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THE CUSTOMS POLICY OF THE STATE THROUGH THE PRISM OF INCENTIVES AND RESTRICTIONS

Abstract. The article examines the place of the customs policy in the state financial policy. It has been established that the state's customs policy is interrelated with the tax and budget policy of the state, because at the expense of customs payments (which are tax payments), implementation of the revenue part of the budget of the country is ensured. Due to revenues to the budget, redistribution of funds to various directions of social and economic development of the state is ensured. It has been proved that tax and customs policies have different goals. The tax policy is aimed at replenishing the state budget, and customs policy — not only contributes to the replenishment of the budget, but also regulates the processes of export and import, protects national commodity producers. The existence of a legal conflict with the controlling bodies responsible for budget, tax and customs policy has been established. The norms of the law do not provide for a clear distribution of powers between the Ministry of Finance of Ukraine and the bodies of the State Fiscal Service of Ukraine. The list of existing customs principles has been improved by adding the principles of the obligation to pay customs payments; preferences; restrictions or prohibitions on import of goods into the customs territory of Ukraine; fiscal sufficiency; stability; implementation. The place of Ukraine in the ranking of logistics efficiency is analyzed. It is established that Ukraine lost 19 positions in terms of the value of the index of logistics efficiency over the past two years. On the basis of the analysis of the logistics efficiency index, it was established that the lowest indicators of Ukraine are related to the customs clearance of goods (130 place in the rating), simplicity and prices of the organization of deliveries (95th place in the rating); Competence and quality of service provision (95th place in the rating). Based on the analysis of the norms of the Customs Code of Ukraine, tools for stimulating and limiting the use of customs privileges are summarized. Stimulation is manifested in preferential terms of taxation (exemption from taxation, lower rates of duty, tariff quotas). Limitations are limited-term privileges; a list of goods that can be imported into the territory of Ukraine in a certain amount without payment of the duty; the need to confirm the use of goods that were imported on preferential terms).

Keywords: the duty, customs affairs, customs policy, principles of customs affairs, the index efficiency of logistics, incentives and restrictions in customs taxation.

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МИТНА ПОЛІТИКА ДЕРЖАВИ КРИЗЬ ПРИЗМУ СТИМУЛІВ ТА ОБМЕЖЕНЬ

Анотація. Досліджено місце митної політики у фінансовій політиці держави. Установлено, що митна політика держави взаємопов'язана з податковою і бюджетною політиками держави, оскільки за рахунок митних платежів (які є податковими платежами) забезпечується виконання дохідної частини бюджету країни. За рахунок надходжень до бюджету забезпечується перерозподіл коштів на різні напрями соціально-економічного розвитку держави. Доведено, що податкова та митна політики мають різні цілі. Податкова політика спрямована на поповнення бюджету держави, а митна політика — не тільки сприяє поповненню бюджету, а й регулює процеси експорту та імпорту, захищає національних товаровиробників. Установлено існування правової колізії щодо органів контролю, які є відповідальними за бюджетну, податкову і митну політики. Норми законодавства не передбачають чіткого розподілу повноважень між Міністерством фінансів України та органами Державної фіскальної служби України. Удосконалено перелік наявних принципів митної справи за рахунок додавання принципів обов'язковості сплати митних платежів; преференційності; обмеження або заборони ввезення товарів на митну територію України; фіскальної достатності; стабільності; імплементації. Проаналізовано місце України в рейтингу ефективності логістики. Установлено, що за індексом ефективності логістики за останні два роки Україна втратила 19 позицій. На основі аналізу індексу ефективності логістики встановлено, що найнижчі показники України пов'язані з митним оформленням вантажу (130-те місце в рейтингу), простота і ціни організації поставок (95 місце в рейтингу); компетентність і якість надання послуг (95-те місце в рейтингу). На підставі аналізу норм Митного кодексу України узагальнено інструменти стимулювання та обмеження при застосуванні митних пільг. Стимулювання проявляється в пільгових умовах оподаткування (звільнення від оподаткування; знижені ставки мита, тарифні квоти). Обмежувальний характер мають пільги з визначеним терміном дії; перелік товарів, які можна ввозити на територію України в певній кількості без сплати мита; доцільність підтвердження цільового використання товарів, які були ввезені на пільгових умовах.

Ключові слова. мито, митна справа, митна політика, принципи митної справи, індекс ефективності логістики, стимули та обмеження в митному оподаткуванні.

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ТАМОЖЕННАЯ ПОЛИТИКА ГОСУДАРСТВА СКВОЗЬ ПРИЗМУ СТИМУЛОВ И ОГРАНИЧЕНИЙ

Аннотация. Исследовано место таможенной политики в финансовой политике государства. Установлено, что таможенная политика государства взаимосвязана с налоговой и бюджетной политиками государства, поскольку за счет таможенных платежей (которые являются налоговыми платежами) обеспечивается выполнение доходной части бюджета страны. За счет поступлений в бюджет обеспечивается перераспределение средств на различные направления социально-экономического развития государства. Доказано, что налоговая и таможенная политики имеют разные цели. Налоговая политика направлена на пополнение бюджета государства, а таможенная политика — не только способствует пополнению бюджета, но и регулирует процессы экспорта и импорта, защищает национальных товаропроизводителей. Установлено существование правовой коллизии относительно контролирующих органов, ответственных за бюджетную, налоговую и таможенную политику. Нормы законодательства не предусматривают четкого распределения полномочий между Министерством финансов Украины и органами Государственной фискальной службы Украины. Усовершенствован перечень существующих принципов таможенного дела за счет добавления принципов обязательности уплаты таможенных платежей; преференционности; ограничения или запрета ввоза товаров на таможенную территорию Украины; фискальной достаточности; стабильности; имплементации.

Проанализировано место Украины в рейтинге эффективности логистики. Установлено, что по значению индекса эффективности логистики за последние два года Украина потеряла 19 позиций. На основе анализа индекса эффективности логистики установлено, что самые низкие показатели Украины связаны с таможенным оформлением груза (130 место в рейтинге), простота и цены организации поставок (95 место в рейтинге); компетентность и качество предоставления услуг (95 место в рейтинге).

На основании анализа норм Таможенного кодекса Украины обобщены инструменты стимулирования и ограничения при применении таможенных льгот. Стимулирование проявляется в льготных условиях налогообложения (освобождение от налогообложения; пониженные ставки пошлины, тарифные квоты). Ограничительный характер носят льготы с ограниченным сроком действия; перечень товаров, которые можно ввозить на территорию

Украины в определенном количестве без уплаты пошлины; необходимость подтверждения целевого использования товаров, которые были ввезены на льготных условиях.

Ключевые слова: таможенная пошлина, таможенное дело, таможенная политика, принципы таможенного дела, индекс эффективности логистики, стимулы и ограничения в таможенном налогообложении.

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Introduction.

The socio-economic development of the state depends on many components. One of these components is taxes, which ensure the formation of a significant part of the budget revenues of the country (Fig. 1).

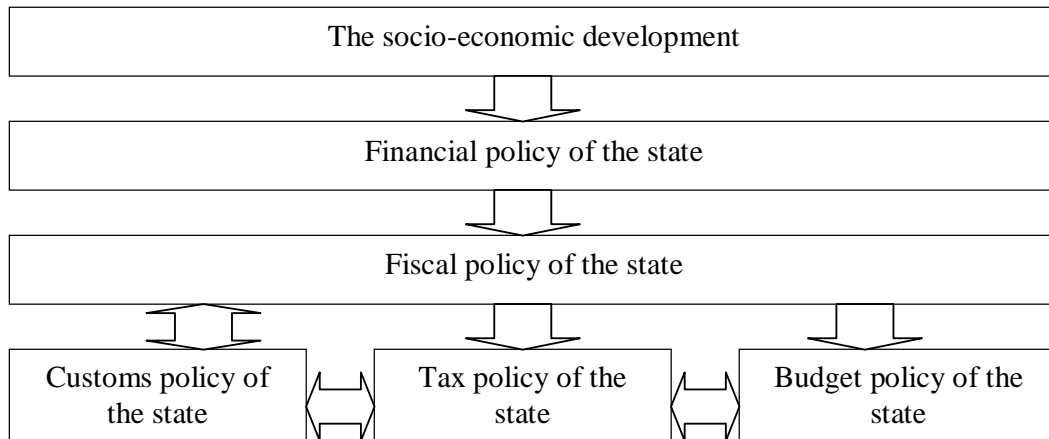


Fig. 1. Place of taxes in the socio-economic development of the state [1]

Customs policy is part of the fiscal policy of the state, but, at the same time, the first is interconnected with tax policy. This connection is due to the fact that according to Article 9 of the Tax Code of Ukraine [2] the duty refers to national taxes and duties, that is, the amount of the duty is included in the amount of tax revenues (fig. 2), which are then distributed through the budget of the country in various spheres of the socio-economic development.

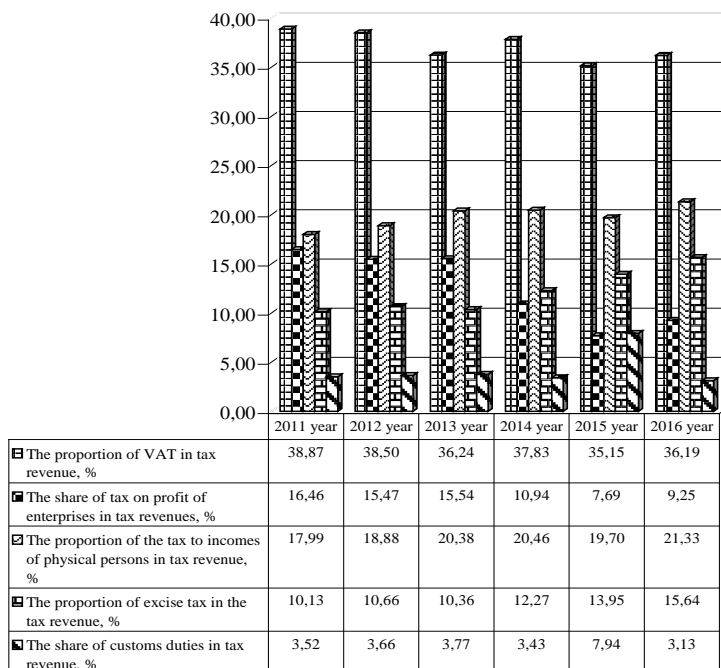


Fig. 2. The share of basic taxes in tax revenues, % is based on [3, 4]

But at the same time, the duty is also a component of customs policy, because tax policy and customs policy have several different goals. Tax policy is aimed at replenishing the state budget, and customs policy not only contributes to the replenishment of the budget, but also regulates the processes of export and import, protects national commodity producers, and so on.

Analysis of researches and setting tasks.

Customs policy is always at the center of economists' and practitioners' attention. So in the work of Kobushko I. N. Ilchenko AV Denisenko S. I. [5, p. 23-26] attention is paid to the issues of implementation of EU customs legislation in Ukrainian customs legislation. At the same time, the authors emphasize the imperfection of the development of IT-technologies in Ukraine, which complicates the work of customs, which are far from settlements and do not have the appropriate technical equipment for customs control. That is, the main problem in the work of customs authorities is the issue of infrastructure development. In addition, the authors focus on the presence of corruption in the national customs authorities, which is associated with low wages of customs employees; low qualification of customs employees.

In another work of these authors [6, p. 35] «on the basis of the analysis of the implementation of international standards for the simplification and harmonization of customs procedures in the national customs legislation of Ukraine was proposed key directions for its further improvement».

S. G. Voitov [7, p. 24] emphasizes that «the optimization of the components of customs and tariff regulation – the levels of rates of the duty, the procedure for calculating the customs value, the classification and determination of the country of origin of goods in accordance with the conditions forming modern integration processes – should become a catalyst for the effective integration of the national economy into the world economic space».

In his other work, Voytov S.G. [8, p. 43], considers that «in the process of entering the national economy into the world economic and trade space, an important role for the disclosure of the protective potential of customs and tariff regulation is played by the effective use and the conduct of the control procedure of classification goods from the national customs system».

Lomaiko Yu.A. believes that «the essential is determining the effective course of foreign economic cooperation due to customs and tax regulation» [9, p. 75]. The author proves the hypothesis about the necessity of planning and forecasting the level of economic progress and substantiates the expediency of developing the directions of foreign economic and customs policies [9, p. 92].

Kobets V.M. [10, p. 478-486] focused on the problems of customs policy of the state regarding unique foreign products and substantiated the necessity to reduce the customs rate for unique foreign products in the development of a mechanism, which agreed upon by incentives of customs policy of the state.

However, the authors in their scientific works did not fully investigate the problem of incentives and restrictions in the customs policy of the state. Therefore, the aim of this article is justification of incentives and restrictions in customs policy of the state in respect of goods imported into the customs territory of Ukraine.

The research results.

Despite the volatile dynamics of Ukraine's foreign trade balance (fig. 3), the duty is still not a major factor affecting the state's economy, since the share of revenue from the duty in GDP over the past six years was no higher than 1% (the exception was 2015, when was counted an additional import the duty), and the share of duties in tax revenues was no higher than 4% (except for 2015).

The share of customs duties in the total EU revenue has been on the rise over the last couple of years and is 15,2 % [11].

According to legislative [2] and regulatory legal acts [12, 13], there are several bodies in Ukraine which impact on customs policy of the state:

1. The Ministry of Finance of Ukraine, which «is the main body in the system of central bodies of executive power, which ensures the formation and implementation of a single state tax and customs policy» [13].

2. State Fiscal Service of Ukraine, which «is a central executive body whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Finance and which implements state tax policy, state policy in the field of state customs practice» [12].

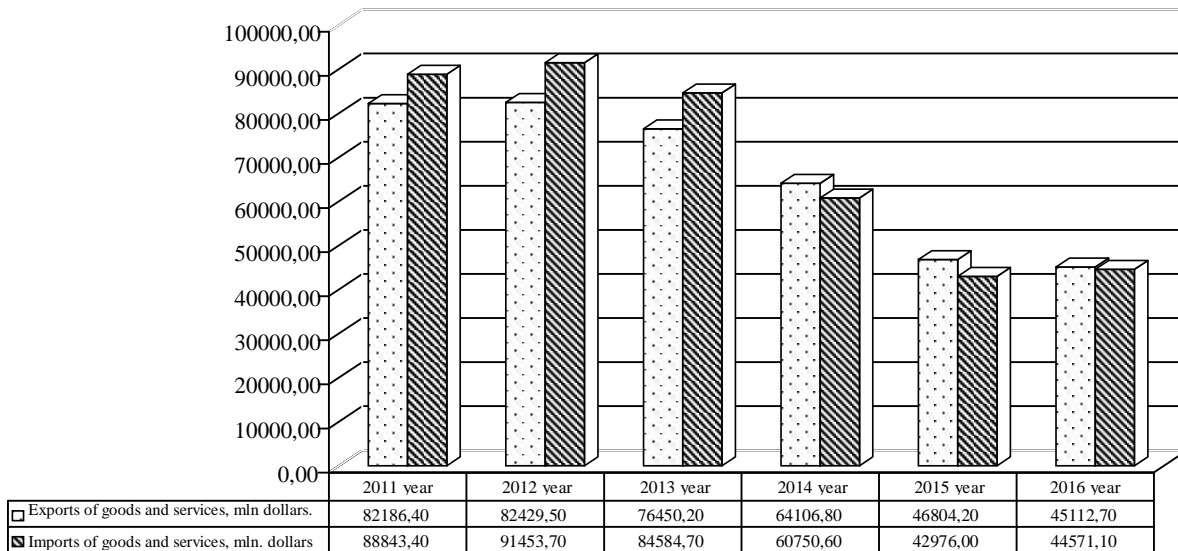


Fig. 3. Foreign trade balance of Ukraine, mln. dollars, compiled for [14]

On this basis it is unclear which of the two authorities is controlling. As Article 41 of the Tax Code of Ukraine regulates that «the controlling bodies are the central executive body that implements state tax, state customs policy, state policy on administering a single payment, state policy in the field of combating offenses in the application of tax and customs legislation, legislation on issues of payment of single payment and other legislation, the control of which is entrusted to the controlling body, its territorial bodies» [2]. If you focus on the rules of the Tax code of Ukraine, the Central body for implementation including customs policy is SFS, which has territorial bodies.

At the same time, in the Customs Code of Ukraine [15] control bodies of customs are the revenue and fee bodies. The existence of such a norm creates a conflict between the norms of the Tax Code of Ukraine and the Customs Code of Ukraine, since the phrase "bodies of revenues and fees" in the Tax Code of Ukraine was applied by the end of 2016. This collision is unacceptable, since the activities of the State Fiscal Service of Ukraine were started on July 8, 2014, and in the text of the CMU Resolution [12], this body was not considered to be the body of incomes and fees.

The state customs affairs in Ukraine is carried out on the following principles (fig. 4) [15]:

Practice proves that not all principles of customs practice in Ukraine are fulfilled. Thus, the principle of "exclusive jurisdiction of Ukraine in its customs territory", in the conditions of acquiring associate membership of Ukraine in the EU, will not always be realized. An example is the introduction of an import the duty in Ukraine, which caused a negative reaction from the EU, since the introduction of additional customs duties did not comply with the General agreement on tariffs and trade of the WTO and violated international treaties.

Also controversial is the principle of "a single order of moving goods and vehicles across the customs border of Ukraine". This principle is not always realized, since art. 366 of the Customs Code of Ukraine [15] provides for a simplified system of customs control, which allows for the declaration, by choosing one of two channels of passage (travel by means of personal means of transport) through the customs border of Ukraine (green or red corridor).

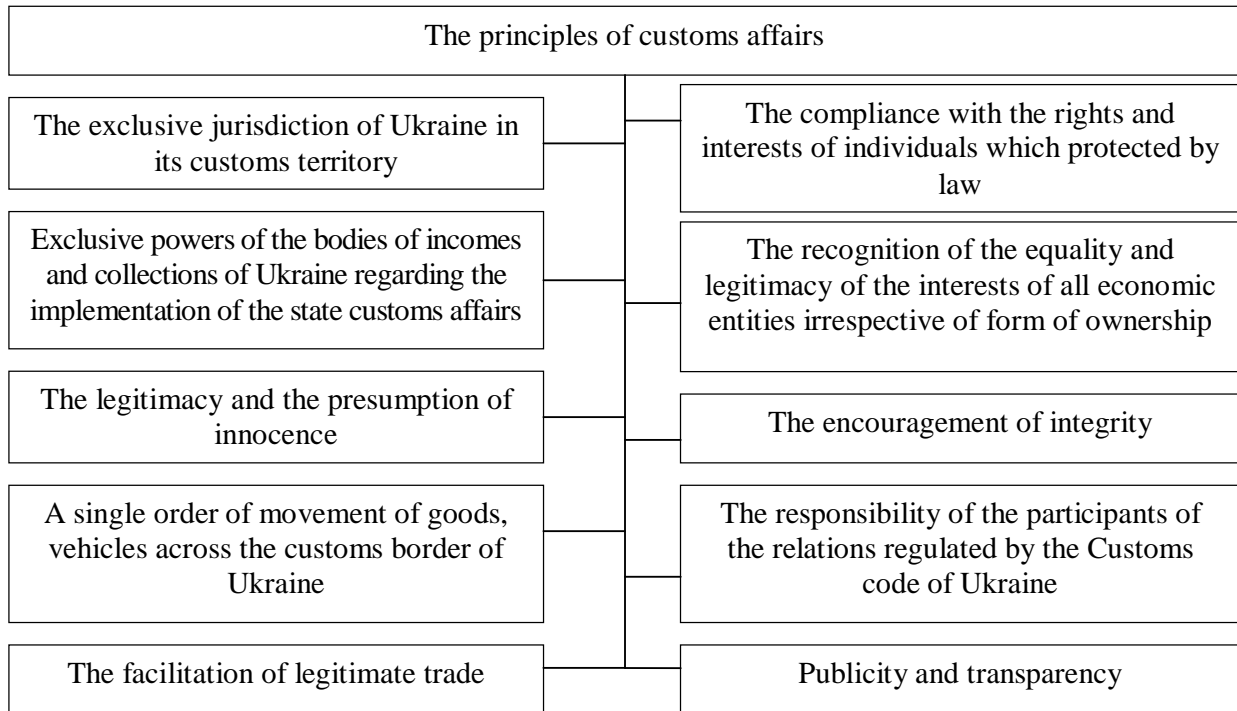


Fig. 4. The principles of customs practice for the Customs code of Ukraine

The authors consider that, taking into account article 4 of the Tax Code of Ukraine [2], the principles of customs may be supplemented by the following:

the principle of obligatory payment of customs payments — the necessity to pay obligatory customs payments, provided by the legislation;

the principle of preferential treatment — the exemption from customs duties, reduction of import the duty rates or establishment of tariff quotas for goods imported into the territory of Ukraine from the states with which Ukraine has international treaties. The main objective of the implementation of this principle is to stimulate the importation of goods that are in limited quantities in Ukraine; the encouragement of the introduction of innovative technologies and equipment; establishment of partner trade relations with importing countries;

the principle of limiting or prohibiting the importation of goods into the customs territory of Ukraine — the establishment of higher rates of customs payments for goods imported into the territory of Ukraine or a complete ban on their import. The principle involves limiting the import of goods to encourage national producers of similar goods; reaction to the discriminatory actions of other states in respect of Ukrainian goods;

the principle of fiscal adequacy implies justification of the amount of the rates of customs payments necessary to ensure the implementation of the revenue part of the budget of the country. An example of implementation could be the introduction in 2015 of an additional import the duty for one year, which should have ensured an increase in the budget revenues of the country and compensate for the loss of the budget from the reduction of other taxes;

the principle of stability — changes to any elements of the duty cannot be made later than six months before the start of a new budget period, in which new rules and rates will apply. Similarly, to the tax legislation, the Customs Code should provide Ukraine with the principle of stability, as constant changes in the legislation complicate the relations of counterparties (for example, the timing of settlements in foreign economic activity); do not allow for the long-term perspective to predict the costs of supply / purchase of goods (depending on the conditions of delivery of Incoterms-2010);

the principle of implementation is the introduction into the national customs legislation of the legislative and regulatory acts of the EU, subject to ratification by the Verkhovna Rada of Ukraine.

One of the indicators of the country's customs policy can be considered the logistics performance index (LPI), which leads the World Bank. This index is used to measure the efficiency of international supply chains. Indicators are evaluated by a five-point system and by several separate characteristics: the efficiency of customs clearance of goods; possibilities of organizing international shipments; the effectiveness of local logistics infrastructure; the control and tracking of international shipments; internal logistics costs; timeliness of delivery of goods to destinations [16, 17].

Ukraine ranked 80th in 2016 ranking, although in 2014, when there was an unstable but tangible improvement in the economic situation, Ukraine occupied the 61st place (fig. 5).

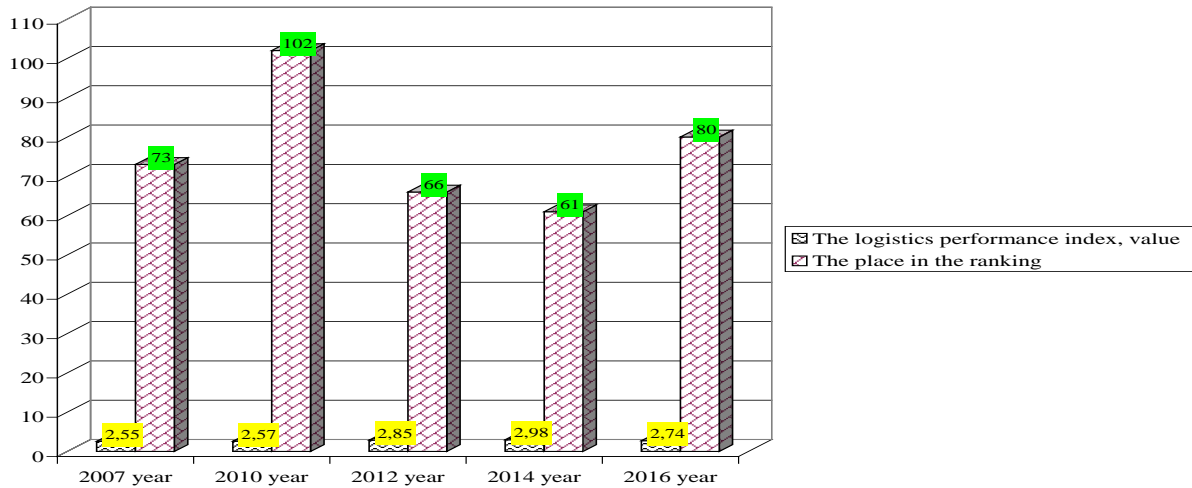


Fig. 5 The indicators of Ukraine in the ranking of logistics efficiency, compiled for [18]

According to the logistics performance index over the past two years, Ukraine has lost 19 positions. The overall indicator of LPI of Ukraine is: the customs clearance — 2,30 (130th place); the quality of logistics infrastructure is 2,49 (84th place); the simplicity and prices of the organization of deliveries — 2,59 (95th place); the competence and quality of service provision — 2,55 (95th place); the possibility of tracking and controlling goods — 2,96 (61st place); the timeliness of delivery - 3,51 (54th place) [16, 17].

The lowest rate in the calculation of the index was recorded in terms of the customs processing of the cargo. If in early 2010-ies, the figure has grown, in 2016, Ukraine has lost places in the ranking on this indicator (fig. 6 and fig. 7).

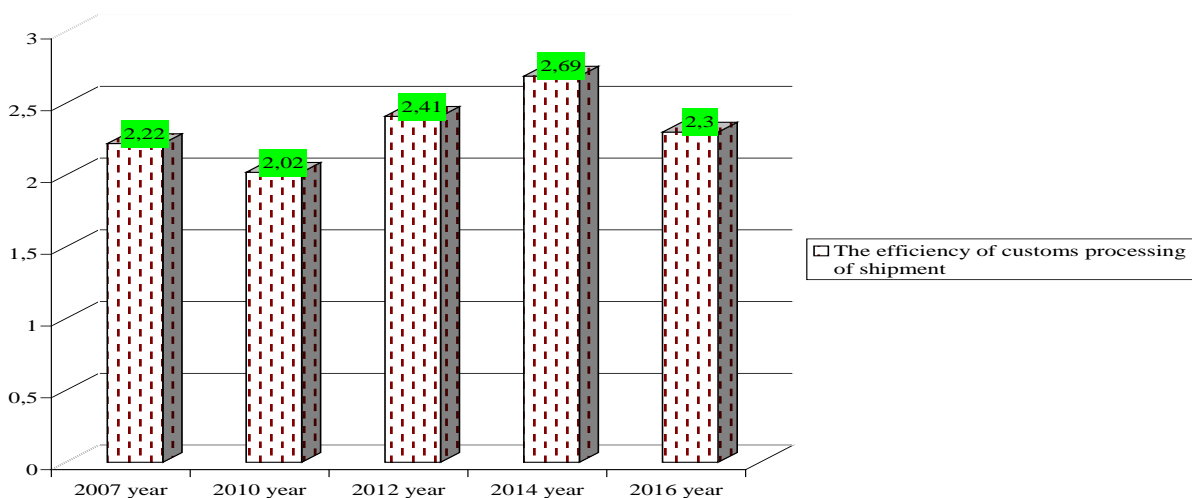


Fig. 6. The value of the index of the efficiency of customs clearance of goods is compiled according to [18]

Another problem of customs policy of Ukraine is the relatively long-term implementation of the EU customs legislation to national customs legislation.

So in 2016, the EU Customs Code (UCC, (Regulation (EC) No 952/2013) was adopted, entered into force on 1 May 2016) [19]. «The Union Customs Code puts emphasis on fully electronic communication between the customs administrations and with trade. As a result, a number of EU-wide IT systems will have to developed and deployed» [20].

The UCC is intended to achieve greater consistency among EU Member States on key customs issues and to create a fully interoperable electronic customs system linking the Member States' national systems through a single interface. The UCC should reduce customs compliance costs for certain "trustworthy" EU businesses, in an attempt to improve the balance between heightened security and easier international trade. At the same time, it will make the customs process more difficult for businesses that do not have this "trustworthy" status. Now, for the first time in more than 20 years, the UCC is changing the rules on the cross-border movement of goods in the EU [21].

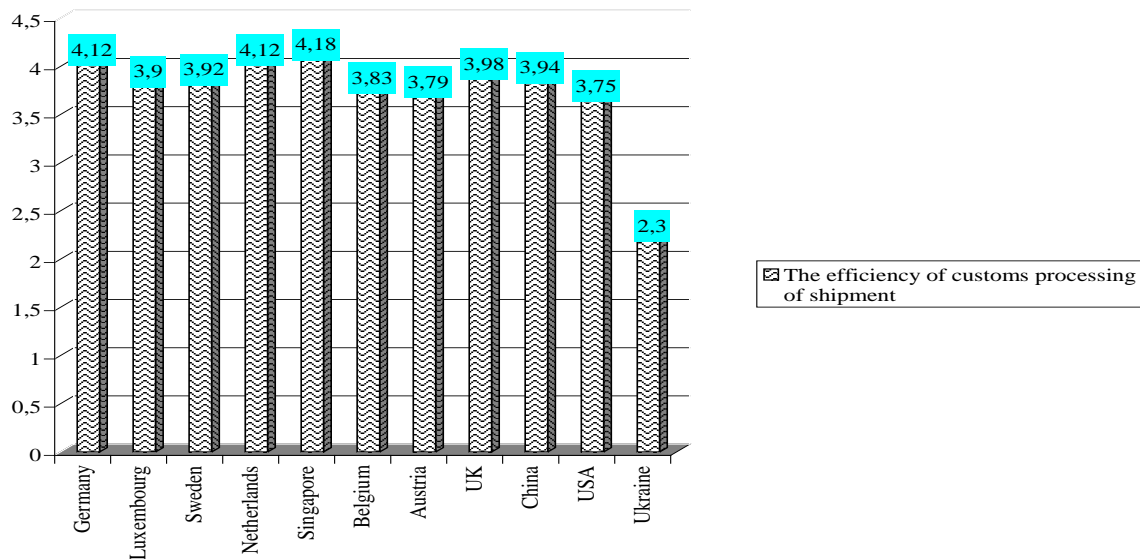


Fig. 7. The place of Ukraine in terms of the efficiency of customs clearance in 2016, compiled for [18]

By simplifying and consolidating certain customs rules, the UCC will likely create several new opportunities for EU importers and exporters. Some highlights include: simplifications for "trustworthy" EU companies; more uniform classifications of goods; more flexible and user-friendly special procedures [21].

The UCC will pose several challenges for businesses as well. Some particular issues include: guarantees generally required; more demanding Authorized Economic Operator criteria; new valuation rules and likely higher duties; binding Tariff Information requests create greater risk; different origin rules apply; existing authorizations reassessed [21].

It should be noted that Ukraine has not yet adopted any legislative and regulatory act on the harmonization of national customs legislation and the new EU Customs Code.

Customs policy of the state can be both stimulating and restrictive. Incentives may take place in preferential terms of taxation (exemption from the taxation, reduced rates of the duty, tariff quotas). Restrictive nature may be privileges with a specified term; a list of goods that can be imported into the territory of Ukraine in a certain amount without paying customs duties; the necessity of confirmation of the purposeful use of goods that were imported on preferential terms).

In accordance with the current legislation (taking into account the requirements of the WTO) in Ukraine 99 percentage of goods are set preferential ad valorem rates of the duty. This rule applies to 162 countries of the WTO, 12 countries with which the Free Trade Agreement has been concluded (the countries of the former USSR) and 55 most favored nation states [22].

In addition, from January 1, 2016, Ukraine began gradually reducing import the duty rates (by 97% of commodity items), in accordance with the requirements of the Law of Ukraine dated 16 September 2014 No. 1678-VII [23]. Examples of incentives can also be the introduction of a zero-the

duty on used cars originating in Canada from August 2017 (subject to documentary evidence); from January 1, 2018 — reduced rates of an import the duty on new cars from EU countries [24]. One of the types of restrictions in the customs policy of Ukraine is the application of anti-dumping rates of the duty (Russian chocolate and nitrogen fertilizers). Summarise the exemptions from the duty, which have both stimulating and restrictive character (tabl. 1).

Table 1

Tax exemptions from the customs the duty (release when importation into the customs territory of Ukraine)		
The article of Customs code of Ukraine	The stimulating character	The restrictive character
Article 282, paragraph 2	Reducing the cost of goods	It applies only to the production activities of Ukrainian and leased (rented) by Ukrainian enterprises and organizations of vessels engaged in maritime fishing
Article 282, paragraph 3	Saving of working capital	Foreign currency - up to 10 000 euros (without declaration) Resident physical persons (declaration of more than 10,000) Non-resident physical person (declaration of the whole amount) Bank metals not exceeding 500 grams Securities in UAH (declaration) Securities in foreign currency (declaration and individual license of the NBU)
Article 282, paragraph 13	Saving of working capital	The products that are not produced in Ukraine Exemption from payment of duties only on the list of the Cabinet of Ministers
Article 282, paragraph 14	The reduction of the cost	The products that are not manufactured in Ukraine You cannot resell purchased products Exemption from payment of duties only on the List of the Cabinet of Ministers
Article 282, paragraph 16	The reduction of the cost	Materials that are not manufactured in Ukraine Cannot resell purchased materials Exemption from payment of duties only on the List of the Cabinet of Ministers
Article 282, paragraph 17	The reduction of the cost	Goods that are not produced in Ukraine Exemption from payment of duties only on the List of the CMU
Article 282, paragraph 20	The reduction of the cost	Only products for defense purposes for specific headings and subcategories to the HS code
Subparagraph 5 of paragraph 4 of Section XXI	The reduction of the cost	Time limit action Goods that are not produced in Ukraine Exemption from payment of duties only on the List of the CMU
Subparagraph 12 of paragraph 4 of Section XXI	The reduction of the cost	Non-excise goods Goods for the implementation of a specific project Exemption from payment of duties only on the list of the Cabinet of Ministers
Subparagraph 13 of paragraph 4 of Section XXI	The reduction of the cost	Time limit action Only for the subjects of aircraft Exemption from payment of duties only on the List of the CMU
Subparagraph 14 of paragraph 4 of Section XXI	The reduction of the cost	Time limit action Only to the subjects of cinematography Exemption from payment of duties only on the List of the CMU

Conclusions.

Consequently, customs policy of Ukraine in the present situation largely depends on the agreement with the EU. Although, as it was noted, the implementation of EU legislation to national customs legislation is slow. One of the constraining factors of this process is undeveloped

infrastructure, which leads to the fact that Ukraine under the logistics performance index is far from leading positions (and the lowest places in the rating on the indicator of efficiency of customs clearance).

The principles of the customs affairs need to be revised, because they do not reflect the essence of all economic and political processes that take place in the customs field. Therefore, the authors were invited to add to the existing principles of the customs the following: compulsory payment of customs duties; preferentialism; restriction or prohibition of the importation of goods into the customs territory of Ukraine; fiscal sufficiency; stability; implementation.

It is proved that customs policy of Ukraine can carry stimulating and restrictive goals. On the one hand, preferential the duty rates or zero the duty rates may be established, and on the other hand, clear criteria are set for non-compliance with which the preferential customs the duty regime can be abolished.

One of the important issues at the same time remains the size of the customs tariff, which affects tax revenues in the budget of the country. Taking into account the responsibilities assumed by Ukraine at the signing of the Association Agreement with the EU, the budget of Ukraine will not receive significant amounts of the duty. The issues of the search for sources of compensation for budget losses from preferential rates of import the duty will be devoted to following research.

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