

## CUSTOMS REGULATION AND CONTROL OF FOREIGN ECONOMIC ACTIVITIES: INSTITUTIONAL PATHOLOGIES, METHODS AND TOOLS FOR OVERCOMING THEM

*The implementation of Ukraine's European integration intentions in the modern globalized world requires a proper theoretical understanding of systemic deficiencies in the sphere of state regulation of foreign economic activity. Today, these shortcomings have signs of institutional pathologies. Currently, a clear understanding of the nature of these pathologies and identification of ways to overcome them is needed, which is covered in the article.*

**The purpose** of the article is to study the generalization of scientific approaches to the grouping of institutional deviations and violations in the field of foreign economic activity, as well as to determine the main directions, methods and tools for overcoming these violations and minimizing their consequences.

**Methods.** The article, based on the methodology of the system approach, substantiates the directions of countering institutional pathologies in the field of foreign economic activity. Key elements of the methodology of state management of foreign economic activity are used in the work. In particular, the authors characterized the methods and tools of customs regulation of foreign economic activity. Special attention is paid to customs control methods.

**The results.** The article highlights the causes and consequences of institutional pathologies and their impact on the development and effectiveness of foreign economic activity. The grouping of institutional pathologies in the field of foreign economic activity was carried out and their main features were characterized. Author's classification of methods and tools of state regulation of foreign economic activity was carried out. Ways to overcome such pathologies through the use of methods and tools of customs regulation are identified. It is proposed to combine all methods of regulating foreign economic activity into two groups, namely: systemic-strategic and situational-tactical. The peculiarities of the application of various methods and techniques of customs control both during and after customs clearance of goods are also defined.

**Conclusions.** The authors substantiated that depending on the institutional state of state regulation of foreign economic activity and the type of institutional changes, decisions are made on the use of certain methods and tools of customs regulation and customs control. Making such a decision is the prerogative of the customs authorities. The effectiveness of such decisions depends on the state of institutional support for state management of foreign economic activities, as well as on the professionalism of customs officials who directly carry out customs regulation and customs control in this area.

**Key words:** state regulation of foreign economic activity, institutional changes in the field of foreign economic activity, tariff and non-tariff methods of customs regulation, documentary methods of customs control, risk-oriented control, post customs control, customs post audit.

**JEL Classification:** A10, E02, E62, F15, F40, F52, F55, G28, H10, H26, H83, M38, P33, P45, P48.

**Liudmyla IVASHOVA,**  
Professor at the Department  
of Public Administration  
and Customs Administration  
University of Customs and Finance,  
Doctor of Science in Public  
Administration, Professor  
[pln1204@ukr.net](mailto:pln1204@ukr.net)  
[orcid.org/0000-0003-3176-919X](https://orcid.org/0000-0003-3176-919X)

**Svitlana LIZAKOWSKA,**  
Professor  
Polish Naval Academy;  
Expert  
Pomeranian Regional Chamber  
of Commerce in the field of vocational  
education and international relations  
(Gdynia, Poland)  
Doctor of Science in Public  
Administration  
[svema84@mail.ru](mailto:svema84@mail.ru)  
[orcid.org/0000-0002-1524-2673](https://orcid.org/0000-0002-1524-2673)

**Introduction.** The globalization of economic relations and the development of integration processes require the search for new ways to effectively carry out customs in Ukraine, improve the quality of customs control and ensure the country's customs and fiscal security. The pace of Ukraine's integration into the global economic space largely depends on this. The European integration path that Ukraine has to follow involves ensuring the steady growth of foreign economic relations and requires all influential and interested parties to correctly understand and clearly apply the tools of state regulation and control in the field of foreign economic activity (hereinafter referred to as FEA).

However, the state of permanent reform in which the state and, in particular, the customs service are located has led to a number of institutional changes that have upset the institutional balance and provoked the development of institutional pathologies and deformations in the field of foreign economic activity and put Ukraine on the verge of another institutional failure. This has negative implications for the development of customs, which should

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**Valentina VASILYEVA,**  
*Associate Professor at the Accounting,  
Auditing, Analysis and Taxation  
Department  
University of Customs and Finance,  
Candidate of Economic Sciences,  
Associate Professor  
valentinatopol@ukr.net  
orcid.org/0000-0001-6145-4979*

be implemented to solve at least two problems: first, the proper performance of control and fiscal functions by customs authorities related to customs payments and state budget revenues; second, by simplifying customs procedures, to create favorable conditions for the development of foreign trade and increase its efficiency.

In this context, the most important thing now is an adequate understanding and effective use of methods and tools of customs regulation and customs control. After all, the absence of these methods or institutional shortcomings and miscalculations in their use lead to significant losses to the state budget, hinder the country's socio-economic development and prolong Ukraine's path to the EU and NATO.

**Literature review.** The problems of development of the state administration of foreign economic activity, as well as improvement of customs regulation and customs control in Ukraine are widely studied by leading scholars and practitioners in the field of customs. Some of the most significant scientific works in this area are monographic studies by I. Berezhniuk (Berezhniuk, 2009), O. Borysenko (Borysenko, ), S. Brekhov (Brekhov, 2018) [1], O. Vakulchyk (Vakulchyk, 2014) [2], P. Pashko (Pashko, 2009), L. Pismachenko (Pismachenko, 2008) [3], E. Rudnichenko (Rudnichenko, 2014), which reveal the peculiarities of the formation and development of customs regulation, customs control and customs audit institutions in Ukraine. The research on ensuring the customs security of the state and overcoming the factors leading to the development of institutional pathologies in the field of foreign economic activity was conducted by such domestic scholars as: V. Dubrovsky, V Cherkashyn, O., Hetman, (Dubrovsky and K, 2019); Y. Zhalilo (Zhalilo, 2009) and others. The fundamental foundations of the formation of institutional support for the implementation of the state fiscal policy and its impact on the socio-economic growth of the country have been studied in the works of foreign scholars, including the works of: R. Coase (1992), J. Commons (2009), D. North (2000), etc. However, despite a fairly wide range of problems raised in the scientific and practical work of the authors, there is no intensification of the activities of customs authorities in this area. Thus, the scientific understanding of the problems in this area and the search for ways to solve them actualize the need for this study and prompted the authors to write this article.

**The purpose of the article** is to study the theoretical and methodological approaches to grouping institutional deviations and violations in the field of foreign economic activity, and also to identify the main methods and tools used in the process of customs regulation and customs control to counteract these violations.

**Summary.** The presence of institutional pathologies in the field of foreign economic activity leads to such negative consequences as hybridization of public administration in this area, growth of the "shadow economy", and growth of corruption. All of this disrupts the institutional balance in society, slows down the country's socio-economic development, and creates the preconditions for an increase in the level of customs, fiscal, and economic danger, in particular in the field of foreign trade. In order to overcome these negative trends, it is necessary to develop a number of customs regulation and customs control measures at the methodological level. It is important to understand the feasibility of using the key elements of the methodology of state management of foreign economic activity, in

particular the purpose, nature and methods of application of methods and tools of customs regulation. It is also important to emphasize the need to strengthen the application of customs control methods. The actualization of issues related to the expediency of applying various methods and techniques of customs control raises a layer of theoretical and methodological issues regarding the forms and types of its implementation. The authors substantiate the need for such control on the basis of the use of various methods and tools both during customs clearance and after its completion in the form of post-clearance control and customs post-audit.

The essence of institutional changes in the field of foreign economic activity and their impact on the state of customs regulation and customs security.

The role of the state and its governmental institutions in regulating foreign economic activity is of great importance. It is the state that should become the carrier of ideas, the architect of reforms, and the guarantor of relevant institutional changes in society. State institutions and agencies should become the guides of a balanced, purposeful, progressive and evolutionary policy aimed at overcoming the contradictions of socio-economic development, for economic growth and ensuring institutional balance in society. Institutional changes should ensure sustainable economic development, which underlies institutional equilibrium and is the main factor in overcoming significant institutional pathologies and institutional deformations inherent in transformational economies, protecting them from institutional failure. It is clear that "...the process of formation and development of an effective institutional environment has certain specifics due to imperfections, imbalances and incompleteness of the institutional system" (Katygrobova, 2013). At the same time, the role of the state, which realizes its purpose of regulating foreign economic activity through the implementation of customs policy, is decisive.

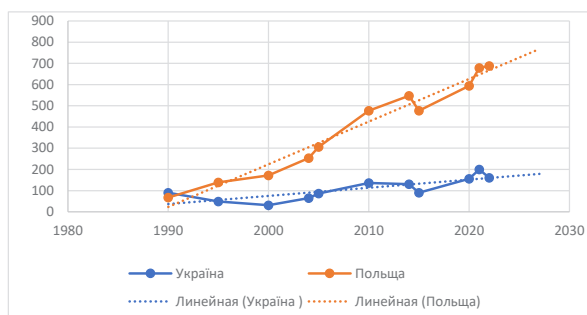
In the context of the study of institutional change, let us first define the essence of the term "institutional pathology". First of all, we should note that pathology is a deviation from the norm, an abnormality of the functioning of a living organism (Dubichynskyi, 2008). Given that, according to Niccolo Machiavelli, "...the state is an organic living system guided by its own laws of development" (Machiavelli, 2014), we define the essence of the concept of "institutional pathology" as a disease of the state that has certain signs (symptoms) manifested in the form of deviation of its institutions from legal norms and rules in the performance of public administration functions.

In our opinion, the key signs of institutional pathologies are deviations in the following key indicators of the state's performance in the following areas:

1. Low growth rates of gross domestic product (GDP).
2. High level of shadowing.
3. Low income level of the population.
4. Oligarchic-autocratic model of state governance.
5. Corruption at all levels: domestic, business, and political.
6. Legal institutions do not counteract the activities of informal illegal institutions, which leads to hybridization of power.
7. Violation of the rule of law.

All of these signs are currently pronounced in Ukraine, in particular:

– Low GDP growth rates. Ukraine lags far behind most European countries in terms of GDP growth. To be more convincing, let's compare the dynamics of Ukraine's GDP growth rates with Poland's for the period from 1990 to 2021. Back in 1990, Poland was slightly behind Ukraine in this indicator, but later began to rapidly increase its GDP growth rate, while Ukraine remained at the level of the 1990s (Fig. 1).

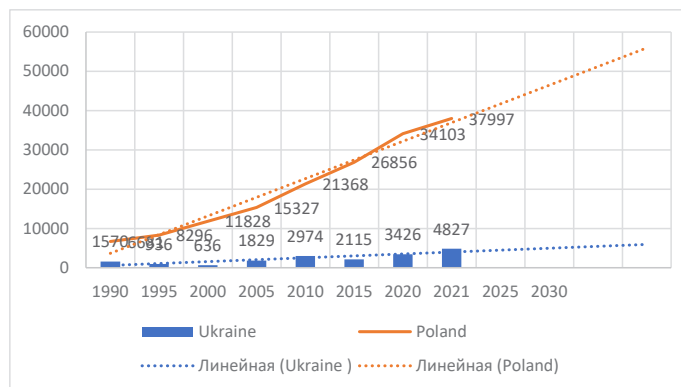


**Fig. 1. Gross domestic product at purchasing power parity of Ukraine and Poland, billion US dollars.**

Source: (Take-profit.org, 2023). (Ministry of Finance of Ukraine, 2023)

As we can see, despite having better starting conditions in the period from 1990 to 2000, Ukraine lost a lot of time in adapting to market conditions for doing business and transforming economic relations. In the following years, GDP growth was also quite low. This indicates that the reforms were unsuccessful and Ukraine chose the wrong path of development. That is, at the very beginning of the construction of Ukrainian statehood, the foundations were laid for the development of institutional pathologies. This is also evidenced by the following indicator.

– low income level of the population. In 2020, and still today, Ukraine is the poorest country in Europe in terms of income per capita. This is what prompts Ukrainians to seek a better life in other countries, including Poland and other countries of the world. In particular, in Poland, the average income per capita in 2021 was 37997 USD. while in Ukraine it was only \$4826.6. This is almost 8 times lower. In general, the GDP per capita in Ukraine and Poland for the period from 1990 to the present is shown in Figure 2.

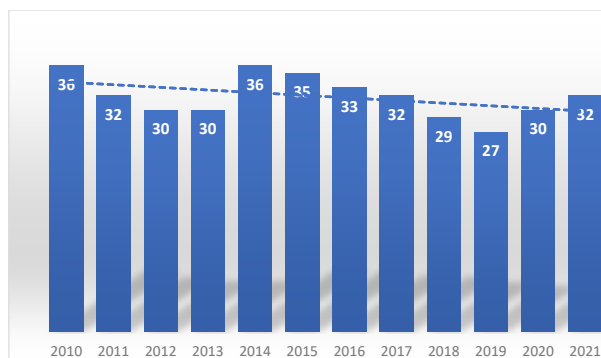


**Fig. 2. Dynamics and trends of GDP of Ukraine by Poland for the period 1990-2021, US dollars**

*Source: (According to the IMF)*

It should be noted that the GDP per capita in 2021 was the highest in all the years of independence. We believe that poverty and the devastating consequences of the war will be the main reasons for many Ukrainians who, unfortunately, will decide not to return to the country. In general, according to news sources, «...according to a recent World Bank report, in 2022, the poverty rate in Ukraine increased from 5.5% to 24.2%, and another 7.1 million people fell below the poverty line». (Slovo i Dilo, 2023). As Arup Banerjee, the World Bank’s Regional Director for Eastern Europe, noted in 2022, “...as a result of the full-scale war unleashed by Russia, the poverty rate in Ukraine has increased 10 times”. According to Banerjee, at the end of 2022, 25% of Ukraine’s population lived in poverty, and by the end of 2023, this figure could rise to 55%.

– *high level of shadow economy*. According to official institutions, the level of the shadow economy in Ukraine has been ranging from 27% to 36% over the past 11 years and tends to decrease (Figure 3).



**Fig. 3. Dynamics of the level of the shadow economy in Ukraine**

*Source: Ministry of Economic Development (2022)*

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At the same time, international experts and Danylo Hetmantsev, Chairman of the Verkhovna Rada Committee on Finance, Taxation and Customs Policy, believe that the shadow economy in Ukraine is half of GDP. In addition, Danylo Hetmantsev noted that no one can tell the exact figure of the shadow economy, and no research can be reliable, because the “shadow” cannot be counted. He also emphasized that the issue of smuggling and the shadow economy is a direct threat to national security in terms of its scale (Ukrainian Global Studies Studio, 2021). Ihor Makarenko, Director of the Institute of Evolutionary Economics, notes that if “...on the eve of the war, it was believed that the level of the shadow economy was somewhere between 33–35%, then according to international organizations, the level of the shadow economy in Ukraine is now 50%” (Makarenko, 2022). [According to him, the country has a very large administrative component, which is then compensated by the shadow economy. That is, the level of the shadow economy in the country during the war is 50%.

– *Corruption at all levels: domestic, business, and political.* Currently, corruption in Ukraine is one of the most important problems hindering the country’s development. According to the results of 2020, Ukraine’s Corruption Perceptions Index (CPI) score improved to 33 points out of 100. This is 3 points more than in the previous year, but only 1 point more than in 2018. Ukraine ranked 117th out of 180 countries in the global ranking. The group with a score of 33 points also includes countries from Africa and Asia – Egypt, Eswatini (formerly Swaziland, Africa), Nepal, Sierra Leone, and Zambia. However, in 2021, Ukraine lost ground again and moved to 122nd place with 32 points. In 2022, Ukraine returned to its position of 2020 and received 33 points out of 100 in the Corruption Perceptions Index (CPI), which increased by one point, and now Ukraine ranks 116th out of 180 countries in the CPI (Corruption Perceptions Index – 2022).

– *oligarchic-autocratic model of state governance.* The public administration system formed over 30 years of independence in Ukraine has enabled the development of an oligarchic monopolized economy. This has led to the hybridization of power (the merger of big business with public authorities acting in the interests of oligarchic clans) and the intensification of other pathologies related to the shadow economy and corruption of the government.

– *legal institutions do not counteract the activities of unofficial illegal institutions, which leads to hybridization of power.* The hybridization of power has led to inaction of official state institutions or to the “protection” of certain industries or business structures by the authorities, which has contributed to the development of the shadow economy. This leads to the growth of unrecorded and illegal economic activities in the segments of the “informal” economy, the underground economy, and the fictitious economy. While the informal economy is usually a type of economic activity prohibited by law and developed within criminal groups, the fictitious economy includes bribery and all kinds of fraud. In particular, fraud includes: actions related to the illegal receipt and transfer of funds; activities aimed at obtaining unjustified benefits and various kinds of privileges and preferences by economic agents, etc. The main reason for the emergence of this sector of the economy is, on the one hand, the desire of economic agents to obtain certain benefits through organized corrupt ties, and, on the other hand, the use of official position by public administration officials.

– *The rule of law is systematically violated.* Corrupt law enforcement, state fiscal, regulatory and judicial institutions are unable to counteract the development of the shadow economy, which is growing under the patronage of certain oligarchic groups and informal leaders of the criminal world. The deformed and chronically bribery-ridden judiciary is unable to satisfy Ukrainians’ demand for justice, which is another reason for social unrest.

As we can see, all these signs of institutional pathologies negatively affect both the state of socio-economic development of the state as a whole and the state of development of certain areas and sectors of economic activity, in particular, foreign economic activity.

### ***Consequences and Threats of Institutional Pathologies in the Field of Foreign Economic Activity for Ukraine and Ways to Overcome Them***

The inadequacy or one-sidedness of foreign economic policy, ineffective use of state regulation of foreign economic activity, and shortcomings in the application of methods and tools of customs regulation and customs control lead to the development of institutional pathologies and deformations, and to a significant distortion of the relationship between business and the state. This is also one of the reasons for the high level of the shadow economy in the country (Ivashova, Ivashov, Kritenko, 2020), the formation of hybrid institutions of public administration in the field of foreign trade (Predborskyi, 2005) and leads

to significant budget losses. Indeed, the annual potential losses of the Ukrainian budget from arrears due to shadow transactions and tax evasion, including in the field of foreign economic activity, in different years range from 13 to 15 billion dollars (Ivashova, and K, 2020). That is, the country's budget loses at least more than UAH 280 billion annually (Lev, 2020). To successfully counteract shadow transactions, it is necessary to clearly understand in which areas of economic activity they are carried out, what schemes are used for tax evasion, and how the funds withdrawn from legal circulation are redistributed. Depending on the answers we get to these questions, we can talk about mechanisms and tools to overcome the shadow economy, because "progress in the economy is impossible without bringing financial schemes out of the shadows" (Lev, 2020).

Therefore, let us dwell in more detail on the issues of combating shadow transactions in the context of studying the problems of public administration of foreign economic activity. Currently, there are enough analytical materials that reveal the structure of the shadow economy by various industries, spheres and types of activity, including the sphere of foreign economic relations (Varnaliy, 2014; Dubrovsky, 2008; Zhalilo, 2009; Makarenko, 2022; Predborskyi, 2005). The standard list of violations according to V. Dubrovsky's classification includes the following (Table 1).

Table 1

**Typical violations and shadow operations in the field of foreign trade**

<b>List of typical violations</b>
– violation of customs regulations and smuggling
– manipulation of the customs value of goods;
– interrupted transit;
– schemes by means of postal mail;
– “jackets”;
– direct smuggling;
– embezzlement of value added tax (VAT);
– illegal reimbursement from the budget for exports;
– fictitious entrepreneurship (missing trader), including “carousel” schemes;
– substitution of goods (“twists”);
– counterfeit;
– transfer of profits to tax havens (offshore);
– schemes of the shadow land lease market;
– shadow wages;
– distortion of the tax base (concealment of sales);
– Abuse of tax privileges and preferences and special regimes;
– informal entrepreneurship and individual economic activity without registration.

*Source: generalized by the authors based on data from (Dubrovsky and K, 2019)*

As we can see, the set of tools for tax avoidance in foreign economic operations in Ukraine is not very different from other countries. The vast majority of tax evasion cases are related to schemes in the field of foreign economic activity, as it is more convenient for their owners to keep funds illegally obtained in Ukraine in convertible currency (USD, EUR) and preferably in foreign banks. This can only be achieved through foreign economic operations. Thus, according to the results of research by the International Institute for Management Development (Switzerland), the Institute for Strategic Studies of Ukraine, as well as scholars Z. Varnalii (Varnalii, 2014), V. Dubrovskyi (Dubrovskyi and K, 2019) [4], V. Predborskyi (Predborskyi, 2004), L. Ivashova, M. Ivashov, and O. Kritenko (Ivashova and K, 2020) and other researchers have determined that about 80% of shadow transactions are somehow related to foreign economic activity, and only about 20% are carried out within the country. These results are confirmed by the figures provided by individual analysts. Thus, if “smuggling and customs violations alone cause the Ukrainian budget to lose UAH 110 billion annually, offshore schemes – UAH 65 billion, tax evasion in the financial sector – UAH 35 billion, the shadow land lease market – UAH 40 billion, schemes to minimize VAT payments (envelope centers) – UAH 20 billion, counterfeiting – UAH 10 billion. If only these schemes are brought out of the shadows and the budget is filled with them, it will be 280 billion UAH” (Lev, 2020), which in dollar terms at the time was more than 10 billion USD. THE AMOUNT OF MONEY WAS MORE THAN 10 BILLION US DOLLARS.

Since about 80% of shadow funds are converted through foreign economic operations, it becomes clear that strengthening state customs control in the field of foreign trade is the key mechanism for countering the shadow sector in the country. It is also worth noting that the structure of the shadow economy in

Ukraine is atypical in relation to the structure of the economy itself. Unlike most other countries (except for some CIS countries), the vast majority of tax revenues in Ukraine are lost through the most extensive instruments of tax evasion and aggressive tax planning. Unlike in most countries, these instruments are massively used by large and ultra-large enterprises that dominate the domestic economy and, thanks to their informal connections, have great opportunities for tax avoidance.

Accordingly, the mechanical transfer of the experience of other countries in this area to Ukraine leads to inadequate conclusions and recommendations that do not contribute to the effective fight against the shadow economy. With the development of globalization processes, the foreign economic activity of enterprises has significantly intensified. The number of violations of customs legislation related to the use of various shadow schemes for tax evasion has also increased proportionally. The main ones are identified in scientific works (Ivashova, and K, 2020) and presented in Table 2.

Table 2

**List of typical violations of customs legislation using shadow schemes in the field of foreign trade**

<b>Typical violations</b>
– incomplete declaration;
– use of fictitious companies, including in offshore zones;
– overstatement of the customs value of exported goods for reimbursement of export VAT from the state budget;
– understatement of the customs value of imported goods to reduce customs duties;
– placing goods in the recycling mode;
– actual import of goods under the guise of foreign investment or tolling operations;
– incorrect classification of goods;
– importation of goods under the guise of components;
– investments in authorized capital of joint ventures;
– failure to return or untimely return of foreign currency earnings;
– falsification of shipping documents;
– transferring funds to offshore zones, etc.

*Source: based on (Ivashova, and K, 2020)*

If public authorities do not respond in a timely manner to the development of institutional pathologies and institutional deformations in various spheres of public life, they accumulate and deepen. As a result, the effect of a “revolutionary situation” arises, which can lead to a socio-economic crisis and institutional failure. The most illustrative, in terms of the impact on the development of the state, are the consequences of institutional changes that manifest themselves in the form of institutional pathologies in the field of foreign economic activity. The latter cause structural failures in the FEA management system, which leads to an imbalance in the activities of customs institutions, including customs. The analysis of the state regulatory acts in the field of foreign economic activity and their consequences, conducted over the past few years, gives grounds to assert that the system of foreign economic activity regulation as one of the functions of public administration has acquired certain deformations that have all the signs of organizational and managerial pathologies. In general, based on the works of scholars (Peter Senge, 1999; Mazur, 2014), we identify 12 main pathologies in the field of foreign economic activity (Table 3).

## Description of institutional pathologies in the field of foreign trade

Type of pathology	Characterization of pathology
A dilemma in strategy	mixing incompatible goals, merging the tax and customs services into one body – the State Fiscal Service (SFS). This resulted in simplified standards of perception of customs as a purely fiscal activity and in the leveling of the regulatory and control functions of the State Customs Service. This approach remained in place even after the SFS was split into two agencies.
Replacing the problem	Instead of radical reforms, “cosmetic” or temporary changes are proposed, which give only short-term results, in particular, simplification of customs procedures and risk assessment without the introduction of a full-fledged customs audit does not solve the problem of customs security
Pendulum solution	adoption of contradictory regulations and half-hearted decisions on the development of certain institutions. For example, decisions made regarding the development of customs audit and authorized economic operator institutions.
The prevalence of structure over function <sup>1</sup>	constant structural and organizational transformations through reforms and reorganizations of state bodies regulating foreign economic activity are each time associated with rewriting the functions and tasks of individual structural units of the customs authorities. Continuous reforms of the customs service through mergers and divisions within the customs system each time reduce the efficiency of individual customs offices
Postponement of goals realization <sup>1</sup>	manifests itself during reforms based on institutional borrowing in the form of institutional conflict, which makes it impossible to bring them to a logical conclusion, so they are constantly stretched out in time and do not have the proper effect. An example is the ongoing reform of the customs service, which continues to this day.
Management conflicts <sup>1</sup>	confrontation between different management levels, which creates duplication of functions, overlapping interests, power contradictions and antagonism at different levels of management between structural units of individual customs offices, between customs offices, between customs offices and departments and offices of the central office of the State Customs Service, etc.
Erosion of standards <sup>1</sup>	deliberate deviation from the recognized international standards and norms of customs operations, in particular, half-hearted decisions on the implementation of the Kyoto Convention standards regarding the introduction of customs post-audit as a key type of customs control
Neutralizing previous decisions <sup>2</sup>	adequate and useful state decisions are leveled by other norms of the opposite direction, which leads to an imbalance in the legal field of customs affairs
Delayed reaction <sup>2</sup>	changes are made not at the moment of identifying problem areas, but with a significant delay, during which the ineffective rule continues to operate and induce negative effects (for example, with “Euro cars” or the settlement of problems with customs clearance of humanitarian aid)
Design defectiveness <sup>2</sup>	Adoption of imperfect decisions or legal norms in advance. For example, the decision to merge the tax and customs services, the imperfection of the mechanism for introducing the institution of an authorized economic operator, the inhibition of the development of effective areas of customs control, the lack of clearly defined methods and tools of customs control, etc.
Conflict of interest*.	low level of social protection of customs officers and a high risk of corruption, as well as unclear formulation of ethical standards of behavior of customs officers (bribery, nepotism, corruption)
Impunity*.	lack of direct responsibility for management decisions made or not made and their consequences.

Notes: <sup>1</sup>- Proposed by Peter Senge

<sup>2</sup>- proposed by Olena Mazur

\* – proposed by the authors

Source: compiled by the authors on the basis of Senge and Mazur (Peter Senge, 1999, Olena Mazur, 2014)

It is not enough to analyze and systematize the signs of manifestation and consequences of institutional pathologies and deformations. Within the scope of our study, we will dwell in more detail on the causes and consequences of the development of institutional pathologies in the field of foreign trade and identify



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the main directions for their elimination. At the same time, we will emphasize the priority institutional changes aimed at strengthening the role of customs authorities in the field of foreign trade regulation in order to "...on the way to European integration to convince potential EU partners that Ukraine will enter the Union not as a beggar, but as a young, stable and energetic economy that opens new prospects for socio- economic, political and humanitarian development for the united Europe" (Zhalilo, 2009, p. 312). This is how Ukraine should position itself on foreign markets after the war.

Therefore, the formation of a system of state regulation and control of foreign economic activity requires scientific substantiation of methodological approaches to the study of this process, understanding of the sequence of its course and scientific prediction of the results and consequences of the implementation or lack of reforms. After all, the prospects for the development of customs authorities as a key state institution regulating foreign economic activity involve: first, an integrated approach to implementation by balancing the fiscal, regulatory and control functions of customs authorities; second, reorganization of the customs control system in the context of ensuring customs security, including by increasing the importance and role of customs post-audit; third, identification of the main methods and instruments of customs regulation and customs control of foreign economic operations and increasing their efficiency with.

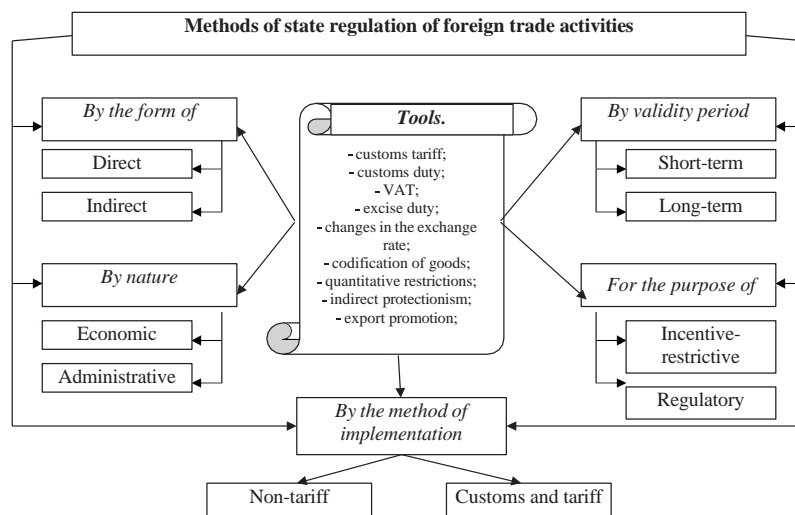
At the same time, an important area of scientific research is to clarify the list and characteristics of the key elements of the methodology of state management of foreign economic activity – methods and instruments of state regulation and control of foreign economic activity at both the tactical and strategic levels.

***Methods and tools to counteract institutional pathologies in the field of foreign trade by customs authorities***

In our previous publications, we have already considered the problems of determining the essential content of such concepts as "method" and "methodology" in the process of scientific cognition and concluded that these concepts should be a separate object of research by scientists, since they do not have an unambiguous interpretation. However, if earlier we focused in more detail on the coverage of general approaches to defining the essence of methodology and the systemic approach (Ivashova and Bakardzhyjev, 2016) and the features of the methodology of public administration in the field of foreign economic activity (Pismachenko (Ivashova), 2009), now we will define the key elements of the methodology of public administration of foreign economic activity, namely, specific methods and tools of management in this area.

In this article, we will focus on specific methods and instruments of customs regulation and customs control of foreign trade in Ukraine, the use of which allows for direct state management of this area of foreign economic activity. In the world and domestic practice, all methods of regulating foreign trade activities are divided into two large groups: administrative methods, which are short-term, restrictive or fiscal in nature and through which the state exercises "manual" control in the field of foreign trade in order to urgently influence the acceleration or deceleration of certain processes based on state needs; economic methods – are long-term, characterized as regulatory and used to promote the development of the national economy and to ensure.

In general, the classification proposed by various authors is mainly reduced to dividing the methods of state regulation of foreign economic activity into two groups according to the method of such regulation – tariff and non-tariff. However, there are different approaches to determining their content and methods of application, taking into account other classification features, namely, the form of influence, nature, duration and purpose of such methods. At the same time, different authors emphasize different features. This allowed us to develop our own classification of methods of regulating foreign economic activity (Fig. 4).



**Fig. 4. Classification of methods and instruments of state regulation of foreign trade activity (author's development)**

Thus, when developing this classification, we were guided by the work of our predecessors, which allowed us to state the following – regulation of foreign trade activities is carried out through the use of a certain set of tools, such as: customs tariff, customs duty; value added tax, excise duty, changes in the exchange rate, codes of commodity nomenclature, quantitative restrictions, indirect protectionism, technical standards, etc. In general, we presented the description of methods and instruments of regulation of foreign trade relations in the author's monograph (Pismachenko (Ivashova), 2008) in the form of a table (Table 3), which has been slightly revised and, in our opinion, remains relevant.

Table 3

**Characterization of the Methods of State Regulation of Foreign Trade Relations by the Composition of Instruments**

Feature	Methods	Instruments of state regulation of the TCD									
		Customs tariff	Customs duty	VAT	Excise duty	Changes in currency exchange rates	Codification of goods	Quantitative restrictions	Protectionism	Stimulation exports	Technical standards
By the form of influence	Direct	+	+				+	+	+	+	+
	Indirect			+	+	+					
By nature	Economic	+	+	+	+	+					
	Administrative						+	+	+	+	+
By validity period	Short-term					+		+	+	+	
	Long-term	+	+	+	+		+				+
For the purpose of	Restrictive	+		+	+	+	+	+			+
	Stimulating	+	+			+	+		+	+	+
By the method of implementation	Customs and tariffs	+	+				+				
	Non-tariff			+	+	+		+	+	+	+
Information platform		Customs statistics									

Source: improved on the basis of the author's development (Pismachenko (Ivashova), 2008) [12].

In general, public administration of foreign economic activity involves the widespread use of this information platform, which is created on the basis of statistical methods. The methodology of customs statistics of foreign trade of Ukraine uses its own methods and tools, which require a separate study and coverage in scientific papers and are not the subject of our study.

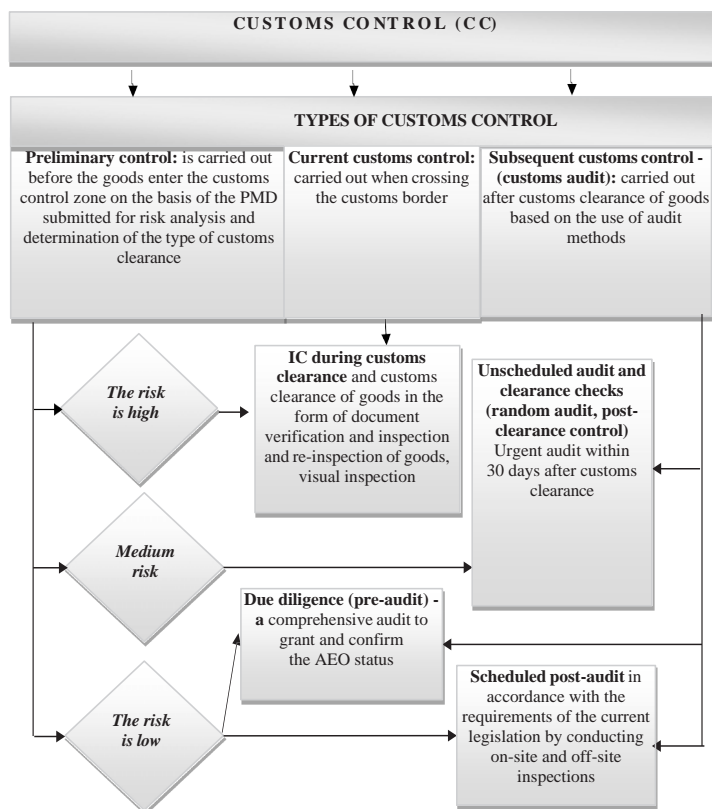
In general, customs and statistical control and analysis of foreign economic activity allow making the right strategic and tactical management decisions on public administration and regulation of this activity. Based on the level and period at which such decisions are made, we propose to divide all methods of regulating foreign trade activities into two large groups: systemic and strategic and situational and tactical, namely

– *systemic and strategic* methods are economic customs and tariff methods that are direct and long-term, characterized as regulatory and used to promote the sustainable development of the national economy and ensure budget revenues from foreign trade;

– *situational and tactical* methods are administrative non-tariff methods that are indirect and short-term, have a stimulating or restrictive effect, and are used for «manual» management in the field of foreign trade in order to quickly influence the acceleration or deceleration of certain processes based on state needs in uncertain or uncertain situations and circumstances.

In the process of managing foreign trade activities, public administration entities use not only methods and tools of customs regulation that allow them to regulate the processes of foreign trade. Along with these methods, it is advisable to use customs control methods. This makes it possible to provide managers with reliable information necessary for making adequate decisions. In addition, the use of customs control methods streamlines the relationship between the state and business in the field of foreign economic activity, and increases the responsibility of foreign economic operators. Therefore, it is important to understand the role of customs control and to apply the full range of methods and tools for its implementation. In general, the control function of customs authorities that strive to work in accordance with international standards is a leading one.

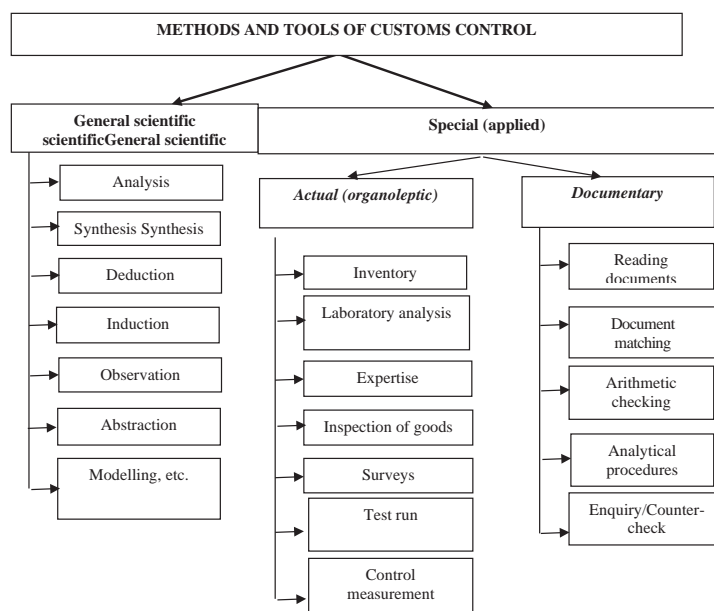
In accordance with the provisions of the Kyoto Convention (WCO, 1973), the main prerequisites for simplifying customs procedures include methods of customs control over movement and control measures based on the use of audit methods. At present, it is advisable to distinguish the concept of customs control in two areas: customs control during customs clearance; customs control based on audit methods. The application of certain customs control methods depends on the type, form and method of control based on the results of risk analysis (Fig. 5).



**Fig. 5. Structural and logical scheme of risk-based customs control**

At present, the choice of the type of control, as well as the selection of effective methods and tools of customs control depends on the proper functioning of the risk management system. After all, control using the risk management system is a risk assessment by analyzing (including using information technology) the submitted documents in a particular case of movement of goods, commercial vehicles across the customs border of Ukraine in order to select the forms and scope of customs control sufficient to ensure compliance with the requirements of Ukrainian legislation on customs affairs (VRU, 2012).

Depending on the type and form of customs control, customs officials may use both general scientific and special control methods that are widely used by state regulatory authorities (Figure 6).



**Fig. 6. Classification of customs control methods**

The realization of Ukraine’s intentions to integrate into the European Union requires the adaptation of domestic customs legislation to European standards, including the development of customs post-audit.

It is worth noting here that the most effective type of customs control in the world is customs post-audit. In particular, one of the 22 areas of the Customs Blueprints (Customs Blueprints, 2007), which reflect the best EU principles and standards in the field of customs, is the development of customs control in the form of customs post-audit. The use of customs post-audit is intended to facilitate the development of international trade by striking a balance between simplifying trade procedures, on the one hand, and ensuring effective customs control and security, on the other. The practical application of the principles and methodology of customs post-audit is also stipulated by the provisions of the Customs Cooperation Council Resolution – the SAFE Framework of Standards to Secure and Facilitate International Trade, used by the WCO member states (WCO, 2005). Thus, it is now imperative that Ukraine focuses on strengthening and developing risk-based customs control and ensuring the use of customs post-audit methods and tools. In addition, the development of customs post-audit is one of the requirements of the European Commission for Ukraine’s accession to the European Union.

At present, the Customs Service of Ukraine has certain problems that prevent it from fulfilling this requirement, namely: low efficiency of customs control; lack of an effective customs post-audit institution in the structure of the Customs Service; insufficient number of customs post-audit specialists; insufficient level of professional training of customs auditors. In general, we agree with A. Kostenko (Kostenko, 2022) that “...in the current conditions of economic and organizational crisis of the customs authorities, their material and technical base does not allow for 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”.

In order to overcome these problems, we believe it is necessary to: amend the customs legislation to legalize such type of customs control as customs post-audit and methods of its implementation; create

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a hierarchical system of customs post-audit in the structure of the customs service; expand the staff of customs post-audit units and provide these units with highly qualified specialists; organize short-term courses for training, retraining and advanced training of specialists in the field of customs post-audit. In addition, to improve the quality of customs control, we believe it is necessary to create an institute of customs intelligence in Ukraine.

Improvement of methodological approaches to the state management of foreign economic activity on the basis of optimization of the composition and increase of efficiency of application of methods and instruments of customs regulation and customs control is one of the ways to overcome institutional pathologies in the field of foreign economic activity.

**Conclusions.** Institutional support for state regulation of foreign economic activity is ambiguous and sometimes contradictory. The result of the institutional weakness of the state is a significant shadow economy, corruption and financial problems in the country. These problems have resulted in significant institutional pathologies in the area of public administration of foreign economic activity that need to be addressed. This primarily concerns the area of customs regulation and customs control. Methods and tools used by customs officials play an important role in the implementation of customs procedures. Improvement of theoretical and methodological approaches to the methods and tools of customs administration is the basis that will allow for effective institutional changes and shifts towards improving customs.

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## МИТНЕ РЕГУЛЮВАННЯ І КОНТРОЛЬ ЗОВНІШНЬОЕКОНОМІЧНОЇ ДІЯЛЬНОСТІ: ІНСТИТУЦІЙНІ ПАТОЛОГІЇ, МЕТОДИ Й ІНСТРУМЕНТИ ЇХ ПОДОЛАННЯ

**Людмила ІВАШОВА,**

*професор кафедри публічного управління та митного адміністрування*

*Університету митної справи та фінансів,*

*доктор наук з державного управління, професор*

*pln1204@ukr.net*

*orcid.org/0000-0003-3176-919X*

**Світлана ЛІЗАКОВСЬКА,**

*доцент*

*Військово-морської академії імені Героїв Вестерплатте в Гдині;*

*експерт*

*Поморської регіональної торгової палати в галузі професійно-технічної освіти та міжнародних*

*відносин (Гдиня, Республіка Польща),*

*доктор наук з публічного управління*

*sveta84@mail.ru*

*orcid.org/0000-0002-1524-2673*

**Валентина ВАСИЛЬЄВА,**

*доцент кафедри обліку, аудиту, аналізу та оподаткування*

*Університету митної справи та фінансів,*

*кандидат економічних наук, доцент*

*valentinatopol@ukr.net*

*orcid.org/0000-0001-6145-4979*

*Реалізація євроінтеграційних намірів України в сучасному глобалізованому світі потребує належного теоретичного осмислення системних недоліків у сфері державного регулювання зовнішньоекономічної діяльності. Сьогодні ці недоліки мають ознаки інституційних патологій. Наразі потрібне чітке розуміння природи цих патологій й означення шляхів їх подолання, що й висвітлено у статті.*

***Метою статті** є дослідження узагальнення наукових підходів до групування інституційних відхилень та порушень у сфері зовнішньоекономічної діяльності, а також визначення основних напрямів, методів та інструментів щодо подолання цих порушень та мінімізації їх наслідків.*

***Методи.** У статті на основі методології системного підходу обґрунтовано напрями протидії інституційним патологіям у сфері зовнішньоекономічної діяльності. У роботі використано ключові елементи методології державного управління зовнішньоекономічною діяльністю. Зокрема, авторами охарактеризовано методи та інструментів митного регулювання зовнішньоекономічної діяльності. Особливу увагу приділено методам митного контролю.*

***Результати.** У статті висвітлено причини та наслідки інституційних патологій та їх вплив на розвиток і ефективність зовнішньоекономічної діяльності. Здійснено групування інституційних патологій у сфері зовнішньоекономічної діяльності та охарактеризовано їх основні риси. Здійснено авторську класифікацію методів та інструментів державного регулювання зовнішньоекономічної діяльності. Означено шляхи подолання таких патологій через використання методів та інструментів митного регулювання. Запропоновано усі методи з регулювання зовнішньоекономічної діяльності об'єднати у дві групи, а саме: системно-стратегічні та ситуаційно-тактичні. Також означено особливості застосування різноманітних методів і прийоми митного контролю як під час, так і після митного оформлення товарів.*

***Висновки.** Авторами обґрунтовано, що залежно від інституційного стану державного регулювання зовнішньоекономічної діяльності та типу інституційних змін приймаються рішення про використання*

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*тих чи інших методів й інструментів митного регулювання і митного контролю. Прийняття такого рішення є прерогативою митних органів. Ефективність таких рішень залежить від стану інституційного забезпечення державного управління зовнішньоекономічною діяльністю, а також від професіоналізму посадових осіб митних органів, що безпосередньо здійснюють митне регулювання та митний контроль у цій сфері.*

**Ключові слова:** державне регулювання зовнішньоекономічної діяльності, інституційні зміни у сфері зовнішньоекономічної діяльності, тарифні та нетарифні методи митного регулювання, документальні методи митного контролю, ризик орієнтований контроль, пост митний контроль, митний постаудит.