytical work, assess the prospects for entry (further presence) of a business into the market of a particular country, choosing the direction and scope of foreign investment. In this aspect, we can talk about a certain signal role (primarily investment) of DB research for business and its managers. It is worth emphasizing that it is precisely a “certain” informative role that can be discussed. This is confirmed, in particular, by A. Zadoia's empirical study, which concludes that there is “only partial confirmation” of the influence of a country's place in the DB ranking on the scale of its attraction of foreign direct investment (*Zadoia, 2018*).

Another world-famous rating research project is the calculation of the *Global Competitiveness Index* (World Economic Forum). It should be noted that in the GCI rating, published in 2020, Ukraine took 85th place among 141 countries (2012 – 73rd position, 2018 – 83rd position). The best indicators of Ukraine in this rating are “Knowledge and skills” (44th place), “Volume of the domestic market” and “State of the commodity market” (47th place) and “Infrastructure” (57th place) (*World Economic, 2022*).

Analysis of the research methodology within the framework of the GCI project allows, according to our opinion, to draw the following conclusions:

1. The project demonstrates a higher level of complexity in the study of the state of the business environment than the DB project:

– firstly, a sufficiently convincing number of indicators for measurement is used (more than 100 indicators combined in 12 groups);

– secondly, both expert assessments and statistical data are used. The latter circumstance in a certain way reduces the influence of the subjective factor on the assessment;

– thirdly, the objects of research are not only environmental conditions in the context of the rules of the game and state regulation, but also resource factors, infrastructure, etc.

2. The project has a certain strategic analytical focus. To a certain extent, research is aimed at expanding the horizon of vision of the future. From the point of view of managerial work at the business level (and at the level of public administration), it is probably not so much the rating comparison of countries that matters as an attempt to assess the opportunities (potential) of countries to ensure acceptable economic growth in the medium term. The presence of potential for economic growth is a promising signal for business, for investors. This is a signal that there are prerequisites for a certain growth in demand, for expanding the capacity of markets, which is very important for business, especially for companies conducting large-scale international activities. Such diagnostics increase the possibilities of high-quality managerial analytical work at the company level.

Another rating option for assessing the competitiveness of the country as a whole is the *global competitiveness rating* of the Institute for Management Development (The IMD World Competitiveness Ranking). This research identifies four groups of components – the state of the economy, the effectiveness

of the government, the state of the business environment, the state of infrastructure. In the 2021 study, Ukraine ranked 54th among 64 countries (2020 – 55th place). The study combines expert assessments and statistical data. According to the groups of indicators of the research (the state of the economy, government efficiency, business efficiency, infrastructure), Ukraine ranks from 50 to 54. Within these groups, the best position is “Tax Policy” – 24th place, the worst positions – “Health and Environment” – 61, “Financial system” – 64 (*IMD World, 2022*).

The assessment within the framework of the *Index of Economic Freedom* project involves the use of 10 indicators, each of which is evaluated on a 100-point system. According to the 2021 Index, Ukraine took 127th place among 178 countries, it scored 56.2 points. For comparison: in 2020 – 134th place, 54.9 points; 2011 – 45.80 points (*Economic Freedom, 2022*). In our opinion, in general, the focus of the project is rather narrow. This does not allow it to be used for a more or less comprehensive assessment of the state of the country’s business environment. The assessment within the framework of the Index of Economic Freedom project involves the use of 10 indicators, each of which is evaluated on a 100-point system. According to the 2021 Index, Ukraine took 127th place among 178 countries, it scored 56.2 points. For comparison: in 2020 – 134th place, 54.9 points; 2011 – 45.80 points (*Economic Freedom, 2022*). In our opinion, in general, the focus of the project is rather narrow. This does not allow it to be used for a more or less comprehensive assessment of the state of the country’s business environment.

The European Business Association (EBA) calculates a certain set of indices (including “local” ones – in particular, the Tax Index, the Customs Index, the Judicial Index). Among them, perhaps the most generalized one can be considered the *Investment Attractiveness Index* (*European Business, 2022*). This index is calculated on a five-point scale as the arithmetic mean of five parameters (components). Ukraine’s indicators for the last five years are approximately in the range of 2.5-3.0. In our opinion, according to this index in relation to the issue of assessing the state of the business environment, we can draw the following conclusions:

- index calculations are made exclusively on the basis of expert assessments (approximately 100 respondents), that is, the index is completely under the influence of the subjective factor;
- experts are acting actors – only general directors of foreign and Ukrainian companies included in the EBA. It can be assumed that the assessments of expert managers are also influenced by such a factor as the success of their own business in the analyzed period. However, the results, the success of such a business, in turn, depend on many factors – both internal (organizational) and external (for example, industry dynamics, changes in market capacity, competitive conditions, availability of certain resources) etc.
- this index is positioned as an assessment of the investment climate, however, most likely, it will be more accurate to transfer its role as a certain assessment of the state of business sentiment. At the same time, there are certainly certain reasons to consider the state of business sentiment as one of the reflections of the state of the business environment. And, perhaps, this is a reflection not so much of the acceptability of the “rules of the game” as of the general state of the market situation.

In general, in our opinion, the international rating indicators:

- form a certain information and analytical base for company managers and managers of state institutions to assess the state of the business environment, identify the dynamics of changes in it, identify achievements and problems in state regulation of the economy;
- carry out an assessment of the business environment through the assessment of a certain set of components that reflect various characteristics of environmental conditions;
- taking into account the methods and calculations used in the ratings, they are generally of relative practical importance in terms of their impact on the behavior of foreign investors. This, for example, is evidenced by the data presented in Table 1, which shows a comparison of the dynamics of the DB rating indicators for Ukraine and the indicators of annual volumes of foreign direct investment inflows into the country. These tables do not show the correlation between the indicators: the international rating indicators are growing, but at the same time, there is essentially no increase in the indicators of foreign investment. This probably indicates that international rating indicators, in particular DB indicators, reflect only a certain part of a possible overall assessment of the state of the business environment in the country. That is, it can be assumed that the assessment of certain conditions of business activity in the country is not enough for a full-fledged, comprehensive assessment of the state of the country’s business environment;

Table 1

Comparative Analysis of Rating Indicators of Doing Business and Foreign Direct Investment (FDI) Inflows to Ukraine

Year	Place in the DB ranking	FDI inflow (billion US dollars)
2012	152	8,4
2013	137	4,5
2014	112	0,4
2015	96	-0,46
2016	83	3,8
2017	80	3,7
2018	76	4,5
2019	71	5,9
2020	64	-0,035

Джерело: compiled by the authors based on (Doing Business, 2022; Natsionalnyi bank, 2022).

– further development of approaches to assessing the state of the business environment should also provide for an orientation towards assessment not only through “conditions”, but through “generally achieved results”.

For countries that are at a “sufficient distance” from the leaders of international ratings, one of the main generalizing “resulting” indicators of the business environment assessment can be indicators of *foreign direct investment*. It is possible that this kind of indicators will be a fairly accurate reflection of the level of assessment by international investors of the state of a certain business environment. These indicators make it possible to assess the state of the business environment not so much by its *conditions* (regulatory, permitting and procedural, and some others), but by actual *results*, by the state of real business interest, the scale of the actual placement of business in this environment.

At the same time, it is necessary to pay attention to several points related to the use of foreign investment indicators: firstly, there are certain problems associated with their statistical quality (for example, the problem of offshorization of investments is known); secondly, the movement of foreign direct investment is often based not so much on an assessment of the conditions for the functioning of a business, but on a vision of the market potential (capacity) and the state of the competitive situation. In general, the motives for foreign investment are quite a complex factor, but this does not exclude the expediency of using the relevant indicators in assessing the state of the business environment.

Conclusions

International rating indicators occupy their rather important place in assessing the state of the country’s business environment. They can be used as certain benchmarks in assessing the quality of state regulation of economic life, its various structural and functional areas. The regularity of the appearance of international ratings allows us to evaluate the dynamics, changes in regulation, in public administration. International ratings are a factor of a certain external (global) influence on the processes of formation and development of the business environment in the country, the management activities of state institutions.

Leading international ratings perform a certain signalling function for both residents and foreign investors, which creates opportunities for their use in the analytical work of managers at the business level. At the same time, firstly, in the case of Ukraine, there is no correlation between rating indicators (in particular, DB) and indicators of foreign direct investment. This testifies to the “loyal” influence of international ratings on the behaviour of foreign investors; secondly, international ratings are based on methods that do not provide a sufficiently comprehensive coverage of the problem of assessing the business environment, to a greater extent they are “aspect indicators” (primarily, of legal and regulatory assessment); thirdly, international ratings use mainly expert data, which makes the subjective factor dominant; fourthly, international rating methods provide for the assessment of the business environment due to the characteristics of its conditions, and not because of the resulting indicators of its functioning. Further developments to improve the assessment of the state of the business environment can be aimed at reducing the role of the subjective factor and introducing indicators of an actual resultant nature, in particular, indicators of attracting foreign direct investment. If the assessment “by conditions” occurs mainly on the basis of expert assessments, then the use of assessment methods “by results” means the transition to the use of actually statistical indicators.

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МІЖНАРОДНІ РЕЙТИНГОВІ ІНДИКАТОРИ СТАНУ БІЗНЕС-СЕРЕДОВИЩА ТА ЇХ ВИКОРИСТАННЯ В УПРАВЛІННІ

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Метою статті є визначення особливостей та потенціалу міжнародних рейтингових індикаторів щодо оцінювання стану бізнес-середовища в країні, можливостей їх використання в управлінській практиці та шляхів удосконалення такого оцінювання.

На основі системного аналізу проаналізовано переваги та обмеження міжнародних рейтингових показників як індикаторів стану бізнес-середовища в країні. Методи наукового узагальнення було використано для формулювання висновків дослідження. Статистичний аналіз дозволив провести порівняння динаміки міжнародних рейтингових показників та динаміки показників надходження прямих іноземних інвестицій на прикладі економіки України. Графічний аналіз було використано для оцінки складових міжнародного рейтингу для України. Метод порівнянь було використано при характеристиці особливостей оцінювання бізнес-середовища за використанням найбільш відомих міжнародних рейтингових показників.

Проведено компаративний аналіз найбільш відомих міжнародних рейтингових підходів до оцінювання стану бізнес-середовища. Визначено їх індикаторні можливості та обмеження. Зроблена їх оцінка на предмет комплексності, валідності та можливостей практичного використання на макро- та мікро- рівнях управління. Визначено, що міжнародні рейтинги виконують певну сигнальну функцію як для резидентів, так

*і для іноземних інвесторів, що створює можливості для їх використання в аналітичній роботі управлінців на бізнес-рівні. Разом з тим, на прикладі України показано відсутність кореляції між рейтинговими показниками (зокрема, показниками *Doing Business*) та показниками прямого іноземного інвестування. Це свідчить про «лояльний» вплив міжнародних рейтингів на поведінку іноземних інвесторів. Визначено, що міжнародні рейтинги базуються на методиках, які не забезпечують достатньо комплексного охоплення проблеми оцінювання бізнес-середовища, більшою мірою вони є «аспектними показниками» (насамперед, нормативно-правового оцінювання). Зазначено, що в міжнародних рейтингах використовуються переважно експертні дані, що робить домінуючим суб'єктивний фактор. Методики міжнародних рейтингів передбачають оцінювання бізнес-середовища через характеристики його умов, а не через результуючі показники його функціонування. Подальші розробки вдосконалення оцінювання стану бізнес-середовища можуть бути спрямовані на зменшення ролі суб'єктивного фактору та введення показників фактично-результуючого характеру, зокрема показників залучення прямих іноземних інвестицій. Якщо оцінювання «за умовами» відбувається переважно на основі експертних оцінок, то використання методик оцінювання «за результатами» означає перехід на використання фактично-статистичних показників. Запропоновано використовувати в якості результуючих фактичних показників стану бізнес-середовища показники іноземного інвестування.*

Ключові слова: міжнародні рейтинги, підприємницьке середовище, управління, показники стану бізнес-середовища, іноземні інвестиції.

THE CHANGING ROLE AND RESPONSIBILITIES OF CAMBODIA CUSTOMS

This paper examines the possibility and rationale for changes in the role and responsibilities of the General Department of Customs and Excise of Cambodia (GDCE), also known as Cambodia Customs, and what the primary roles and responsibilities will look like in the next decades. After that, it examines the possible impacts of international organisations, agreements, and initiatives on the operation of GDCE. After identifying the research purposes, the research paper is carried out by using a qualitative research method. The research uses desk-based research and document analysis for data collection and analysis to extract necessary research data to meet the research objectives. The researcher is currently a customs officer at the GDCE and can access all internal and confidential documents to fulfil the research objectives. Therefore, it is more practical and efficient to collect secondary data, which have been available already.

Over the decades, the role and responsibilities of the General Department of Customs and Excise of Cambodia (GDCE), also known as Cambodia Customs, have significantly changed because of the country situation, government priorities, and the increasing volume of international trade. In addition, the emergence of globalisation, international organisations, agreements, conventions, and initiatives have impacted the way GDCE fulfils the responsibilities and have played a part to change the role and broaden the responsibilities of GDCE. The GDCE has the responsibility for ensuring the efficiency and effectiveness of revenue collection and suppressing and preventing illicit trade activities to protect border security and people's welfare, at the same time, promoting trade facilitation. With a vision to contribute to the Royal Government of Cambodia's goal to become an upper medium-income country by 2030 and become a high-income country by 2050, GDCE is working towards becoming a modern customs administration which will play a role as a facilitator in providing services to enhance business climate.

Key words: modern customs administration, trade facilitation, revenue collection, border control, security, international trade, agreements.

JEL Classification: E 64, F 19, F 33, F38, F 40, F53, O24.

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Introduction

Over the past decades, Cambodia was a conflict-stricken country which has gone through a very terrible moment of the genocidal regime, well known as the Khmer Rouge Regime that damaged infrastructure, government institutions and public-sector management (Gellman, 2010). After surviving from the Khmer Rouge Regime, in 1979, GDCE Administration was re-established under the Ministry of Commerce and responsible for controlling the movement of goods and transports in order to prevent offences and criminal activities (Royal Government of Cambodia, 1979). Over 20 years until 2003, with a significant increase in international trade, the main focus of GDCE had been shifted from fighting against smuggling to collecting revenue for the government (Ministry of Economy and Finance, 2003).

However, today, GDCE does not focus only on revenue collection and the border security, but also on trade facilitation (General Department of Customs and Excise of Cambodia, 2019). This reflects that the role and responsibilities of GDCE have periodically changed. The trend also illustrates that the role and responsibilities of GDCE is expected to be changed in the next decades.

This paper points out the possibility of changes in the role of GDCE and what the primary roles and responsibilities will look like in the next decades. After that, it examines the possible impacts of international organisations, agreements, and initiatives on the operation of GDCE.

Possible changes in the role of GDCE

In the next decades, GDCE is putting utmost efforts to become a modern administration that applies best customs practices in line with international standards and delivers the best public services for the trading community. As a result, the role of GDCE will shift the most primary focus into trade facilitation while ensuring compliance.

Up to date, the role of GDCE is centered on regulatory control, focusing on revenue collection and preventing illicit trade and smuggling while ensuring trade facilitation. According to the Strategy for Customs Reform and Modernization (SCRM) 2019–2023, GDCE have made remarkable progress in combating tax evasion, tax fraud, and smuggling. As a result of this progress, revenue collection has significantly increased twofold from 2014 to 2018, while there has been a decrease by 15% in customs offences over the same period (GDCE, 2019). However, GDCE (2019) also mentions that revenue leakage from tax fraud and smuggling is still one of the widespread problems across the borders throughout Cambodia. Also, transnational crime is highly likely to pose a considerable threat to all customs administrations around the world, including Cambodia. That is the main reason that the role of regulatory control for GDCE cannot be ignored.

At the same time, another utmost important role of GDCE is facilitating legitimate trade at the borders. The SCRM (2019–2023) of GDCE (2019) emphasises that the role of GDCE is becoming a modern customs administration that gives primary focus on best services and trade facilitation. GDCE (2019) plans to conduct reform and modernisation on the existing risk management system, which allows the administration to direct more attention to trade facilitation while ensuring customs control. In addition, the GDCE is also reviewing and updating the Law on Customs (2007) to keep up with the current trend and support trade facilitation measures, including pre-arrival processing (Department of Legal Affairs and Public Relations, 2021).

Rationale for the changing roles of GDCE

The primary reason for GDCE to give a greater focus on trade facilitation is because of the Royal Government of Cambodia (RGC)'s priority. The RGC has a goal to become an upper middle-income country by 2030 and become a high-income country by 2050 through the National Strategic Development Plan (NSDP) 2019–2023 (RGC, 2019). The NSDP also mentions that boosting trade in Cambodia by effective trade facilitation is a crucial key to reach this goal (RGC, 2019). For this reason, the RGC (2018) is stepping up the great effort to improve the business environment and trade facilitation by simplifying procedures, reducing the cost and time of doing business, and removing all the trade barriers in the pursuit of attracting more investment into Cambodia. According to the time release study conducted in 2021, the overall clearance process for importation, including the pre-arrival process, has been reduced by nearly 20 hours, compared to the study conducted in 2019 (GDCE, 2022). A significant decrease is mostly in the pre-arrival process as relevant GDCE's departments and other government agencies has followed the recommendations from TRS 2019 to simplify the procedures and improve the workflow and structure to provide trade facilitation (GDCE, 2022). In order to make a positive contribution to the goals of the government, trade facilitation focus is necessarily required for GDCE and all relevant government agencies.

Secondly, Cambodia has upgraded from a low-income country to a lower middle-income country in 2015 (World Bank, 2022). This upgrade has shown an impressive achievement of the country, but also resulted in the loss of favorable trade treatment and other benefits from development partners and donors for a low-income country (RGC, 2018). One prominent example is that the European Parliament has decided to withdraw 20% of Everything but Arms (EBA) from Cambodia (European Commission, 2020). Before, Cambodia was provided with the zero tariffs on all exports except arms and ammunition, but now 20 percent has been withdrawn, and it will be expected to withdraw more in the future. Also, the benefits regarding free tax rate that Cambodia received from the United States' Generalized System of Preferences (GSP) scheme has been expired (Phoung & Lay, 2021). This transitional moment, nevertheless, might become the time for Cambodia to build the strengths to deal with such loss. It is also the time for GDCE to transform itself by equipping with highly competent human resources to become a modern Customs administration which can provide better services with a high level of trade facilitation.

Last but not least, as the volume of international trade is increasing exponentially, GDCE cannot only play a role as a control agency, but also as a facilitative agency which can ensure compliance.

The trade volume in Cambodia has been increased by 20 percent in 2022 compared to 2021 (Khmer Times, 2022). One action that GDCE has taken towards trade facilitation is that about 85% of imported and exported containers are no longer subjected to be scanned and only the red-lane containers (approximately 15%) must be scanned (GDCE, 2019). Another action that GDCE has taken is that the standalone risk management system has been entirely migrated to ASYCUDA world (United Nations Conference on Trade and Development, 2020). In other words, GDCE no longer uses the standalone risk management system and has designed the function of risk management system in ASYCUDA world. These initiatives cannot only reduce the cost and time for traders, but also increase the effectiveness of GDCE operation. More actions will be taken to enhance trade facilitation. In addition, GDCE currently participates in Digitizing Global Maritime Trade (DGMT) project supported by ARISE Plus Cambodia with the purpose to improve customs clearance process by implementing pre-arrival processing (German Alliance for Trade Facilitation, 2020). The GDCE has also joined the implementation of Port Electronic Data Interchange to support port modernization and avoid port congestion (EXEO Group, Inc., 2022). Data from Port EDI can be expected to link with the National Single Window which is reaching phase 3 of implementation (PM Group, 2015).

The possible impact of international organisations, agreements, and initiatives on the operation of GDCE

International trade is of utmost importance for economic growth in both developed and developing countries (World Customs Organisation, 2008). Due to the complexity of international trade, many international organisations, agreements, and initiatives have been introduced to tackle the issues. There are several international organisations that Cambodia is a member of including the World Customs Organisation, the United Nations, World Trade Organisation, the Association of Southeast Asian Nations (ASEAN) (General Department of Customs and Excise of Cambodia, 2020). Those international organisations and their initiatives and agreements have affected how GDCE operates.

World Customs Organisation (WCO)

The most impactful organisation on GDCE's operation is the World Customs Organisation of which Cambodia became a member in 2001 (General Department of Customs and Excise of Cambodia, 2020). It is an intergovernmental organisation which plays pivotal roles in raising customs standards, best practices, and simplifying and harmonising customs procedures (World Customs Organisation, 2020). WCO (2020) has established several programs such as capacity building, technical assistance, implementation assessments, and recommendations. These programs can assist Customs administrations in increasing the effectiveness and efficiency of customs operation.

The WCO's Convention on the Simplification and Harmonisation of Customs Procedures (RKC) has been introduced to harmonise and simplify customs procedures for WCO customs administrations members (World Customs Organisation, 1999). In 2014, GDCE acceded to become one of the contracting parties to the RKC, with the commitment to apply without reservations the Chapter 2 of Specific Annex A, Chapter 1 of Specific Annex B, and Chapter 1 of Specific Annex C (World Customs Organization, 2014). This means that the convention will lead GDCE to concentrate on improving its procedures for facilitating trade and avoiding unnecessary delays. Notably, the RKC is a type of soft law in which there is no measure to monitor implementation, application, and enforcement of the convention (Wolfgang & Kafeero, 2014). Nevertheless, GDCE (2019) has already applied most parts of the recommendations and commits to apply more and more in the future. GDCE is also conducting gap analysis between the Law on Customs and international conventions/agreements including RKC with the purpose to amend to existing law in accordance with international standards and best practices (Department of Legal Affairs and Public Relations, 2021).

For example, the RKC suggest customs administrations should cooperate with traders by establishing formal consultative relations and encouraging private participation for an effective and smooth operation (WCO, 1999). In 2010, GDCE established the Customs Private Sector Partnership Mechanism (CPPM) with the declared aim to a) build trust and mutual understanding and cooperation between Customs and traders, b) boost fiscal morality and trade facilitation to advocate compliance to laws and regulations, c) ensure that all customs-related problems are discussed or resolved at CPPM, and d) raising trading community participation to a new height with regards to tackling all Customs-related issues (GDCE, 2017). Thus far, GDCE has already conducted nine meetings of the CPPM, in which the 9th meeting was held on 28 December 2022 (Sok, 2022).

Another example is that the WCO SAFE framework of Standards also suggests customs administrations should establish Authorized Economic Operator (AEO) program to encourage compliant traders by providing trade facilitation and faster Customs clearance (WCO, 2018). GDCE has implemented the Best Trader Program, which is designed to provide special treatment for highly compliant traders (General Department of Customs and Excise of Cambodia, 2015). In other words, the program provides trade facilitation and faster Customs clearance for highly compliant traders. This is a primary step towards the implementation of the AEO program. GDCE is at the stage of planning for implementation of AEO programme through drafting the support legislation and standard operating procedures (GDCE, 2019).

World Trade Organisation (WTO)

Cambodia became a Member of the WTO in October 2014 (WTO, 2020). At that time, Cambodia was recently recovered from war and upheaval, but the government had been looking for economic recovery and growth through recommendations from the WTO (General Department of Customs and Excise of Cambodia, 2020). The Royal Government of Cambodia (RGC) was the 8th least-developed country and 69th WTO member to officially joined the Trade Facilitation Agreement (TFA) in 2016 and notified commitment in 2017 (WTO, 2016). The TFA seems to deal almost entirely with customs-related topics.

To ensure future effective implementation of the Articles of the WTO Trade Facilitation Agreement, GDCE has developed a Mercator Implementation Plan and Risk Management Action Plan, with the support of the WCO in 2019. GDCE (2015) has exercised the majority of recommendations from the WTO-TFA mechanisms and sub-articles into the five Strategic Goals (SG) such as SG1: Customs Revenue Collection Efficiency, SG2: Compliance and Enforcement, SG3: Modernisation of Information Technology and Trade Facilitation, SG4: Customs Cooperation, SG5: Human Resource Management and Organisational Development. Some of the recommendations will be employed later in the following action plan.

Another example is the implementation of the Free Trade Agreements (FTAs). The implementation of FTA has a considerable impact on revenue collected by GDCE. In the last five years, over 551 million USD revenue has been lost because of the FTAs, and the loss will increase more due to further liberalisation of FTAs implementation and the increasing volume of international trade in the future (General Department of Customs and Excise of Cambodia, 2019).

Association of Southeast Asian Nations (ASEAN)

In 1999, Cambodia joined ASEAN, and GDCE falls into the pillar of ASEAN Economic Community (General Department of Customs and Excise of Cambodia, 2020). ASEAN is currently developing several regional initiatives for Customs which aimed at simplifying customs clearance and facilitating trade, such as ASEAN Single Window (ASW), ASEAN Customs Transit System (ACTS), and ASEAN AEO (General Department of Customs and Excise of Cambodia, 2020). ASEAN has also commenced work on a Feasibility Study on an ASEAN Mutual Recognition Arrangement on AEOs (General Department of Customs and Excise of Cambodia, 2020). These initiatives are likely to be part of ASEAN's ongoing efforts to transmute the region to a single market and production base.

United Nations Office on Drugs and Crime (UNODC)

Since 2000, GDCE has started to cooperate with UNODC and has established many programs concerning drugs, criminal cross border, wildlife, and container control (General Department of Customs and Excise of Cambodia, 2016). The Container Control Program was adopted by the UNODC and the WCO in 2004 and aimed to build the capacity of the customs officers to fight against criminal activities crossing the borders (UNODC, 2016). There are two units established under this program, which are Container Control Unit (CCU) established at Sihanoukville International Mega Port in Cambodia, and Air Cargo Control Unit (ACCU) established at Phnom Penh International Airport Customs and Excise Branch (UNODC and RGC, 2016). Both units are focusing on detecting illicit goods and protecting border security while avoiding unnecessary delays.

UNODC and RGC (2016) state in the Memorandum of Understanding that GDCE needs to fulfil its obligations by incorporating profiling and targeting all shipping documents through both units into their current daily work and the UNODC would offer support on establishing the units and providing technical assistance. Therefore, initiative draws GDCE' attention to provide more focus on border security. As a result, GDCE have seized drugs, illicit plastic waste and other illicit cargos (UNODC, 2020).

Conclusion

The role and responsibilities of GDCE have remarkably changed from one decade to another based on government priorities, the country situation, and the volume of global trade. A long time ago, GDCE played a role as a control agency, which stood at the border to hinder international trade for the protection of national interests. Over the next few decades, GDCE has changed to become a control agency, which focuses on collecting revenue for the government, while providing trade facilitation. In the next decades, GDCE might change to become a facilitative agency which emphasises on trade facilitation while ensuring effective customs control.

With globalisation, the complexity of the increasingly global supply chain, the responsibilities of GDCE corresponding to the movement of goods will broaden. The workload of GDCE will be heavier and heavier. International organisations, initiatives, and agreements have a significant impact on the way GDCE perform the responsibilities. For example, becoming a member of the WCO, WTO, ASEAN and UN mean that GDCE needs to apply its initiatives and agreements; thus, causing impacts on the operation of GDCE in all areas including but not limited to simplification and harmonisation of customs procedures, revenue collection, and border security.

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ЗМІНА РОЛІ ТА ОБОВ'ЯЗКІВ МИТНИЦІ КАМБОДЖІ

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У статті розглядається можливість і обґрунтування змін у ролі та обов'язках Головного управління митниці та акцизів Камбоджі (ГУМАК), також відомого як митниця Камбоджі, і як виглядатимуть основні ролі та обов'язки в наступні десятиліття. Далі досліджується можливий вплив міжнародних організацій, угод та ініціатив на функціонування ГУМАК. Після визначення цілей дослідження робота була виконана за допомогою якісного методу дослідження. Так автор використав кабінетні дослідження та аналіз документів для збору та вивчення даних для отримання необхідної інформації та досягнення поставлених цілей. Наразі дослідник є співробітником ГУМАК і має доступ до всіх внутрішніх та конфіденційних документів для досягнення дослідницьких цілей. Тому більш практичним і ефективним є збір вторинних даних, які вже були доступні.

Протягом десятиліть роль і обов'язки Головного управління митниці та акцизів Камбоджі (ГУМАК), також відомого як митниця Камбоджі, значно змінилися через ситуацію в країні, пріоритети уряду та збільшення обсягів міжнародної торгівлі. Крім того, глобалізація, міжнародні організації, угоди, конвенції та ініціативи вплинули на виконання ГУМАК своїх обов'язків, а також певною мірою змінили роль та розширили відповідальність ГУМАК. ГУМАК несе відповідальність за забезпечення ефективності та дієвості збору доходів, а також за придушення та запобігання незаконній торгівлі для захисту безпеки кордонів і добробуту населення, одночасно сприяючи спрощенню процедур торгівлі. Маючи на меті зробити свій внесок у досягнення мети уряду Королівства Камбоджа стати країною з середнім рівнем доходу до 2030 року та стати країною з високим доходом до 2050 року, ГУМАК докладає зусиль, щоб перетворитись на сучасну митну адміністрацію, яка відіграватиме роль посередника в наданні послуг для покращення бізнес-клімату.

Ключові слова: сучасна митна адміністрація, сприяння торгівлі, збір доходів, прикордонний контроль, безпека, міжнародна торгівля, угоди.

Для опублікування статті

у науковому журналі «Customs Scientific Journal» необхідно заповнити довідку про автора за посиланням на сайті та надіслати електронною поштою на адресу editor@csj.umsf.in.ua такий пакет документів:

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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.

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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.

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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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