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STAGES OF THE UKRAINIAN CUSTOMS SYSTEM CAPACITY BUILDING: TOWARDS THE EU STANDARDS

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Abstract

The paper describes the stages of capacity building of the Ukrainian Customs system. Positive and negative aspects of the capacity building reforms having been carried out are reasonably stated.

The existing international practice of Customs administrations' creation and functioning as well as a practical activity of the Customs administrations in different countries of the European Union are analyzed in the paper. Particular attention is paid to the compliance of the Ukrainian Customs system reforms with pan-European regulations and standards.

The authors note the main positive changes having been made in the process of Tax and Customs Services reorganization, namely: creation of a common information database, which made it easier to collect taxes and audit; development of quite a clear mechanism for interoperability and responsibilities sharing; creation of a single efficient department to combat tax crimes and smuggling; usage of innovative IT – technologies to fully control the process of taxes, duties and other charges collection to the budget; improved situation with the recovery of VAT.

The authors' approach to the creation of effective organizational and functional mechanism of the Customs system has been offered.

Keywords: Ukrainian Customs system, steps, capacity building, capacity building reforms, organizational and functional mechanism.

Introduction

The Ukrainian Customs system has gone through several stages of development and reform. After the collapse of the Soviet Union in early 1991 on the territory of the independent Ukrainian state only 25 Customs offices left out of 118 having functioned in the period of the Soviet Union.

The organizational structure of the Soviet Customs system provides for such a management structure: the General Directorate of State Customs Control under the Council of Ministers of the Soviet Union, republic and regional Customs as well as Customs offices, which corresponded to a policy of monopoly in the country's foreign trade.

History of the Ukrainian Customs service originates from the adoption of the Law of Ukraine "On Customs Affairs in the Ukrainian Soviet Socialist Republic", which entered into force on June 25, 1991 (today in Ukraine this day is considered the Day of the Customs service). An interesting fact is that it happened a month before the declaration of independence of Ukraine. The main achievement of this regulation is that since its adoption Ukraine has received its own system of Customs authorities; the general management of Customs affairs in Ukraine has passed to the Ukrainian Verkhovna Rada

and the Cabinet of Ministers of the Ukrainian Soviet Socialist Republic; Customs authorities have been withdrawn from the jurisdiction of the Soviet Union Customs authorities.

Also significant event in the development of the Ukrainian Customs system is an establishment of the State Customs Committee of Ukraine on 11 December 1991 and approval of the Customs Code of Ukraine on December 12, 1991, which entered into force on January 1, 1992. Since then the Ukrainian Customs system has included: the State Customs Committee of Ukraine (since 2000 year – the Customs Service of Ukraine), regional Customs, Customs offices, specialized Customs administrations, organizations, institutions and educational establishments.

For Customs services the main task is to protect the economic interests of a state. It is impossible to fulfill this task without the creation of a well-structured system of Customs authorities and their necessary number. Therefore, 1992 was the most productive year for the development of the Ukrainian Customs system as to the number of newly established Customs authorities. This happened due to the following reasons. After declaring of independence 4650 km of the Ukrainian border in terms of Customs control remained open. The absence of the country's internal Customs offices hindered the process of encouraging foreign trade, so during the year the number of Customs offices doubled, while the number of staff increased by 65%.

However, a large number of Customs offices, Customs check-points and a huge number of Customs authorities' staff put into question the effectiveness of the direct management vertical "headquarters – Customs office".

Therefore, in 1994 the management system of the Ukrainian Customs was significantly changed. The Ukrainian Cabinet of Ministers established eight territorial Customs administrations, every of which supervised from 5 to 15 Customs offices. In the meantime certain Customs offices remained directly subordinate to the headquarters.

The system of management of the Customs authorities through the territorial Customs administrations had a number of disadvantages, the main of which was duplication of administrative functions. So it was the main reason for the next stage of the Ukrainian Customs system reforms. In particular, in 2000 the State Customs Committee of Ukraine was transformed into the State Customs Service of Ukraine and the territorial Customs administrations were reformed into the regional Customs offices. In the meantime the regional Customs offices were delivered a function of direct implementation of Customs control in their area of activity.

The new structure of the State Customs Service of Ukraine provided for 10 regional Customs offices, 41 subordinate Customs offices and 6 Customs offices of direct subordination.

In 2002 Ukraine adopted a new Customs Code, which defined a new structure of the Customs Service of Ukraine. Under the regulations of the Customs Code of Ukraine the Customs system consisted of the State Customs Service of Ukraine, Customs authorities and specialized Customs institutions and organizations.

A three-level management vertical "headquarters – regional Customs offices – Customs offices" existed in Ukraine before 2005.

It should be noted that since 2005 Customs system modernization has been carried out almost every year. At the same time there were situations when the next reorganization began before the completion of the previous one, which, naturally, could not but affect the efficiency and effectiveness of Customs activity.

The conversion of the management vertical and the transition from two-level to three-level management system and vice versa often resulted in either an increase or a decrease in the amount of Customs offices in the country.

Specialized Customs offices like Energetic and Information ones occurred in the structure of the Customs Service.

A positive influence on the further modernization of the Customs administration was made by the activity of diagnostic centers of the World Customs Organization, which at that time operated in Ukraine. Subsequently, the monitoring of the Ukrainian Customs system revealed duplication of functions and responsibilities in 23 departments of the State Customs Service of Ukraine as well as established the absence of coherence and coordination in the management of the individual units.

A systematic capacity building modernization of the State Customs Service of Ukraine started in May 2010. As a result of the reforms, the staff number declined by 30%.

The concept of optimizing the structure of the Ukrainian Customs system provided for bringing the structure of Customs authorities in accordance with the administrative-territorial structure of Ukraine as well as changing the status of existing Customs authorities. An expected result from carrying out this stage of the reforms was to improve the organization of the Customs authorities' activity and the development of human resources.

As a result of such capacity building reforms 27 Customs offices left in the country, one in each region of Ukraine (24 regions), a Customs office in the Autonomous Republic of Crimea and two Customs offices in the cities with special status like Kiev and Sevastopol. The Customs Code of Ukraine 2012 has changed the structure of the Customs authorities to some extent. Since December 2012 the Ukrainian Customs system has undergone a sea change.

A practical activity of the Customs administrations in different countries of the European Union indicates that the submission of Customs authorities to one or another government body is dependent on the dominance of functional tasks that are put before government bodies in the foreign economic policy. In some countries Customs authorities are under a direct supervision of the Ministry of Foreign Trade, the Ministry of Economy or the Ministry of Foreign Economic Relations. But in most countries of the world they are either under submission of the Ministry of Finance or are included in it as a structural unit. The main argument in favor of the construction of such a structure is the need for control over a public authority's financial flows, which defines the budgetary policy of the state, i.e. fiscal authorities are under supervision of financial control authorities.

The State Customs Service of Ukraine was an independent public body that directly implemented the Customs policy of the state. However, its activities since 2011 in accordance with the laws of Ukraine have been coordinated and monitored by the Ministry of Finance. This concept of the Ukrainian Customs system was quite consistent with a generally accepted international practice of Customs authorities' activity and the provisions of the Customs Blueprints.

Under the Presidential Decree from December 24, 2012 № 726/2012 "On some measures to optimize the executive authorities" the Ministry of Revenue and Taxes of Ukraine was created to become a key instrument for filling the state budget. The Ministry was built through the reorganization of the State Customs Service of Ukraine and the State Tax Service of Ukraine. This step made by the head of the state was commented as a necessary one to create a governmental structure that would have a high level of responsibility and be able to form a new political and administrative reality in the system of executive authority.

According to the doctrine of the Cabinet of Ministers, the main purpose of the Ministry of Revenue and Taxes is prevention of tax evasion. This was facilitated by the creation of a common information base of taxpayers of two services, the regulation of the investment climate and business environment in the country.

Since independence having been declared, for the first time the head of the tax authority has become a member of the Cabinet. In addition, for the first time two services with a very wide network of regional offices and a huge staff of more than sixty-two thousand employees allotted with the broadest powers were combined.

Analyzing the mission, strategic direction and development of the Ministry of Revenue and Taxes and the main measures for their implementation, as reflected in the "Road Map of the

Ministry", it can be stated that the creation of the Ministry altogether met pan-European standards. Indeed, out of 34 member countries of the Organization for Economic Cooperation and Development in 13 countries the functions of tax collection and social payments are under the control of the same government body and in other 11 countries the functions of taxes and customs duties collection are combined. Therefore, the creation of such a ministry was accepted quite positively by many European experts.

On the other hand, some features of Ukrainian capacity building reforms are outside the global trend. Analyzing the existing international practice of Customs administrations' creation and functioning, it should be noted that similar institutions, if they do not report directly to the Ministry of Finance, acknowledge the supremacy of legal acts of the Ministry in determining the tax policy of the state. In Ukraine the Ministry of Finance and the Ministry of Revenue and Taxes are independent agencies with an equal status. The question immediately arises, for example, who determines the financial results of the Ministry of Revenue and Taxes, who makes the country's budget?

A significant weakening of the Minister of Finance status in the profile area leads to uncertainty in the relationships between public authorities.

The next important question is a potential conflict of interests between tax collection and policy development in this area. According to the legislation on the central government authorities, Ukrainian ministries have a right to develop policies in the area of their activity. In the abovementioned situation, the Ministry of Revenue and Taxes is not only involved in the collection of taxes, Customs duties and the unified social tax, but also creates a state policy on these issues. Thus, if the fiscal authorities have to increase taxes or charges levied on business, they may issue a statutory regulation, which would allow them to do so. In the world practice of similar institutions activity such conflicts are generally avoided.

Another problematic issue is a foreign economic activity including its state regulation. It is impossible without meeting international obligations, which are governed by treaties – conventions ratified by Ukraine. The national tax legislation is less dependent on international commitments. Therefore, the search for organizational and functional adaptation of the new government body in accordance with the international practice is contemporary going.

The activity of the Ministry of Revenue and Taxes under the conditions of the totalitarian regime has led to such a consequence that the concentration of authority in the field of fiscal policy and virtually unlimited powers of employees have turned this public body into an unprecedented government tool used to monopolize economic power, collapse economic reforms as well as reject a civilized way of market economy regulation.

Therefore, on February 28, 2014 the Verkhovna Rada of Ukraine recommended to the government in the process of a new Cabinet creation to eliminate the Ministry of Revenue and Taxes by dividing it into the Tax Service and Customs Service, as it was until December 2012, with their subordination to the Ministry of Finance.

It should be noted that in the process of Tax and Customs Services reorganization there have been some positive changes, namely:

- creation of a common information database, which made it easier to collect taxes and audit;
- development of quite a clear mechanism for interoperability and responsibilities sharing;
- creation of a single efficient department to combat tax crimes and smuggling;
- usage of innovative IT – technologies to fully control the process of taxes, duties and other charges collection to the budget;
- improved situation with the recovery of VAT.

Summary and concluding remarks

In view of the foregoing we can note that the Ukrainian Customs system has come a long evolutionary path and each step of reorganizational changes makes it closer to the generally accepted European standards.

Today political circles are discussing possible options for further development of the Ukrainian Customs administration. In our opinion, Ukraine needs the World Customs Organization and other international organizations' support in establishing an effective organizational and functional mechanism of the Customs system. A monitoring of Customs activity by independent international experts, designing a comprehensive program for the Ukrainian Customs system development based on the World Customs Organization' recommendations, standards of Customs prototypes and best practices of the European Customs administrations are required.

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