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LEGAL PRINCIPLES OF CUSTOMS DECLARATION OF GOODS IN THE COURSE OF FOREIGN ECONOMIC ACTIVITY

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ABSTRACT

Objective: The research is devoted to the nature and peculiarities of the legal principles of customs declaration of goods in the course of foreign economic activity, taking into account the provisions of customs legislation and scientific research on this issues.

Theoretical Framework: This study examines the legal principles underpinning customs declaration as a procedural element of customs law and a socio-economic phenomenon. It integrates principles of legality, efficiency, and transparency, exploring their application in customs regimes and alignment with international standards such as the SAFE Framework of Standards and the Kyoto Convention.

Method: The article uses a combination of general and special methods of cognition, in particular, methods of analysis, synthesis, dialectical, formal legal and logical-semantic methods, to achieve its goal and solve its tasks.

Results and Discussion: The authors of the article have revealed the essence of customs declaration in the structure of customs business and carry out a comprehensive study of its interrelation with other customs procedures. The characteristic features of the principles of various customs procedures have been highlighted. The essence and peculiarities of implementation of certain principles of customs activities and customs declaration have been analyzed. The directions of formation and implementation of international standards in the customs sphere, taking into account the legal basis of customs declaration and customs in general have been proposed.

Contributions: Since customs declaration is a component of customs procedures, it has been proposed to extend a significant part of the principles of regulation of procedures to customs declaration, taking into account its specificity outlined in the proposed definition. It has been indicated that the current customs legislation does not contain a structured approach to the comprehensive reflection of the principles of declaration through its integration into the general process of customs procedures. The existing approaches to differentiation of the principles of customs and its procedures have been supported. The significance of the study for improving the legal regulation of customs declaration and promoting the efficiency of the customs system has been emphasized.

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1 INTRODUCTION

The issue of movement of goods of various kinds and origins across the customs border is of great importance for ensuring public order. This is related both to the control over the movement of certain objects across the customs border and to the provision of other functions that are important in the framework of public and even private interests. Thus, in the context of interpreting the content of Article 471 of the Customs Code of Ukraine, the Constitutional Court of Ukraine identifies the following national interests that are threatened by the uncontrolled movement of certain goods across the customs border of Ukraine: public order, health and life, human and civil rights and freedoms, the environment, economic security of the state, other state or public interests (Decision CCU, 2021).

Foreign economic activity as a sphere of manifestation of the respective legal personality of business entities of Ukraine and foreign business entities, which is mediated through various forms of cooperation both in our country and abroad, is associated with a change in the national legal regime of objects and various operations that meet the needs of such entities. At the same time, the issue of legitimizing the movement of certain goods of cultural, national, property value, which ensure economic sovereignty, form the property independence of both the nation and an individual, and may pose threats of a man-made, environmental, economic, etc. nature, across the country's borders is important.

The above creates prerequisites for studying the essence of customs declaration in the course of foreign economic activity. Since the legal regime of such activity determines its rules, and the principles or fundamental ideas are the basis for regulating the latter, a review of the nature of the principles

of customs declaration of goods, detailing their quantitative and qualitative characteristics is worthy of special study.

The purpose of this article is to study the essence and significance of the legal principles of customs declaration of goods in the course of foreign economic activity and their determination among other principles of legal regulation of customs affairs. To achieve this purpose, the following tasks have been set: to provide a definition of customs declaration; to differentiate the principles of customs procedures and their components; to distinguish the principles of customs declaration from the principles of other components of customs affairs; to compare the principles of regulation of various customs procedures; to analyze the features of the implementation of individual principles of customs activity in the context of customs declaration; to make proposals for improving the regulatory and legal consolidation of the essence of customs declaration and its legal principles.

2 THEORETICAL FRAMEWORK

The field of customs declaration, especially in the context of implementing the principles of legal regulation of this activity, is the subject of research by many scholars. Among the most thorough and comprehensive studies on this topic, covering both legal and economic aspects, the PhD thesis of S.A. Storozhenko (2019). In his work, the author examined in detail the problems of administrative liability for the illegal movement of goods across the customs border of Ukraine as a tool for ensuring customs affairs and implementing customs policy. This study was the first to be carried out after the decriminalization of commodity smuggling.

Significant for doctrinal science is the doctoral thesis of V. V. Prokopenko (2018), dedicated to the study of customs formalities in transport in Ukraine, determining the specifics of their implementation on various types of transport, their compliance with international norms, rules, standards, and the development on this basis of conceptual directions for reforming legislation in this area.

The scientific basis for writing this article is the achievements of scholars

devoted to the peculiarities of legal regulation of the powers of the State Customs Service of Ukraine in the field of combating and preventing smuggling (Teremetskyi & Chumak, 2023); defining the concept and essence of customs procedures and their harmonization with international standards (Dudchenko, 2019); studying individual components of customs clearance (in particular, declaration in the context of the issues of implementing the innovative principle of 'single window' during customs control), as well as determining declaration as the main component of customs clearance (Lisohor, 2019); revealing the features of customs regulation in Ukraine and EU countries, as well as ways to solve existing problems (Liashevska *et al*., 2019); clarifying the essence, purpose, legal basis and specifics of customs audit to identify gaps in the current legislation of Ukraine (Chmeliuk & Ostapchuk, 2017); identifying areas for improving customs control and movement of goods across the customs border of Ukraine, taking into account the development of international cooperation and information technologies (Stepanenko, 2023).

The issues of the principles of legal regulation of customs declaration, their systematisation and inclusion in the provisions of the Customs Code of Ukraine are addressed by the works of such scholars as: O.S. Ivanchenko (2007), A.O. Nima (2023), V.V. Mushenok (2020), A.I. Berlach and Y.B. Lisohor (2023).

These scientific works have created a theoretical basis for a deeper understanding of the key categories and terms related to customs declaration in general, as well as the legal basis of this activity in particular. This emphasises the need for further analysis and elaboration of these issues in the context of the subject matter of this study.

3 METHODOLOGY

The solution of the tasks set and achievement of the defined purpose became possible due to the use of a combination of general and special methods of cognition. The method of analysis was used to determine the deterministic features of customs declaration, as well as the peculiarities of the legal framework for such activities. The method of synthesis ensured the formulation of the definition of customs declaration among other customs procedures. The

dialectical method was used to determine the essence of customs declaration as a means of identifying goods crossing the customs border with a view to controlling their movement, as well as a form of ensuring the rights and freedoms of a person whose interests are affected by such a procedure. The formal legal method provided an opportunity to accurately interpret the content of the legal acts defining the legal regime of customs procedures, including customs clearance and customs declaration, as well as to establish the list and content of the principles governing these procedures. Using the logical and semantic method, the author defines the essence of certain terminological concepts regulated within the framework of customs clearance of goods across the customs border. In order to reveal the essence of customs declaration in relation to other customs procedures, the author analyses the statutory provisions of the Constitution of Ukraine, the SAFE Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization, the Declaration on the Integrity of Customs Officers, the International Convention on the Simplification and Harmonization of Customs Procedures, and the Customs Code of Ukraine.

As a result of the study, the principles of customs, customs activities, customs clearance, customs control, customs declaration and customs audit have been highlighted. Certain terminological concepts have been defined and amendments to customs legislation in the context of the subject matter of the study have been proposed. In addition, the case law of the Constitutional Court of Ukraine, which is used to substantiate the role of customs, in particular, customs declaration, in ensuring public order and protecting national interests has been analyzed.

4 RESULTS AND DISCUSSIONS

The issue of the legal principles of customs declaration of goods in the course of foreign economic activity should be considered from the standpoint of terminological, legislative and scientific approaches. These approaches are aimed at defining the general and specific features of these concepts, which allows for their in-depth understanding and effective legal regulation.

The term ‘customs declaration’ has two lexical components. The essence of the concept of ‘declaration’ is interpreted as an official statement or solemn proclamation of certain information. The adjective ‘customs’ is derived from the noun ‘customs duty’, which is defined as a tax paid by business entities for performing actions specified by law.

Taking into account the nature and significance of customs duties, there are such types of customs duties as additional import duties, countervailing duties and transit duties (Busel, 2005, p. 281). These types of customs duties emphasize the versatility and specificity of customs declaration in legal and economic terms.

The analysis of the current legislation allows us to draw the following conclusions. Firstly, Article 4 of the Customs Code of Ukraine (Law of Ukraine No. 4495-VI, 2012) contains definitions of a number of terms and concepts that are key to the regulation of public relations in the field of customs as a component of the state customs policy. The following concepts deserve special attention:

1) declarant - a person who independently makes a declaration or on whose behalf a declaration is made;
2) declaration of customs value - a document of the established form submitted by the declarant and containing information on the customs value of goods moved across the customs border of Ukraine or in respect of which the customs regime is changed;
3) customs declaration - a statement of the prescribed form, which indicates the customs procedure to be applied to the goods and the information on the goods, conditions and methods of their movement across the customs border of Ukraine, as well as information on the calculation of customs payments required for the application of the relevant procedure. These concepts reflect the main elements of the legal regulation of customs activities and ensure accuracy and unambiguity in the application of law in the field of customs.

Secondly, part 2 of Article 71 of the Customs Code of Ukraine stipulates that goods are placed under the customs regime by declaring them and performing customs formalities provided for by this Code. The types of customs

regimes provided for in Article 70 of the Customs Code of Ukraine have their own specific features and entail certain legal consequences of their application.

Each customs regime requires a specific procedure for placing goods under each customs regime, which, in particular, includes actions related to the declaration of information about the goods subject to a change in customs regime. This includes their value and other characteristics that are material in accordance with the provisions of applicable law. For example, according to part 3 of Article 75 of the Customs Code of Ukraine, in order to place goods under the import customs regime, the person responsible for compliance with the requirements of this regime is obliged to perform a number of actions, including submitting to the customs authority the necessary documents for the relevant goods.

In addition, Article 257 of the Customs Code of Ukraine, regulating the definition and content of the declaration procedure, defines declaration as a statement in the prescribed form (written, oral or by performing actions) of accurate information about the goods, the purpose of their movement across the customs border of Ukraine, as well as information necessary for customs control and customs clearance.

The legal science has reasonably defined the essence of customs clearance as a complex category which, in particular, has the features of a legal institution. This institute reflects the rules aimed at ensuring the implementation of organizational, legal and technical measures that regulate the customs clearance procedure, its place and time, determine the form and content of the required documents, the methods and amount of information to be declared, and regulate the performance of other customs formalities (Berlach & Lisohor, 2023, p. 790-791).

To some extent, the approach that considers customs declaration as an administrative non-jurisdictional permissive proceeding is debatable. In this context, the declaration is recognized as the main customs procedure, which, together with other customs procedures, forms the institution of customs clearance (Lisohor, 2019, p. 22-23). However, this point of view has its opponents who argue that customs declaration is not a separate customs procedure. This approach is based on the understanding of the customs

procedure as an operation related to the exercise of customs control over the movement of goods across the customs border, and on an exhaustive list of customs procedures enshrined in the legislation (Dudchenko, 2019, p. 62-63).

This position is confirmed by the statutory definition of the concept of 'customs declaration' (paragraph 20 of Article 1 of the Customs Code of Ukraine) and the interpretation of the declaration procedure as an integral part of other customs procedures (Article 257 of the Customs Code of Ukraine). Thus, the customs declaration should not be considered as an independent customs procedure, but as an element of the overall customs clearance process.

The above, in the context of understanding customs declaration as a legal and socio-economic phenomenon, allows us to define this activity as a procedure that provides for the official declaration of information to the customs authority by a person authorized by the applicable law about goods that are transported across the customs border, in respect of which the customs regime is changed, customs clearance is carried out and customs control measures are applied. Such an approach creates preconditions for introducing appropriate amendments to the provisions of Article 4 of the Customs Code of Ukraine. Therefore, it is advisable to enshrine a separate provision defining the concept of 'customs declaration', which will ensure consistency with further provisions of this legal act and increase legal certainty in the regulation of customs procedures.

The legal basis or principles of the customs declaration of goods are defined as fundamental ideas aimed at regulating the relevant social relations. They cover the activities of the state authority empowered, on the one hand, to facilitate the movement of goods and items across the customs border, and, on the other hand, to ensure public order, as well as other participants in foreign economic activity. These principles have both legislative and theoretical justification.

In view of the above, the legal basis (principles) of customs declaration are logically related to the relevant principles of legal regulation of customs in general and certain customs control procedures in particular. Article 8 of the Customs Code of Ukraine expressly sets out the principles of customs operations, which are fully consistent with the fundamental principles of

customs declaration. In addition, Article 318 of the Customs Code of Ukraine, which defines the principles of customs control, can be used to some extent to study the principles of customs declaration, as these categories have common features and close interconnection.

It is necessary to analyse the existing views of representatives of the scientific community on this issue. In particular, V. Mushenok (2020, p. 159-160), studying the legal nature of the principles of legal regulation in general and the administrative and legal basis for the implementation of the principles of customs clearance in particular, drew attention to the following characteristic features.

1. *Connection with the state customs policy*. Relying on the provisions of Article 5 of the Customs Code of Ukraine, V. Mushenok points out that the system of principles, along with the directions of the state's activities in the relevant area, forms the content of the state customs policy as a component of the state economic policy. This sphere covers the following issues: protection of customs interests; ensuring customs security; regulation of foreign trade; protection of the domestic market; development of the Ukrainian economy; integration of Ukraine into the world economy.
2. *Formation and development of the system of principles*. The system of customs clearance principles shall be formed and developed on the basis of the need for an objective reflection and proper justification of the most essential, specific and stable links and relations characteristic of the customs regulation system.
3. *Theoretical basis*. The basis for the formation of the principles of customs regulation is scientific research in the fields of administrative and financial law aimed at formulating the most general rules and standards of state customs activities.
4. *Differentiation of the principles*. V. Mushenok proposes to differentiate the principles of customs clearance into:

- general principles (democracy, legal pluralism, priority of human rights and freedoms);

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- special principles (customs clearance at the customs border, at checkpoints on the state border, at special points on the customs border within special customs zones, in customs control zones on the territories and premises of enterprises, in the premises of internal customs).

5. *Regulation of principles*. The authors emphasize the importance of enshrining these principles in Article 246 of the Customs Code of Ukraine, which, along with the purpose, provides the legal basis for regulating customs clearance.

These considerations are valuable for the development of scientific thought, but require some clarification. Firstly, customs clearance should be considered as a component of the overall process of customs operations, which determines the derivative nature of its principles from the fundamental principles of legal regulation of customs operations. Secondly, the proposed amendment to Article 246 of the Customs Code of Ukraine in the above wording will repeat the content of Article 247 of this Code and, most importantly, will not take into account the essence of legal principles of regulation of customs clearance procedures, especially special principles. In some cases, this may lead to excessive lawmaking and complication of regulatory framework.

Thus, the approach to regulating the principles of customs clearance requires a more balanced and systematic elaboration, taking into account both general and special principles, as well as their relationship with the basic principles of legal regulation of customs.

It is advisable to consider the principles of customs activities through the prism of the introduction of international standards for the functioning of customs services (Denysenko, 2024, p. 62-79). This study focuses on the implementation of the principles stipulated by these standards, including: simplification and transparency of customs procedures, minimisation of administrative influence, maximum use of information technology, application of a risk-based approach to customs control, transparency of relations between customs officials and participants of customs procedures, establishing practical and clear rules of conduct for customs officials in the performance of their duties.

This emphasizes that the transparency of customs procedures directly correlates with the transparency of relations between the participants in these procedures. Therefore, the implementation of these principles contributes to the harmonization of customs authorities' activities with international standards, increases the efficiency of customs control and ensures trust between all participants in the customs process.

At the same time, in the context of international documents, there is a detailing of unified approaches to defining the basic principles of customs regulation. Of particular importance in this regard are the provisions of the SAFE Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization, adopted in 2005 (Resolution, 2005). Within these standards, the following areas of customs activities are distinguished, which are actually international standards and, accordingly, principles of regulation of customs activities within the international legal regime:

- improving security and simplifying the functioning of international trade in order to ensure certainty and predictability in this area;
- introduction of integrated management of international trade;
- determining the legal personality of customs authorities in view of current realities and challenges;
- promoting continuous and safe trade in foreign trade;
- strengthening cooperation between customs administrations of different countries, as well as between customs administrations and foreign economic operators.

These approaches not only ensure the unification of customs activities at the international level, but also contribute to the effective integration of national customs systems into the global economy, which necessitates the implementation of these standards into national legislation.

Significant in the context of this study and the above considerations is the 1993 Declaration of the Customs Co-operation Council Concerning Good Governance and Integrity in Customs (Arusha Declaration). This document defines the main principles of rule-making in the field of combating corruption at the national level. These include: assigning responsibility to the management of the customs authority, unification of legislation, transparency of customs

procedures, automation of customs processes, comprehensiveness of reforms and modernization, openness and productivity in relations between participants in customs procedures.

The provisions of the Kyoto Convention, which aims to simplify and harmonize customs procedures, deserve special attention. The following principles of customs regulation are recommended under the Convention:

- implementation of programmes aimed at continuous improvement and increase of the efficiency of customs rules and procedures;
- ensuring predictability, consistency and transparency of customs rules and procedures;
- publicity and accessibility of information on current legislation, administrative acts, customs rules and procedures for stakeholders;
- introduction of a risk analysis system and audit control method;
- maximum use of information technology;
- cooperation with other public authorities, customs services of other states and trade communities;
- integration of relevant international standards;
- ensuring unimpeded access of interested parties to administrative and judicial control procedures (Kyoto Convention, 1973).

These principles create the basis for the unification and improvement of customs regulation at the international level, contribute to strengthening trust between participants in foreign economic activity and increase the efficiency of customs authorities in modern conditions. The implementation of such approaches is an important step in harmonizing national customs systems with international standards.

Given the content of the customs clearance procedure, it is advisable to distinguish general legal, inter-sectoral, sectoral and institutional principles of legal regulation of this activity. The general legal principles include, in particular, the principles of legality, the inadmissibility of opposing legality and expediency, as well as the guarantee of human rights and freedoms. Inter-sectoral principles include such principles as the reliability of information and the timeliness of its submission, the differentiation of functions and powers of customs officials. Sectoral principles include the following principles: direct

effect of customs legislation, its comprehensibility, clarity and predictability, equality of all participants in customs procedures, use of information technologies, as well as the impossibility of using or disposing of goods for which customs procedures have not been completed. Institutional principles determine the fundamental foundations of legal regulation of customs clearance, including: unity of customs clearance rules, their differentiation depending on the features of the customs regime, the imperative of declaring certain types of goods for commercial purposes (Berlach & Lisohor, 2023, p. 791).

The above considerations generally deserve support, although they require clarification. For example, the principles of equality of all participants in customs procedures and the use of information technologies are more appropriate to be attributed to the cross-sectoral principles of legal regulation, since they are inherent not only to customs law.

A. O. Nima presented a somewhat generalized approach to the analysis of the basic principles of customs affairs, who integrated the initial, defining ideas that form the organizational and legal basis of customs activities and outlined them as the principles of movement of goods across the customs border (2023, p. 46). The scientist identified the following principles: legality, presumption of innocence, publicity and transparency, movement in designated places, freedom of movement of goods, mandatory customs control and customs clearance, free choice and change of customs regime, simplification of customs formalities, mandatory declaration of certain goods, as well as liability for violation of customs rules.

O. S. Ivanchenko (2007, p. 383–385) continued this approach, differentiating the principles of movement of goods by individuals across the customs border. He emphasized the dispersion of the regulatory regulation of these principles in customs legislation, the systematization of which allows identifying essential features and providing an appropriate definition. Based on the analysis of international customs legislation, the scientist concluded that the defining principle in this area is the principle of free movement of goods, which is explained by the goal of global cooperation and ensuring trade between countries with different legal regimes and levels of economic development.

V. T. Komzyuk (2013, p. 201) in his study examined the nature of the principles of customs authorities' activities, proposing to differentiate them into four types: general (constitutional) principles, law enforcement principles, principles that characterize exclusively the activities of customs authorities and their officials, principles related to the legal status of customs authorities as public administration bodies and the legal status of their officials as civil servants.

Taking into account the considered content of customs declaration, the issue of the essence and classification of the principles of customs control of goods moving across the customs border is important. In this context, O.L. Sokolenko (2024, p. 813), based on established approaches to classification, proposed dividing the principles into two groups: general (legality, systematicity, systematic, efficiency, transparency) and sectoral (selectivity, minimization of customs procedures, prevention of corruption risks, professional competence of customs officials, their ethics and culture). As a defining principle of customs control, the scientist singles out legality, which is ensured by compliance with the norms of current legislation, in particular imperative provisions of a discretionary nature.

An in-depth analysis of the essence of the principles of customs control was carried out by V. V. Chmeliuk and N. V. Ostapchuk (2017). They emphasized the important role of customs audit as a component of customs procedures aimed at ensuring the implementation of the principles of customs and customs control, as well as guaranteeing the rights and legitimate interests of citizens within the framework of various customs regimes.

The outlined approaches provide a comprehensive overview of the essence and role of the principles of customs, contributing to the formation of a systematic understanding of the legal foundations of customs regulation.

N. O. Koval (2018, p. 113-114), based on the provisions of the International Convention on the Simplification and Harmonization of Customs Procedures, identified the principle of maximum use of information technologies as key to simplifying and harmonizing customs procedures. An important manifestation of this principle was the introduction of electronic declaration, which, in turn, contributed to the emergence of such derivative

principles as 'remote declaration' and 'single window'. These principles are correlated with each other both in terms of the purpose of implementation and the means of achieving it. Among the positive consequences of electronic declaration, the following are highlighted: implementation of international standards and best international practices, simplification of customs procedures, ensuring the efficiency and cost-effectiveness of customs clearance, reduction of corruption risks, elimination of excessive components in the procedures for changing the customs regime (Shevchuk & Myleiko, 2019, p. 117-123).

S. V. Stepanenko (2023, p. 51–52) proposed prospects for improving customs affairs by intensifying the principles of customs control. His proposals include creating favorable conditions for the movement of goods across the border through: simplification and acceleration of customs procedures, harmonization of public and private interests, automation of customs processes within the framework of the concept of 'electronic customs', improvement of the risk management system, increasing the availability of information on customs regulation.

These approaches, based on the introduction of modern technologies and harmonization of regulation, are aimed at improving the efficiency of customs procedures and strengthening trust between participants in foreign economic activity.

5 CONCLUSION

The results of the study of the essence of the legal principles of customs declaration of goods in foreign economic activity allowed us to achieve the set purpose and solve the identified tasks.

Customs declaration is defined as a legal and socio-economic phenomenon, which is a type of activity in the field of customs affairs, as well as a procedure associated with the official declaration by a person authorized by law to the customs authority of information about goods moving across the customs border, for which the customs regime is changing, customs clearance and customs control measures are carried out. The study made it possible to

formulate proposals for consolidating the concept of customs declaration in customs legislation.

The legal basis (principles) of customs declaration of goods are defined as fundamental ideas that contribute to the normalization of public relations with the participation of a state body designed to ensure a balance between the interests of persons moving goods and objects across the customs border and public law and order, and other participants in foreign economic activity.

The principles of customs declaration are closely related to the fundamental principles of legal regulation of customs affairs in general, as well as to the components of its procedures. The study substantiates the relationship between the principles of customs declaration with the principles of customs affairs, customs activities, customs clearance, customs control, customs audit and the activities of customs authorities and their officials.

Particular attention is paid to international standards in the field of customs regulation, which are reflected in international regulatory legal acts and require further implementation in Ukrainian national legislation.

Given that customs declaration is a component of customs procedures, it is proposed to extend most of the principles regulating customs procedures to it, taking into account the specifics of declaration, identified in the study. The existing regulatory framework requires a structured approach to comprehensive coverage of the principles of declaration in individual parts of customs legislation.

Existing approaches to the differentiation of the principles of customs operations and their procedures are supported, including: the main principles of the activities of authorized entities, industry affiliation, principles of legal regulation, administrative and legal principles of implementation.

The following key legal principles of customs declaration are separately identified: legality, implementation of international standards and best practices, simplification of customs procedures, efficiency and cost-effectiveness of customs clearance, reduction of corruption risks.

The conclusions of the study will contribute to the further development of effective instruments of legal regulation of customs declaration, taking into account modern challenges and international trends.

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