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MODERN TRENDS OF THE PUBLIC ADMINISTRATION MECHANISMS DEVELOPMENT IN THE SPHERE OF CUSTOMS REGULATION: THE EXPERIENCE OF UKRAINE

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Abstract

In the scientific paper on the example of Ukraine modern tendencies of state administration mechanisms development in the field of Customs regulation have been studied and presented. In order to substantiate the conceptual approaches to the development of state administration mechanisms in the field of Customs regulation in Ukraine the Customs administration activity in the context of the state development under the conditions of globalization has been investigated. The study has confirmed the coherent work of international organizations in the development and promotion of unified standards in key areas and determined that the World Trade Organization, the World Customs Organization, the United Nations Economic Commission for Europe and other international organizations seek to identify and harmonize relevant best practices that they will subsequently recommend countries as the best means of demonstrating and / or implementing specific commitments. In the field of Customs regulation in Ukraine such current trends in the public administration mechanisms development have been identified as the transformation of the State Fiscal Service of Ukraine from the controlling fiscal authority into the service one through building partnerships with citizens and business as well as providing them with high-quality services; adaptation to national needs and implementation of international instruments for capacity building of Customs administrations; adaptation of global instruments for the facilitation of world trade and their implementation in the national context; compliance of Customs procedures, information system of the State Fiscal Service of Ukraine etc. to the world standards (simplification of Customs formalities, in particular reduction of time necessary for goods clearance etc.); raising the level of commercial and investment attractiveness of Ukrainian ports etc.). It has been proved that the current trends in the public administration mechanisms development in the field of Customs regulation in Ukraine correspond to global tendencies for the simplification of international trade procedures.

Keywords: public administration mechanisms, Customs regulation, modern trends, mechanisms, instruments.

Introduction

Globalization and integration processes, ongoing transformation of the institutional sphere of modern Ukrainian society actualize and activate the regulatory function of public

authorities, in particular the Customs administration to adapt different spheres of society to new challenges and conditions of functioning.

Scientists and practitioners agree that the contradictory nature of the processes of the Customs administration establishment in Ukraine predetermines the necessity, urgency and importance of the development of scientific and theoretical foundations, a methodological basis for the social institutionalization of the Customs administration as well as a research base that would provide an analysis of the current state and forecast of development prospects, scientifically grounded choice of priority directions of modernization, practical development of target comprehensive programs and management strategies for changes made with the usage of the social potential determined by the essence of the Customs administration and its environment.

At the national level (for example, Ukraine), the processes of strengthening the institutional capacity of the Customs administration (capacity building) are linked to the reform process, which begins with a comprehensive assessment of needs, leads to the analysis of solutions and their implementation, planning, monitoring and evaluation of reforms. Being at different stages of development and acting in different legal and administrative contexts, each country individually determines which mechanisms are to be applied and which instruments are to promote trade and to what extent they are to be implemented as well as how to implement them in the national economy.

The benefits of using global instruments for facilitating international trade are that they provide a sustainable legal basis for the application of trade facilitation measures, which contributes to the achievement of a high degree of unification and uniformity of procedures within the global market. In addition, manuals, collections of best practices, case studies provide information on technical issues for deep understanding of particular issues in the applied context and the adoption by states of appropriate measures, which makes government regulation instruments (both legal and non-legal) to be of great importance and actual significance not only in relation to the activities of the Customs authorities, but also in the broader context – facilitation of world trade procedures.

The practice of implementing international trade relations has proved that to successfully simplify and secure trade operations it is necessary to apply and be guided by the existing trade facilitation instruments. Primarily, it includes international conventions, regional or bilateral agreements, standards and recommendations developed by international organizations, associations or regional agencies as well as best practices and case studies ((Pavlenko, Triakina et al. 2013).

The foregoing suggests that the current trends in public administration mechanisms development in the field of Customs regulation in Ukraine correspond to global tendencies for the simplification of international trade procedures. Let's consider this aspect in more detail.

In Ukraine at the national level the public administration mechanisms development in the field of Customs regulation is associated with trade facilitation and the process of reform, which involves different stages: assessment of needs → search and analysis of solutions → their implementation → planning → monitoring → assessment of reforms.

We have investigated Ukraine's experience in these issues and found out that the following regulatory reforms are implemented: 1) modernization of the Customs administration; 2) “Single Window”; 3) electronic Customs; 4) supply chain safety; 5) Authorized Economic Operator; 6) reliable trader; 7) pre-arrival declaration; 8) integrated border management, etc. (Pavlenko, Triakina et al. 2013, p. 20).

As an example we will consider such a tool as “Single Window” or “Single Window procedure”. Both concepts are used as identical in the literature and normative documents.

“Single Window procedure” means, in our opinion, “one website or terminal connected to computer systems of Customs and trade-related government agencies that

provide a unified service to stakeholders. Nevertheless, stakeholders must carry out each procedure / declaration separately”.¹

The most common definition of “Single Window” is given in the UNECE Recommendations No. 33. It reads that “this is a system that allows trade and transport representatives to provide standardized information and documents to a single point of acceptance to meet regulatory requirements for cargo import, export and transit”.²

The advantage of “Single Window” is connected with the fact that if information is provided electronically, individual elements of data should be provided only once.

The other definition used in the Survey Single Window³ describes “a tool that allows parties involved in trading and transport operations to submit standardized information and documents using a single acceptance channel to fulfill all import, export and transit regulatory requirements. If the information is in electronic form, individual elements of data should be submitted only once”.

Putting aside the role of “Single Window” system as an instrument, environment, or a system, it can be characterized in terms of the services it provides to participants in trade activities and government authorities. Services provided by “Single Window” facilitate the exchange of trade information between members of trade activities and government agencies in order to obtain appropriate permits, licenses, certificates, approvals. Within the framework of the “Single Window” system foreign trade operators and their agents can submit documents and information in electronic and paper form using a single point of data reception.

Consequently, this system combines trade enterprises, transport, Customs, agriculture, healthcare administration, paperwork and electronic equipment into one integral unit (UNECE – UN/CEFACT (UNECE Recommendation No. 33)).

It should be noted that more complex “Single Window” systems also provide a link between private organizations such as commercial banks, Customs brokers, forwarding firms.⁴

The Customs administration in Ukraine has a controlling role in facilitating trade procedures. However, among its strategic directions of development the State Fiscal Service of Ukraine has identified its transformation into service agency through partnerships with citizens and business and providing them with high-quality services, which is impossible without the implementation of global mechanisms and instruments, in particular those of the UNECE and World Customs Organization (WCO). Therefore, “Single Window” can become one of such high-quality government services for trade, a truly important tool for simplifying trade procedures. Its effective use can significantly simplify the procedures and formalities associated with filing documents and collecting data, thereby saving time and resources.

Analyzing the best practices of implementing this tool, which is placed on the WCO and UNECE official websites, it can be concluded that the main advantages of “Single Window” implementation for Ukraine are as follows:

- *for the state*: increase of state profits, compliance of established rules, more efficient and rational allocation of resources, improvement of trade statistics;
- *for subjects of foreign trade activity*: faster, more transparent, predictable and without red tape process of Customs clearance;
- *for the Customs administration*: more efficient work of the personnel due to improved infrastructure, increase of Customs duties, more structured and controlled Customs

¹ <http://tfig.unece.instruments>

² <http://tfig.unece.org/RUS/contents/single-window-for-trade.htm>

³ <http://tfig.unece.instruments>

⁴ <http://tfig.unece.instruments/case-study>

environment and more professional attitude of employees to their duties;

– *for the economy as a whole*: more transparent and effective activity of authorities, reduction of the level of corruption due to the limited possibilities for physical contacts.

The example of the Republic of Korea statistically confirms these findings. Thus, according to the Korean Customs administration calculations, in 2010 thanks to the “Single Window” system the country received about \$ 18 million, while the overall positive effect of measures to simplify trade procedures was estimated at almost \$3,47 billion. Since 1989 the national “Single Window” system of Singapore, called “TradeNet”, has united more than 35 border agencies, thereby significantly improving the efficiency of public authorities. According to the Singapore Customs administration, the Customs spends only one cent on every dollar earned, providing a yield of 9900% (World Bank 2012).

The development of information technologies and their implementation and therefore computerization of administrative and Customs systems are described in the article of A. Belyaninov (Belyaninov 2012, p. 111); mechanisms and instruments of international regulation over Customs relations, stages of development of management influence of the WCO are presented in detail in the scientific work of V. Chentsov (Chentsov 2013).

First of all, it should be pointed out that it was the Customs administration that developed and introduced a new tool meeting the needs of the private sector – site <http://www.Customs.gov.ua/dmsu/control/uk/index>, which contains information on the rules and formalities applicable to import and export of goods as well as portal <http://www.sfs.gov.ua/> after reforming the Customs and tax services.

Ukraine has joined the TIR Convention. Thus, the introduction of a powerful international instrument, the purpose of which is a significant simplification of world trade, has started.

Concerning Authorized Economic Operator (AEO) and reliable trader implementation Article 15 of the Customs Code and the Resolution of the Cabinet of Ministers of Ukraine No. 447 dated May 21, 2012 stipulates that simplified procedures are applied to selected reliable traders or AEO. In Ukraine, reliable traders are divided into three categories: those who have received a certificate of reliability and security; those who received a certificate for simplifying Customs procedures and those who received both certificates.

The first group has the right to provide less information to the Customs authorities for the import / export of goods into the Customs territory of Ukraine, and also allows for a special simplification for the temporary storage of goods, the removal of Customs seals without the approval from Customs authorities under certain conditions, departure of goods from premises, open and closed areas owned by entrepreneurs without their presentation for Customs control.

The second group is subject to Customs control on a priority basis. It has the right to temporarily store goods in warehouses without the permission of a Customs authority, exempt from the provision of guarantees, make Customs clearance of goods at the premises of an entrepreneur, provide a single Customs declaration, if, during a certain period of time, goods are imported or exported by one and the same importer within the framework of the same international agreement.

The third group enjoys a special privilege for the temporary storage of goods, the removal of Customs seals without the approval from Customs authorities under certain conditions, the temporary storage of goods in warehouses without the permission of a Customs authority as well as exemption from the provision of guarantees.

Changes in trade processes and procedures having taken place in Ukraine also apply to previous decisions (see the Customs Code of Ukraine) (<http://zakon2.rada.gov.ua/laws/show/4495-17>) that can be made concerning: classification of goods; origin of goods; placing goods under certain Customs regimes.

Our conclusion that the current trends in the public administration mechanisms development in the field of Customs regulation in Ukraine are in line with the global tendencies for the simplification of international trade procedures is confirmed by the following fact: an important public administration mechanism in the field of Customs regulation should be described as *the mechanisms for determining the effectiveness and criteria for assessing the procedure of crossing the border*.

Stakeholders of international trade recognize that the competitiveness of companies at the current stage depends not only on their ability to produce the necessary product at the right price, but also on their ability to deliver it to a particular place at a certain time. As a result governments and businesses are becoming more and more concerned about removing organizational and other barriers to international trade. Let's look at, for example, the debate within the UNECE and the forums of other international / regional organizations that have clearly shown that in order to provide uninterrupted and rapid flow of goods and information, it is necessary to have an excellent administrative and technical infrastructure based on international standards and approaches (UNECE 2014, p. 1).

In this case, the International Convention on the Harmonization of Frontier Controls of Goods 1982 (hereinafter referred to as the Convention on the Harmonization) (http://zakon4.rada.gov.ua/laws/show/995_267) is an example of best practice. It should be noted that the provision as to trade facilitation extends to both the indicated legal instruments and the World Trade Organization's (WTO) Trade Facilitation Agreement (http://tfig.unece.org/RUS/pdf_files/TFA%20-%20rus.pdf). This fact confirms the coherent work of international organizations in the development and promotion of unified standards in key areas.

The study has found that the WTO, WCO, UNECE and other international organizations seek to identify and harmonize relevant best practices, which they then recommend to countries as the best means of demonstrating and / or implementing specific commitments.

Thus, such global trends in public administration mechanisms development in the field of Customs regulation can be identified as: 1) *the coherence of the work of international organizations in the development and promotion of unified standards in key areas relating to international trade*, and 2) *their aspiration for search / development of voluntary and flexible mechanisms*.

In accordance with the Law of Ukraine No. 2973-VI from February 3, 2011 "On amendments to certain legislative acts of Ukraine regarding preliminary documents at crossing points within the Customs border of Ukraine" the Customs authorities at the crossing points have the right to perform sanitary, veterinary, phytosanitary and environmental control in relation to some goods and control over the movement of cultural property imported into the Customs territory of Ukraine, including transit, in the form of pre-arrival documentary control. Thus, the transfer of control functions at the border to the Customs authorities helped to shorten the time of control operations and accelerate the release of goods and vehicles. In particular, now registration of trucks and carrying out full control takes no more than 20 minutes.

The introduction of such legal instrument of state regulation as the Customs Code of Ukraine has allowed reducing Customs clearance from one day to four hours. Further work in this direction is being actively carried out.

Thus, the Cabinet of Ministers of Ukraine has shortened the period of registration of cargoes in seaports for up to 1 hour and adopted a number of measures to regulate the operations of seaports:

- 1) the port operator's access to the quay has been introduced;
- 2) the procedure for provision of passport depths in ports has been simplified;

3) control procedures have been minimized and electronic paper flow during registration of cargoes in seaports has been introduced; an ecological declaration has been revoked and an automated radiological control has been implemented, a financial guarantee of cargo delivery has been cancelled.⁵

It has been found out that the transition period for introducing new initiatives is likely to cover 45 days. In July 2015 it was expected that due to these measures the port capacity will increase by 15-20%, while the new control principles will save 3 billion hryvnias.

Furthermore, the “Memorandum on cooperation in the field of information technology for improving procedures in seaports” was signed between the State Fiscal Service and the Ministry of Infrastructure of Ukraine on December 25, 2015 (www.ppl33-35.com/doc/bulleten_19.pdf). The State Fiscal Service emphasizes that this Memorandum is “an important step towards making port procedures *more compliant with the international standards*”; “Not a simple reduction of the time for cargo clearance and simplification of Customs formalities”, but one of “*the factors of increasing the level of commercial and investment attractiveness of Ukrainian ports*”.⁶

Consequently, the incentive to convert the relations of all participants of the transport process to the electronic format during the registration of cargoes arose due to both a poor state of Customs clearance of containers (a complex and lengthy procedure, corruption, attempts to illegally export using forged documents) and, on the other hand, a rapid development in the world practice of paperless cargoes registration according to the methodology of the World Customs Organization on the basis of the “Single Window” principle recommended by the UNECE (Newsletter 2016, p. 4).

This study has made it clear that since September 8, 2015 the procedure for the registration of ships arrival in ports has been working under a simplified, interactive scheme, which became possible due to the Resolutions of the Cabinet of Ministers of Ukraine from July 7, 2015 No. 491 “On amending certain Resolutions of the Cabinet of Ministers of Ukraine” (<http://zakon3.rada.gov.ua>), from September 8, 2015, No. 679 “On amendments to point 13 of the typical technological scheme for passing through the state border of persons, automobile, water, railway and air transport, carriers and goods transported by them” (<http://zakon3.rada.gov.ua>), from October 13, 2015 No. 953 “On amending certain decrees of the Cabinet of Ministers of Ukraine on environmental and radiological control” (Pryimachenko 2006) and provided a legislative platform for the implementation of basic tools to adopt innovations. 9% of operations related to the arrival of ships into Ukrainian seaports are subject to Customs control.

The results of the research conducted under the Information System of the Port Community (hereinafter – ISPC) project by the VChV Task Force (coordinator – Odesskaya Customs of the State Fiscal Service), which was created by a collegial decision at the meeting of the representatives of the regulatory authorities, the administration of the Odessa seaport and the Interagency Working Group on Trade Facilitation,⁷

are demonstrative enough. The mentioned study took into account the average time of a vehicle's stay in the seaport during the specified calendar periods of 2015 (28 September 2015 – 4 October 2015) compared to 2014. The positive dynamics of a significant decrease in time (almost 5 times) of the stay of cargo vessels at Odessa Sea Transport Port was noted: this figure was reduced from 15 hours to 3 hours (Newsletter 2016, p. 4).

⁵ <http://112.ua/ekonomika/kabmin-sokratil-srok-oformleniya-gruzov-v-morskih-portah-do-1-chasa-abromavichus-243287.html>

⁶ <http://ua.112.ua/ekonomika/dfs-i-mininfrastruktury-domovylysia-proskorochennia-chasu-mytnoho-oformlennia-vantazhiv-u-portakh-281424.html>

⁷ <http://ppl33-35.com/bulleten.php>

On July 11, 2016 according to the results of monitoring the work of Ukrainian seaports in the first half of 2016 the speed of preparation for cargo operations decreased from 2-5 hours to 20 minutes (Newsletter 2016, p. 2).

Among other things, the VChV Task Force stated the improvement of the quality and strengthening of cooperation between the state regulatory agencies and forwarding organizations (C2B partnership – “Customs-business”), their interaction with other participants of transport-forwarding activities, the proper study and use of international standards, the use of modern tools for rendering services to clients, in particular, electronic paper flow with the use of electronic digital signature (Newsletter 2016, p. 5).

“The results of the test and continuous application of various ISPC profile modules in the Ukrainian seaports have confirmed that the gradual introduction of electronic data exchange between the participants in the port community is a real effective tool for implementing the UNECE Recommendations (UN / CEFACT) 33-35 and 4- 40” (Newsletter 2016, p. 5).

It should be pointed out that the achievement of such indicators became possible due to a range of measures “aimed during ISPC implementation at:

- simplification and acceleration of border control;
- expansion of functional capabilities in the area of electronic data exchange within the territory of sea ports;
- increased transparency in the legal relations” of public-private partnership (public authorities and participants of transport and forwarding activities) by means of ISPS and proper use of the legislation on electronic document flow;
- “reduction of the requirements for paper documents during the processes of port logistics, exchange of data with the Customs, other regulatory authorities” (Newsletter 2016, p. 4).

Consequently, this analysis provides grounds for the statement that the current trends in the development of public administration mechanisms in the field of Customs regulation in Ukraine should include adaptation for national needs and implementation of international instruments for capacity building of Customs administrations.

For example, in case of compliance port procedures with the world standards, the implementation process covers several stages:

- 1) integration of the State Fiscal Service’s and Ministry of Infrastructure’s information databases (first stage);
- 2) experimental exploitation of the integrated system using an automated risk management system based on the WCO CTS software and information system developed by the World Customs Organization (second stage);
- 3) further improvement of the multifunctional integrated electronic Customs system, which will contribute to ensuring the Customs security of Ukraine, further development and adaptation of the State Fiscal Service information system in accordance with the WTO standards (third stage).⁸

This research has confirmed that following the accession of Ukraine to the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention) in 2006 (<http://www.wcoomd.org>) the trend towards adaptation of global instruments for the facilitation of world trade and their implementation in the national context has been actively observed throughout the Customs environment.

In addition, some typical, definite examples of the introduction of global instruments for the simplification of world trade at the national level include the use of an integrated system along with the application of an automated risk management system based on the

⁸ <http://ua.112.ua/ekonomika/dfs-i-mininfrastruktury-domovylysia-pro-skorochennia-chasu-mytneho-oformlennia-vantazhiv-u-portakh-281424.html>

WCO CTS software and information system, which will make it possible to inspect only those port consignments that raise additional questions or cause suspicions, in particular, in smuggling: it will not be necessary to check each container.

Another example, which leads to international trade simplification, is free certificates to transport EUR.1 goods issued by the Customs authorities since January 1, 2016, to speed up Customs procedures.

In summary it should be noted that within the Customs environment there are such current trends concerning the public administration mechanisms development in the field of Customs regulation in Ukraine as:

- transformation of the State Fiscal Service from the controlling fiscal authority into the service agency by building up partnerships with citizens and business and providing them with high-quality services;
- compliance of Customs procedures, the State Fiscal Service information system, etc. with the world standards (simplification of Customs formalities, in particular, reduction of time for the clearance of goods etc.);
- raising the level of commercial and investment attractiveness of Ukrainian ports etc;
- adaptation to national needs and implementation of international instruments for capacity building of Customs authorities;
- introduction of global instruments for the facilitation of world trade and their implementation in the national context.

Summary and concluding remarks

Thus, taking into account the abovementioned, the author has come to certain conclusions. Integration processes are confidently and increasingly accompanied by the activities of countries and interstate institutions aimed at bringing together global, regional and national mechanisms and instruments of state regulation of Customs affairs. The study has confirmed the coherent work of international organizations in the development and promotion of unified standards in key areas and determined that the WTO, WCO, UNECE and other international organizations seek to identify and comply appropriate best practices, which they subsequently recommend countries as the best means of demonstration and / or implementation of specific commitments.

The author determines as the global trends in the public administration mechanisms development in the field of Customs regulation the following: 1) the coherent work of international organizations in the development and promotion of unified standards in key areas related to international trade, and 2) their aspiration to seek / develop voluntary and flexible mechanisms.

In the field of Customs regulation in Ukraine there are such modern trends in the public administration mechanisms development as: transformation of the State Fiscal Service of Ukraine from the controlling fiscal authority into a service agency by developing partnerships with citizens and business and by providing them with high-quality services; adaptation to national needs and introduction of international instruments for capacity building of Customs administrations; adaptation of global instruments for simplification of world trade and their implementation in the national context; compliance of Customs procedures, information system of the State Fiscal Service of Ukraine etc. with the world standards (simplification of Customs formalities, in particular, reduction of time for clearance of goods etc.); increasing the level of commercial and investment attractiveness of Ukrainian ports etc.

The foregoing suggests that the current trends in the public administration mechanisms development in the field of Customs regulation in Ukraine correspond to global trends in the facilitation of international trade procedures.

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