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CONTEMPORARY TENDENCIES TOWARDS REALIZATION UKRAINIAN FOREIGN ECONOMIC POLICY: CUSTOMS ASPECT

Resume. *The implementation of external operations without state participation is not possible because self-regulation of this part of the market can not only harm the economy of Ukraine, but also threaten the health and even life of the population. Today measures focus on improving the implementation mechanism of the fiscal dimension of the Customs and implementation of effective measures to promote foreign economic activities not relieve acute problems existing in foreign trade operations. Considering the relevance and importance of improving the forms of state control in foreign economic activity should transfer control to the information and analytical research and to support further development of such forms of customs control as customs audit.*

Key Words: foreign economic policy, international trade, customs control

Анотація *Здійснення зовнішньоекономічних операцій без участі держави не можливе, оскільки саморегуляція цієї частини ринку може не тільки завдати шкоди економіці України, а й загрожувати здоров'ю та навіть життю населення країни. Заходи, що сьогодні направлені на вдосконалення механізму реалізації фіскальної складової діяльності Держмитслужби та запровадження дієвих заходів щодо сприяння зовнішньоекономічній діяльності, не знімають гостроти існуючих проблем у сфері зовнішньоекономічних операцій. Враховуючи актуальність та важливість удосконалення форм державного контролю у зовнішньоекономічній діяльності необхідно контроль переводити у площину інформаційно-аналітичних досліджень та митного аудиту.*

Ключові слова: зовнішньоекономічна політика, міжнародна торгівля, митний контроль

Аннотация *Осуществление внешнеэкономических операций без участия государства не возможно, поскольку саморегуляция этой части рынка может не только принести вред экономике Украины, но и угрожать здоровью и даже жизни населения страны. Мероприятия, которые сегодня направлены на усовершенствование механизмов реализации фискальной составляющей деятельности Государственной таможенной службы и внедрение действенных механизмов содействия внешнеэкономической деятельности, не снимают остроты существующих проблем в сфере внешнеэкономических операций. Учитывая актуальность и важность совершенствования форм государственного контроля во внешнеэкономической деятельности*

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необходимо контроль переводить в плоскость информационно-аналитических исследований и таможенного аудита.

Ключевые слова: внешнеэкономическая политики, международная торговля, таможенный контроль

Introduction. Foreign trade is vitally important for the development of any economy. History knows no examples of economic prosperity of the country, which would be in economic isolation from the outside world. Integration into the world economic relations, which are formed and implemented as market-based, objectively creates the conditions for optimal resource allocation, increase the efficiency of national production, the solution of socio-economic problems. But at the same time it conduces to the increase in violations of customs regulations and amounts of movement of the goods by an illicit way.

Contemporary stage in Ukraine is characterized by permanent increasing and widening scales of international trade, complication and reinforcing of dynamism of trade processes, reinforcing of demands of international organizations as to guaranteeing of free access of foreign goods to internal markets and lowering of national trade barriers. Deepening of integration of international demands into national practice of customs policy takes place.

Realization of these demands is associated with some potential threats to guaranteeing national Ukrainian interests. "An opening" of national boundaries for international trade can result in the state's economic losses such as budget deficit as a consequence of customs value deviation, harm to consumers' health and safety. It also can cause growth of smuggling etc. Under such conditions it's necessary for national customs policy that shall guarantee urgent reacting to external threats, efficient counteraction to possible negative effect of such threats.

According to State Statistics Committee of Ukraine exports of goods and services in Ukraine in 2009 amounted 49223.7 million USD, what was relative to 2008 62.5%, imports - 50604.4 million or 55% according to 2008. Negative foreign trade balance amounted to 1380.7 million USD. Coverage of import by export in 2009 amounted to 0.97 (in 2008. - 0.86) [4].

Ukraine has foreign trade with partners from 213 countries.

CIS countries exported 33.9% of all goods and to the EU countries – 23.9%. From CIS countries imported 43.3% of all goods and from EU countries – 33.9% (Fig.1).

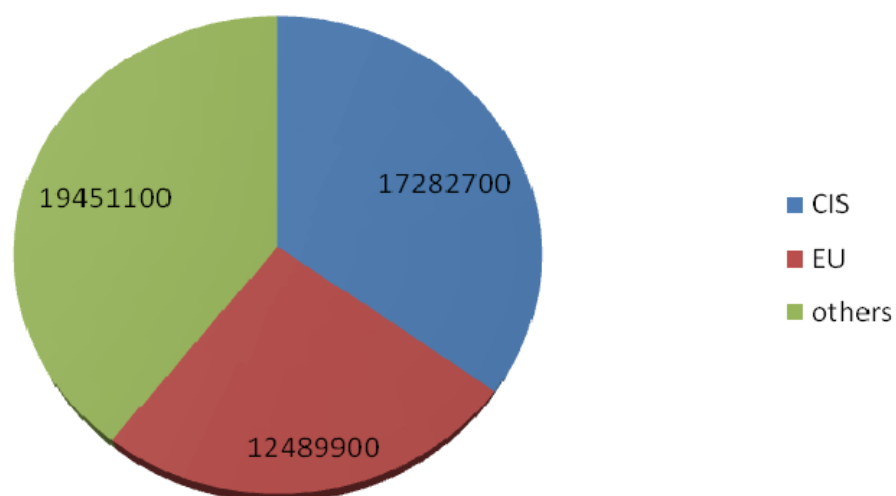


Fig.1. Exports of goods and services in Ukraine in 2009, thousands USD

Top export deliveries were carried out with Russian Federation – 21.4%, Turkey - 5.4%, China and Kazakhstan - by 3.6%, Belarus - 3.2%, Germany and Italy - to 3.1% .

The largest import incoming payment were from the Russian Federation – 29.1%, Germany - 8.5%, China - 6%, Poland - 4,8%, Kazakhstan - 4.5%, Belarus - 3.7% and Uzbekistan - 3, 6% (Fig.2) [4].

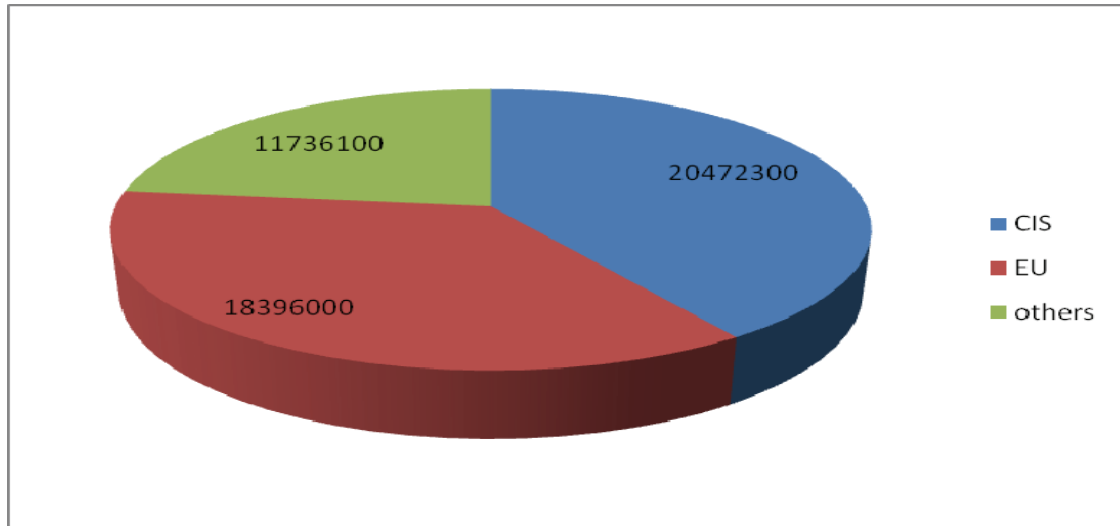


Fig.2. Import of goods and services in Ukraine in 2009, thousands USD

The intensification of foreign economic activity requires the improvement of existing forms of state control, the development of alternative forms and methods of state regulation of foreign trade operations.

Dynamic increase in the number of imported goods into Ukraine indicates that questions concerning development of effectiveness of customs control are really urgent. Increase in amounts of imported goods into Ukraine in 2009 has greatly revealed problems connected with lack of technological and physical capacity of national customs service for effective enforcement of suitable customs procedures.

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Development of mechanism for implementing fiscal component in the foreign economic activity is possible only with the full realization of the functions of state control of foreign trade operations. In order to combat negative phenomena in this area, a number of the state program documents such as the State Program Against Smuggling, “Smuggling – Stop”, Program to Combat Smuggling and Customs Violations in 2008 - 2009, approved by Presidential Decree of 04.03.08 number, 195 Program of the Cabinet of Ministers of Ukraine "Ukrainian breakthrough: for the people, not politicians," approved by the Cabinet of Ministers of Ukraine dated 16.01.08 № 14, main priorities and objectives of the State Customs Service of Ukraine in 2009, and others has been developed.

Scholars and practitioners in the field of economic, legal, organizational and technological aspects of focusing on issues of state control. Specific issues relating to the perspective of this study are reflected in the works of variety of researchers, as I. Berezhnyuk, A. Voytseschuk, O. Grebelnik, W. Draganov, A. Egorov, Y. Demin, N. Kalenskii, S. Koliada, V. Naumenko, P. Pashko, L. Pismachenko, A. Polonsky, S. Tereshchenko, I. Tonev, T. Totska, etc.

The problems of state regulation of foreign trade activities and methods of exercising state supervision and control of its effectiveness are widely considered in the works of domestic and foreign scientists widely considered. However, the mechanism of action of the combined effect of regulatory and supervisory activities of the State to control processes in foreign trade relations have not been investigated and requires further study.

Formulation of the problem. The purpose of this article is to disclose problematic issues in the implementation of foreign economic operations and the formation of alternative courses of implementing control mechanisms in the development of foreign economic activity. In order to achieve this goal it is necessary to solve the following problem: consider the basic parameters that characterize the foreign economic activity in Ukraine, to formulate the direction of improving controls in the sphere of foreign economic activity.

The results of the study. It is known that a characteristic feature of modern communication systems in the world economy is the growing interdependence of economies and the activation of their participation in the international division of labour.

Moreover, the hallmark of economic development has become an open market economic system, which provides the active interaction of various international economic interests.

About the intensification of global integration, evidenced by the increase number and volume of foreign trade operations (Table 1). It should be noted, that Ukraine's foreign trade turnover in 2008 amounted to 148,668 billion dollars, which is 35% more than in 2007 (Fig. 3).

Table 1 Dynamics of increase in the number and volume of foreign trade operations in Ukraine *

Year	2002	2003	2004	2005	2006	2007	2008	2008
Index	2002							
Trade, \$ million	34300	45800	61113	69770	81682	110099	148668	4,3
Including:								
- Export	17900	23100	32455	34216	38419	49262	66967	3,7
- Imports	16400	22700	28658	35554	43264	60837	81701	5,0
The number of entities in FEA	32802	32566	32924	34048	34418	34320	36421	1,1
Cleared goods, million tons	365,2	419,3	421,7	428,9	423,9	484,3	427,6	1,2
including:								
- Export	110,9	118,3	127	126	128,3	145,5	149,8	1,4
- Imports	90,9	116,4	106,7	103,3	90,3	117,3	101,1	1,1
- Transit	163,4	184,6	188	199,6	205,3	221,4	176,7	1,1
Cleared TBG, thsd	1805,9	2080,4	2302,1	2620,8	2969,9	3301,6	3492,1	1,9
including:								
- Export	459,9	513,7	589,8	605,4	652	742	687,3	1,5
- Imports	583,5	684,1	698,6	869,1	1034,2	1135,9	1263,8	2,2

* Data taken from the annual reports of "Highlights of the Customs Service"

The value of exported goods in comparison with 2007 increased by 17.7 billion or 35.9%, while imports - by 20.8 billion or 34.3% [2].

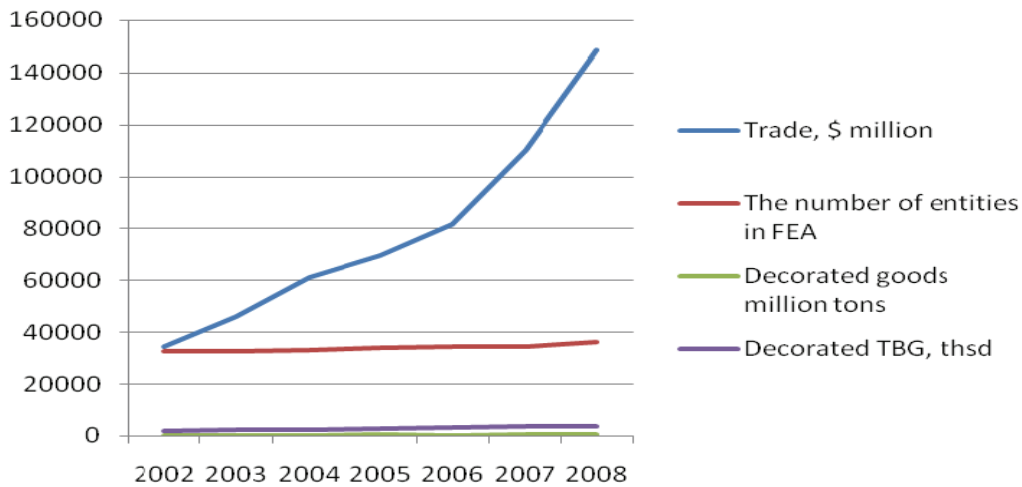


Fig.3. Index changes in the indices of quantity and volume of foreign trade operations (calculated in 2002)

We can trace in 2008, against growth of foreign trade turnover of 4.3 times and imports by 5 times compared with 2002, relatively steady trend of active subjects of economic activity and the volume of transported goods (Fig. 4).

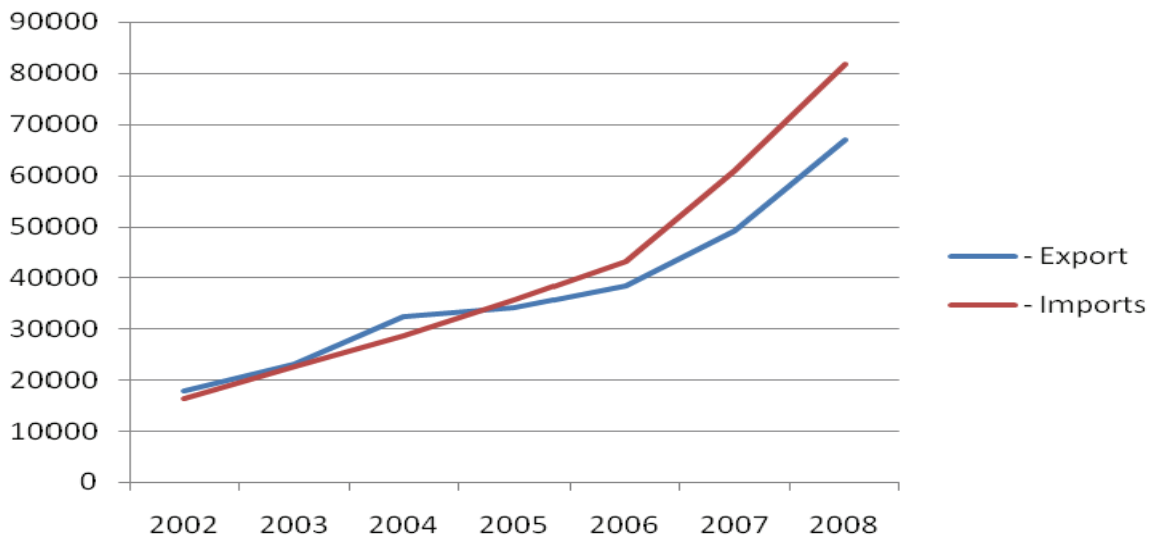


Fig.4. Index changes export and import of products in Ukraine

Along with the intensification of international integration the state regulatory agencies frequently fix the violations and abuses in the sphere of foreign economic activity. Every day more than a million tons of various cargoes move through customs border of Ukraine by rail, road, air and sea transport.

As the data of Customs Service of Ukraine indicate, in 2007 the average daily subject to customs clearance of almost 1.4 million tons of cargo, was passed about 240 thousand people and 67 thousand vehicles (Fig. 5). This trend continued in 2008: the average daily subject to customs clearance of 1.2 million tons of cargo, passed 240 thousand people and about 64 thousand vehicles [1, 2].

In accordance with the increase in freight traffic there is a need to improve the operational management of these flows and the application of a clear, developed and effective system of control. This will protect the economic interests of the state.

Not a secret that today the tools and technology of customs control behind the needs of bandwidth and global standards of control products. Every year the government allocates sub-

stantial funds for scientific and technological development of the State Customs Service of Ukraine and development of customs infrastructure, but these measures have not kept pace with growth in foreign economic activity and ingenuity of some economic agents to develop schemes and means to evade proper settlement with the state.

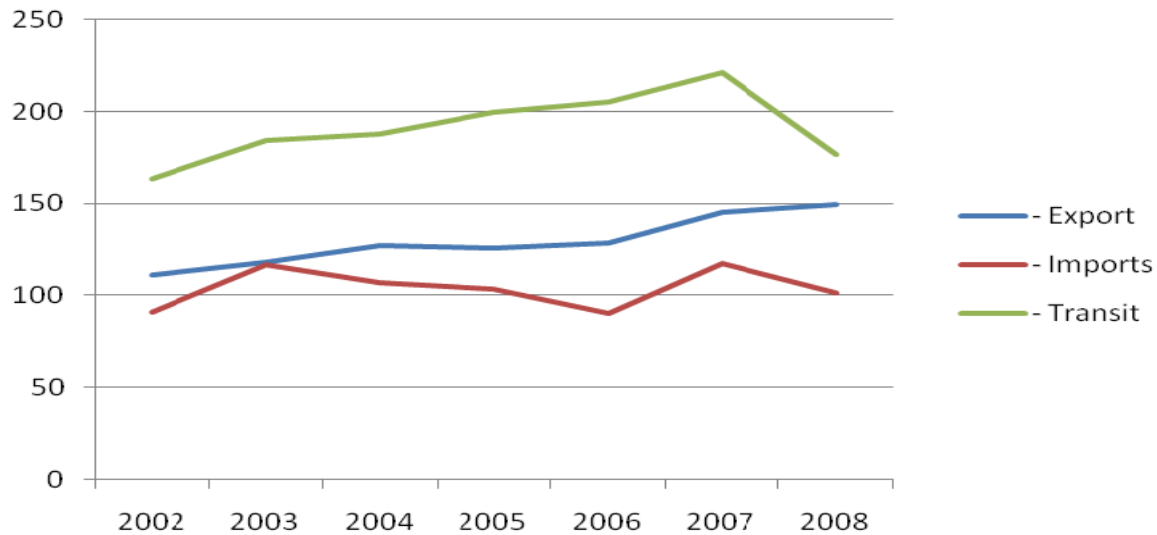


Fig.5. Index changes cleared goods, million tons

Significant growth of foreign trade requires a qualitatively new approach to the monitoring of international freight flows (Fig. 4).

The growth of commodity flows has shown the following issues of customs control, notably the substantial time required to carry out customs procedures, outdated technological goods passes, the impossibility of compliance with current legislation regarding the physical inspection of all goods that move across the border of Ukraine, etc.

In the total trade share of goods, moving in the illicit way, occupies a significant place. During 2008, were initiated 328 criminal cases on smuggling on the total amount of 5 billion 515.2 mln. Compared with the previous year, the number of criminal cases increased by 34, and the cost of items in cases of smuggling almost doubled (an additional 5 billion 94.2 million UAH.) [2].

The same trend towards an increase in violations of customs rules, resulting in the state loses substantial amounts of revenue to the state treasury. For violations of customs legislation in 2008 has been compiled 25,004 protocol of violation of customs regulations, total 6 billion 92,8 million UAH, which is more than 7 times higher than the level of last year (in 2007 passed 25 500 protocols total \$ 855.0 million UAH) [2].

There are great differences between the amounts of goods to be drawn on violation of customs regulations, and the goods on which a decision to withhold the revenue of the state. According to the facts of violations of customs laws in 2008 there has been delayed goods total \$ 6 billion 92.8 million UAH. Including the cost of actually seized goods is only 1 billion 46.5 million UAH or 17% [2]. The big problem is the commission of crimes related to intellectual property. The main objects of illegal movement across the customs border of Ukraine are the disks for laser reading systems and other audiovisual products. For example, in 2006 the customs authorities foiled attempts of illegal movement of 140 CDs in the amount of 229 thousand UAH, and in 2008 the customs authorities intercepted several attempts of illegal movement of the CD a total of 50.2 thousand, amounting to 620.8 thousand UAH. Moreover, the main foci of these

offenses are: the import of such goods to Ukraine - Russian-Ukrainian border area, in case of export from Ukraine – area of Polish-Ukrainian borders. [1, 2].

For Ukraine, as well as for other developing countries, an important problem is the presence of counterfeit goods (clothing, perfumes, alcoholic beverages), genetically modified organisms and products based on them, etc among the imported goods.

There is a practice of distorting the customs value of imported goods. Significant liberalization of import duty rates has not removed the problems common in Ukraine, the practice of manipulation of the customs value of goods. With the increasing intensity of import flows and the high workload of customs control agencies should expect an increase of abuse just in this area, where high physical workload of the relevant authorities does not allow to reveal mentioned violations.

Increasing the volume and growth rate calculations on export-import transactions through offshore zones provides a basis for allocating a separate stream of state control.

A growing share of export-import operations with the calculations through offshore zones creates opportunities for manipulation of the prices of contracts. These operations are aimed at the withdrawal of income abroad and tax evasion. This represents a significant threat to sustained economic growth and meets the national interests of the state.

An indicator of disadvantage is that the trend for a significant gap between the numbers registered in Ukraine and in fact active participants in foreign economic activities in the field of foreign trade. There is a necessity of thoroughly review the provisions for the likely abuse of the relevant area, as well as clarify the obstacles to the implementation of foreign economic activity in the formal legal framework.

However, there is no way to lower tax evasion subjects of foreign economic activity. Recently, the company who has a budget arrears due to the control activities carried out by customs authorities, are increasingly using the law granted them the right to appeal. The goal, which in this case is pursued by subjects, that prolong the process of appellate review of tax liabilities in order to minimize the amount of which shall be payable as a result of inflation or, to avoid all financial responsibility for the process of artificial bankruptcy. Another way of tax evasion is the use of some fictitious schemes of importation of goods that, in principle, are well known, but the law has not yet been resolved. For example, the import of cars as a representative of foreign investment, the existence and use of the scheme "cover" of imports of goods, by a declaration of their mode of processing on the customs territory of Ukraine, etc.

Also it is necessary to take into account the typical kinds of violations in foreign trade activities: False statements by the data in the shipping documents, filing false certificates of origin and others. Thus, the implementation of measures to strengthen control of the correctness of determining the customs value of goods allowed in 2007 to send to the state budget an additional 1 318,6 million UAH, that 157,6 million UAH more than in 2006. The economic impact, which made the adjustment of customs value for the year 2008, totalled 3 349,4 million UAH further directed the state budget funds, which is 2,5 times more than in the previous 2007 [1,2].

Additional revenue by increased monitoring of the adoption of classification decisions amounted to 108.0 mln. and 153.4 million UAH in 2007 and 2008 respectively. The state budget received additional 11.6 million UAH, and 42.7 million UAH in 2007 and 2008 respectively by checking the country of origin of goods [1, 2].

Analyzing the violations and abuses in the sphere of foreign economic activity, we concluded that, despite the considerable efforts of the State customs service to prevent the commission of customs offenses, as well as developing and improving tools and technologies of customs control, the amount on which offenses are carried out increase from year to year. How-

ever, it should be noted that the perpetrators - the subjects of foreign economic activity shifted from simple circuits and methods to more sophisticated, cost-calculated, using the entire arsenal of possibilities of imperfect existing legislation and bureaucratic features of the judicial system, the limited powers of customs authorities. Therefore, it is clear that this problem can't be solved only by increasing the number of employees or means of customs control. This extensive way of development, which solves some problems in arithmetic according to the cost invested in the technology development of physical control of goods. It's necessary to develop other more intensive forms of customs control.

In recent years considerable progressive movements to improve the national customs policy have been carried out. Positive achievements in execution of customs policy are considered to be:

1. Implementing interaction between customs bodies and subjects of foreign economic activity.
2. Making efforts to adjust Ukrainian legislation concerning protection of intellectual property to the level of the world standards
3. Searching for effective interaction with the customs services of contiguous states and countries that are trade partners.
4. Achieving certain progress in creation, implementation and development of electronic goods declaring system.
5. Taking measures to guarantee legal protection against importing goods of unsatisfactory quality into customs territory.

Moreover it is necessary to mention a range of problem factors of contemporary customs policy of Ukraine. They are:

1. Lag of customs control from contemporary needs in carrying capacity and world standards of goods control.
2. Widespread deviation of customs value of imported goods.
3. Growing of scopes and quantities of export-import operations through off shore zones.
4. Tendencies towards considerable gap between amounts of subjects of external economic activity registered in Ukraine and their factual participation in foreign trade. It is a necessity to study carefully this problem in the view of probable abuses in this sphere, and also to clear up obstacles to external economic activity in official legal field.

Considering marked tendencies and conditions of enforcing customs policy in Ukraine, the main priorities for increasing activity of the state policy in this sphere shall be:

☞ rise in defence level of national state interests by means of instruments of customs policy with simultaneous balanced implementation of international demands and standards;

☞ simplification of customs procedures for improved management system of risk assessment, that will allow to concentrate on identification and inspecting of loads of high risk;

☞ creation of the most favourable environment for participants of foreign economic activity aimed at more efficient execution of export-import operations;

☞ rise in effectiveness of efficient detection and counteraction to negative phenomena in the environment of external trade, which are potential threats to the state's safety and interests.

Implementing of these priorities will demand to take a range of measures in the nearest future, which will allow reinforcing a defence by level of national state interests, to create the favourable conditions for increasing of scopes of external trade, to influence positively on social and economic development of Ukraine.

Despite the problems, we suggest use of information and analytical methods in the field of unified information space of state control. Today State Customs Service of Ukraine working to-

wards the exchange of preliminary information about goods and vehicles that move across the customs border of Ukraine and other countries, the use of risk management, operational cooperation of customs authorities of neighbouring states at checkpoints at the border. The originality of our proposal is to obtain complete information on export-import operations in Ukraine and other states. The value of such complete information is as follows. Firstly, there is complete information on exports to Ukraine. The difference between exports and imports to Ukraine will provide information on the amount of economic smuggling indicating types of products, businesses exporters and importers, the timing of smuggling in control, etc. In addition, the fixation of such information in an electronic system would eliminate the negative influence of the subjective factor. Secondly, this information will be declared in the customs declaration confirming information. Thirdly, the cooperation of customs authorities on the basis of information processing and analysis will increase the speed and direction of activities. This will speed up the identification and receipt of "hidden" amounts to the State budget. And this in terms of inflation and budget deficit is important. Fourthly, the analysis of such information may be grounds for an in-depth monitoring of dubious enterprises of foreign economic activity.

One form of such in-depth control can be "custom control, which is carried out after clearance" or "customs audit". State Customs Service of Ukraine initiated work in this direction. Responsibility for organizing and carrying out documentary and desk audits of compliance with the participants of foreign economic activity requirements of the customs legislation of Ukraine by the Department of risk analysis and audit. In addition, the Department coordinates and oversees the work of customs bodies in this direction, supervises the elimination of violations, identified by such inspections, and provides the organizational and methodical maintenance inspections of foreign economic activity.

Reports Analysis State Customs Service of Ukraine shows that for the period from 01.07.05 till 19.06.06. Customs conducted 613 outreach documentary checks, and from 19.06.06 till 27.05.08 - 1291 check, that is an average of 634 checks per year [3]. The number of economic agents, for example in 2008, was 36421. Attention is drawn to the fact, that during 2008 328 criminal cases on smuggling was instituted, and for violations of customs legislation 25004 a protocol on violation of customs regulations were drafted. Some violations (the so-called "black" and "gray" contraband) can be detected only by an inventory or audit compliance with quality and quantity of goods (as range, article, class, etc.) which have been declared to customs authorities and registered the Customs, the quantity and quality of goods, which were reflected in the accounting records after such registration.

Furthermore, analysis of performance data of State Customs Service of Ukraine, significant differences between the computed amounts of customs offenses and the amounts recognized by the courts to redress in the state budget, significantly different. And it's not favour of the state. This suggests that the customs officials and officials of the judiciary use different, often mutually exclusive of the legal documents. Since, as shown by our study are listed in the state budget amounts exporters and are 13-15% of the additional amounts assessed on foreign trade operations, we can say the same about the effectiveness of existing legislation in this area. The economic effect of regulatory actions reduced from the fact that customs officers doing unproductive work, spending their time and expertise, public resources for actions that most likely on 85% will be appealed in court. Thus, the alignment of regulatory and legal support of foreign economic activity is a necessary condition for the existence of any kind of control in general and customs audit in particular. Since there are differences between assessed and listed the amounts that they can be considered a reserve or a missed opportunity to replenish the state budget by aligning the legislation in force.

Considering perspectivity of implementation in practice of the customs authorities of the customs areas of audit and ensure the effectiveness of this mechanism, it is necessary to hold a series of events: at the level of Ukrainian law Customs Service audit of the definition of its structure, tasks, powers, rights and responsibilities of officers and of officials, to make changes to legislation that would have made it impossible for evasion of the actual tax debt through the mechanism of groundless appeals, failure to provide for liquidation of the enterprise through the application of artificial bankruptcy procedures subject to the availability of such an enterprise budget debt, develop a methodical maintenance of customs control, which should be necessary for the two sides of Customs. These measures are aimed more at protecting the interests of the state, represented by the customs authorities.

The findings of this study and perspectives for further research in this direction. Everybody understands that the implementation of external operations without government intervention is impossible, because self-regulation of this part of the market can not only damage the economy of Ukraine, but also threaten the health and lives of the population. Measures that are directed on mechanism perfection for implementing fiscal component of the Customs Service and the introduction of effective measures to promote foreign trade, do not alleviate the existing problems in the field of foreign trade operations.

Considering the urgency and importance of improving the forms of state control of foreign economic activity must be translated into control information and analytical research and to support the establishment and further development of such forms of customs control as a customs audit.

Any delay in addressing these issues, even if the operation had already created dozens of structural units in the system of customs authorities, made it difficult to ensure full and qualitative performance indicators of government revenue, increase audit ability of international trade and does not contribute to the economic security of Ukraine.

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