

FINANCIAL CONTROL IN THE CUSTOMS SPHERE: CONCEPTS, SUBJECTS, TOOLS

The article is devoted to the study of financial control in the customs sphere. The author analyzes the existing theoretical and regulatory approaches to the definition of “control” and “financial control”. The author offers her own definition of “financial control in the customs sphere”, which should be understood as a system of measures and actions carried out or provided by authorized entities to verify the status of compliance with legislation in the customs sphere and the level of performance of tasks, management decisions and functions. It is noted that at the legislative level it is proposed to systematize the subjects of the State financial control, based on the type of financial control and functional purpose, by distinguishing: 1) entities authorized to exercise external financial control (which include the President of Ukraine, the Verkhovna Rada of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea and relevant councils, the Cabinet of Ministers of Ukraine, the Accounting Chamber); 2) entities authorized to exercise internal financial control (which include the State Control and Audit Service of Ukraine, local administrations and executive bodies of relevant councils); 3) entities with specific internal financial control functions (which include the Ministry of Finance of Ukraine, State Customs Service of Ukraine, State Tax Service of Ukraine, State Treasury of Ukraine, State Commission on Securities and Stock Market, State Property Fund of Ukraine, Bankruptcy Agency); 4) entities authorized to exercise internal (departmental) control (which include control services that are independent structural units (departments, headquarters, offices, divisions, branches, sectors, groups) within central executive authorities).

The role of some of the entities authorized to exercise financial control over the customs sphere, in particular, the Accounting Chamber, the Temporary Investigation Commission of the Verkhovna Rada of Ukraine, the Ministry of Finance of Ukraine, and the State Customs Service of Ukraine, is clarified.

The author analyzes practical examples and regulatory frameworks. The author emphasizes the need to adopt a special law that would comprehensively regulate control and inspection activities.

The tools related to data that can be used in the customs sphere (including for financial control) are systematized into three groups: 1) statistics services (e.g., BI system, VIN or EURI verification service); registers (e.g., Register of Intellectual Property Objects, Register of Customs Brokers); 3) reference books and classifiers (e.g., classifier of transport types, classifier of the State Customs Service, Classifier of budget revenues).

The author points out the need for further transformation of the tools related to data that can be used in the customs sphere into a Single Customs Information Resource, which would provide for the possibility of registration in the office, and easy search for the necessary data, with systematization by various search criteria, and the provision of podcasts on how to use it. This, in turn, would help to improve financial control in the customs sphere.

Key words: financial control, customs sphere, IT technologies, tools, information and communication technologies, registers, subjects, audit, inspection, reference books, classifiers.

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Purpose. The purpose of this article is to study the institutional and instrumental capacity of financial control in the customs sphere. To achieve this goal, the author sets out the following research tasks, including: analyzing the existing theoretical and regulatory approaches to the definition of «control» and «financial control»; allocating the subjects of financial control in the customs area; characterizing the role of information systems and technologies in customs control; and developing proposals for improving customs legislation.

Methods. The methodological basis of the study is the fundamental categories, concepts, principles and methods of modern

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legal science. The set of methods used in the study of financial control in customs is based on the principles of objectivity, systematicity, certainty, determinism, and unity of theory and practice. The use of general and special methods of scientific cognition made it possible to achieve the research objective and contributed to the reliability of the results obtained.

Introduction. The result can be achieved if there is control and identification of entities authorized to exercise it, with the appropriate competence and responsibility for inaction or other violations in this area. This rule is universal and applies to all areas, including customs.

In recent years, Ukraine has implemented a number of reforms in key areas of public life. New government agencies have been established. Most of the newly created state institutions are vested with control and inspection functions. In general, a situation is emerging in which the number of supervisory bodies with overlapping control functions is increasing.

The areas and methods of control may vary. At the same time, the financial sector, including customs, is particularly relevant as an object of control. This is due to the fact that the level of filling the State Budget of Ukraine, social policy and other important aspects will depend on the state of control.

Given the multidisciplinary nature of the institution of state financial control and its special importance in the context of martial law in Ukraine, there is a need to study the chosen topic, develop recommendations, proposals and scientific solutions.

Particular attention should be paid to the tools that can be used in the process of financial control in the customs sphere and the introduction of modern IT technologies on the way to the full functioning of the “E-Customs” and “Single Window”.

Literature review. Certain aspects of financial control in customs have been the subject of research by such scholars as: O. Bandurka, N. Bilak, M. Bilukha, V. Borsa, V. Deriy, E. Dodin, O. Yedynak, B. Kormych, M. Koryagin, A. Mazur, A. Moroz, V. Pavlyshen, D. Prymacheno, V. Prokopenko, T. Mykitenko, E. Romanov, O. Fedotov, V. Chentsov, E. Khomyak, etc. At the same time, given the introduction of martial law and the development of public relations, the chosen topic does not lose its relevance.

Financial control: doctrinal and scientific approaches

Currently, at the theoretical and regulatory levels, there is no unified approach to the definition of the legal category “financial control in the customs sphere”, while it continues to be widely used. With this in mind, let us examine the meaning of this term and its essential and substantive features.

To this end, it is first necessary to clarify what is meant by the general term “control”. At the regulatory level, there are more than 50 definitions of the term “control” used in various areas (in particular, television and radio broadcasting; limitation of monopolism and prevention of unfair competition in business; accounting; banking; protection of economic competition; financial services and state regulation of financial services markets; aviation and rail transport; ecology; investment; licensing; documentation of management activities; etc.).

Let us dwell in more detail on the interpretation of the term «control» given in the legislative acts related to the subject under

study, in which control is – decisive influence on the financial, economic and commercial policy of an enterprise or business in order to obtain benefits from its activities (*On Approval of the National Accounting Regulation (Standard), 1999*); – when used in relation to any person or entity (including, with correlative meanings, the terms «controlled», «controlling» and «under common control») means the possession, directly or indirectly, of the power to direct or govern the management and policies of such person or entity by virtue of, or through the ownership of, voting rights or by contract or otherwise (*Standard Terms and Conditions of the European Bank for Reconstruction and Development, 2006*); – the authority of a public sector entity to manage the financial and operational policies of another public sector entity in order to benefit from its activities (*On Approval of National Regulations (Standards) on Public Sector Accounting, 2010*); – the procedure according to which authorized officials of the bodies and subdivisions of the State Emergency Service assess the state of compliance with executive discipline (*On Approval of the Instruction on Organization of Control over Execution of Documents in the System of the State Emergency Service, 2016*); – a set of measures taken to verify and evaluate the implementation of tasks (management decisions) (*Some issues of documenting management activities, 2018*); – means monitoring and supervision (*Council Regulation (EU), 2009*); – means any measure taken to provide reasonable assurance about the efficiency, effectiveness and economy of operations, reliability of reporting, protection of assets and information, prevention, detection, correction and follow-up of fraud and irregularities, and proper management of risks relating to the legality and propriety of underlying transactions, taking into account the multi-year nature of the programs and the nature of the payments involved. Control may include various inspections, as well as the implementation of any policies and procedures to achieve the objectives specified in the first sentence (*European Union Regulation, 2009*), etc.

The New Dictionary of Foreign Language Words defines «control» in two aspects: a) as an inspection of the activities of whom, what; observation for the purpose of inspection; b) as an institution engaged in such inspection (e.g., state control) (*New Dictionary of Foreign Language Words, 2008*).

According to other scientific approaches, «control» is a multidimensional category that manifests itself in different ways depending on the purpose, tasks, subject, method, types and forms, types, etc.» (*V.A. Deriy, 2009; 162*); – a system of monitoring and verification of compliance of the process of functioning of the management object with the adopted management decisions, determination of the results of management impact on the managed object with the identification of deviations made in the course of implementation of these decisions (*E.M. Romanov, R.L. Khomyak, A.S. Moroz, M.V. Koryagin, 2002; 8*).

At the theoretical level, the concept of «control» is considered not only as a key function of public administration, but also as a type of management activity for the functioning of the entire system, a mechanism for evaluating management decisions. Thanks to control, it is possible not only to adjust management activities, but also to help in predicting the prospects for further development and achievement of specific results (*T. S. Yedynak, O. V. Pavlyshen, 2011*).

Financial controls are the procedures, policies and means by which an organization monitors and controls the direction, allocation and use of its financial resources. Financial controls are the basis for resource management and operational efficiency of any organization (*What are Financial Controls*).

In addition, we should pay attention to the regulatory definition of the term «internal financial control», which was given at the level of bylaws, some of which have lost their validity, in particular as follows: – activities of control and audit units aimed at providing ministries and other central executive authorities with reliable information on the use of financial resources by business entities subject to control, assessing the effectiveness of their economic activities, identifying and preventing deviations in them that impede the legal and efficient use of property and funds, and expanded reproduction of production (*On the Implementation of Internal Financial Control by Ministries and Other Central Executive Bodies, 2002*); – a set of expert-analytical, audit and other forms of control measures that provide reliable information on the use of financial resources, property and other tangible assets by the objects of control aimed at identifying and preventing deviations that impede the legal and efficient use of budget funds and property (*Regulation on the Procedure for Internal Financial Control in the System of Bodies of the Ministry of Justice of Ukraine, 2007*).

The Customs Code of Ukraine refers to customs control as a set of measures taken to ensure compliance with the provisions of this Code, laws and other regulations on customs matters, international treaties of Ukraine concluded in accordance with the procedure established by law (*Customs Code of Ukraine, 2012*). Some scholars argue that customs control is a type of financial control of business entities that

import, export, transit, transfer, store and use goods moving between customs territories» (*M. Bilukha, T. Mykytenko, 2013; 17*) or as a type of state financial control (in the context of intellectual property rights protection) (*V.V. Borsa, 2019*).

It is important to note that the Draft Law of Ukraine «On State Financial Control» is currently fragmented, where the term «state financial control» is proposed to be a set of targeted measures of bodies, their subdivisions or officials exercising state financial control within the powers established by the legislation of Ukraine in order to prevent, detect and stop financial offenses at the controlled object in relation to its financial and economic activities, as well as ensuring the legality, financial discipline and efficiency of the formation and expenditure of funds, including budgetary funds, and other assets in the process of ownership, disposal, use and alienation of state property, compensation for losses and establishing liability in case of violation of financial, including budgetary, legislation (*Draft Law of Ukraine «On State Financial Control», 2020*).

We consider it possible to propose the author's definition of «financial control in the customs sphere», which should be understood as a system of measures and actions carried out or provided by authorized entities to verify the state of compliance with legislation in the customs sphere and the level of performance of tasks, management decisions, and functions.

Subjects of financial control in the customs sphere: gradation and instrumental and functional capacity

In the field of public administration, all authorities exercise control in one way or another. However, the content of control activities, scope, forms and methods of different subjects differ significantly. For some bodies, control is the main activity, for others it is an element of the main functions (*T. S. Yedynak, O. V. Pavlyshen, 2011*).

A single list of entities authorized to carry out financial control both in general and in the customs sphere has not yet been developed. At the same time, at the legislative level, it is proposed to systematize the subjects of state financial control on the basis of gradation, taking the type of financial control and functional purpose as the basis, and distinguishing:

1) entities authorized to exercise external financial control (including: The President of Ukraine, the Verkhovna Rada of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea and relevant councils, the Cabinet of Ministers of Ukraine, the Accounting Chamber);

2) entities authorized to exercise internal financial control (including: The State Control and Audit Service of Ukraine, local administrations and executive bodies of the respective councils);

3) entities with specific internal financial control functions (including: The Ministry of Finance of Ukraine, the State Customs Service of Ukraine, the State Tax Service of Ukraine, the State Treasury of Ukraine, the State Securities and Stock Market Commission, the State Property Fund of Ukraine, and the Bankruptcy Agency);

4) entities authorized to carry out internal (departmental) control (including: control services, which are independent structural units (departments, main departments, offices, divisions, branches, sectors, groups) within central executive authorities). These structural subdivisions (control services) are functionally and organizationally independent from the heads and units of the controlled objects) (*Draft Law of Ukraine «On State Financial Control», 2020*).

While generally supporting the above-mentioned gradation of entities authorized to exercise financial control, we consider it necessary to expand it with another group, which should include representatives of civil society institutions that are called upon to exercise public control over financial issues, which will acquire the features of financial control in such circumstances.

When analyzing the customs sphere, it should be noted that financial control can be exercised by various entities of the above types. For example, the Accounting Chamber, as an entity authorized to exercise external financial control. This can be confirmed by the information contained in the Accounting Chamber's Report for 2020, which states that the audit of the performance of the State Fiscal Service of Ukraine, the State Tax Service of Ukraine and the State Customs Service of Ukraine revealed a budget shortfall of almost UAH 52.8 billion. The reason for this is the imperfection of legislation that allows business entities to apply payment minimization schemes, as well as inadequate control by tax and customs authorities over the timeliness, accuracy, completeness of the calculation and payment of taxes, fees, customs and other payments (*Report of the Accounting Chamber for 2020*).

In addition, based on the Resolution of the Cabinet of Ministers of Ukraine No. 568 dated 24.04.2020, the Temporary Investigation Commission of the Verkhovna Rada of Ukraine was established to investigate the facts of possible corrupt actions of public officials published in the media, which led to significant losses in the revenue side of the State Budget of Ukraine to audit the performance of the State Fiscal Service of Ukraine, the State Tax Service of Ukraine and the State Customs Service of Ukraine (*On the Establishment of the Temporary Investigation Commission of the Verkhovna Rada of Ukraine to Investigate the Facts of Possible Corrupt Practices of Public Officials, Published in the Media, which Led to Significant Losses in the Revenue Part of the State Budget of Ukraine, 2020*).

The audit revealed violations and shortcomings totaling UAH 938.5 million (Report of the Accounting Chamber for 2020).

The role of the Ministry of Finance of Ukraine as one of the entities vested with specific internal financial control functions in the customs sphere can be defined through: 1) its status as a central executive body that directs and coordinates the activities of the State Customs Service of Ukraine through the Minister of Finance; 2) the functional purpose of the Ministry of Finance to implement functions that primarily consist of ensuring the formation and implementation of a unified state tax, customs policy, state policy in the field of combating offenses in the application of tax and customs legislation; 3) the powers of the Minister to make decisions on inspections of the activities of central executive authorities, whose activities are directed and coordinated by the Minister, and their territorial bodies (*On Approval of the Regulation on the Ministry of Finance of Ukraine, 2014*).

With regard to the State Customs Service as an entity vested with specific internal financial control functions in the customs sphere, they can be primarily identified through: 1) the competence block – in terms of exercising and ensuring control over: a) compliance with the requirements of the legislation on customs matters (both during the movement of goods across the customs border of Ukraine and after the completion of customs control and customs clearance operations); b) compliance by enterprises and citizens with the procedure for the movement of goods and vehicles across the customs border of Ukraine established by law; c) the application of customs regimes, the intended use of goods placed in the appropriate customs regime; etc. (*Customs Code of Ukraine, 2012*).

It is noteworthy that the State Customs Service may act both as a financial control entity and as one whose activities are audited.

As for the example of an entity authorized to exercise internal (departmental) control, the following should be noted. Currently, the structure of the State Customs Service includes the Department of Internal Audit and the Department of Departmental Security and Control, but given that they are not classified as an independent structural unit, they cannot be classified as financial control entities.

Information systems and technologies in customs as tools for customs control

The customs structure of the state needs to have a strong information support in the form of a well-built system of information and analytical support. This can be achieved by creating a system of information modules. That is why a new stage of development of the customs system of Ukraine is impossible without the development of network information support. E-business, trade and electronic foreign economic documents should be supported by information digitalization of customs procedures (*Information Systems and Technologies in Customs, 2023; 3*).

It is important to note that information systems and technologies in customs are not only a means of exchanging documents between customs authorities and declaring entities and/or state authorities, systematizing information and data, processing, but also an effective tool for customs control.

In view of this, there is a need to analyze the regulatory framework and the state of use of information technologies and electronic information resources in the customs sphere in the course of customs control.

First of all, it should be noted that Chapter 5 of the Customs Code of Ukraine is devoted to the issue of information technologies and electronic information resources in customs. The term «electronic information resources of the customs authorities» should be understood as systematized information, including data in electronic form, the right to possess, use or dispose of which belongs to the customs authorities in accordance with the law and which are created, received (including information contained in documents submitted during the customs control and customs clearance of goods, vehicles, as well as other documents, including those received in accordance with international treaties of Ukraine), recorded, processed and stored on physical media and/or displayed using information technology (*Customs Code of Ukraine, 2012*).

In fact, any information resource containing customs information can be used to exercise financial control in the customs area. At the same time, it is important that this resource has an official status and is verified whenever possible. Otherwise, decisions made on the basis of unconfirmed data will be considered illegal and may be set aside in court or pre-trial proceedings.

During customs clearance, customs clearance programs such as QD Professional and MD Office are used, which have quite powerful information and reference systems on the customs legislation of Ukraine and include: a) information and reference materials and analytical materials (used to minimize risks during export and import operations); b) formation of a certificate for goods, depending on the purpose of their movement across the border (in particular, rates of duties and excise duties, permits, warnings, preliminary calculation of payments according to specified parameters).

In addition to publishing information in the format of open data and registers, customs authorities are developing convenient data-related tools for citizens and ordinary users. For convenience, we will organize them into groups. The first group includes services for working with statistics (in particular, a BI system, a VIN or EUR1 checking service). With the help of the BI system, you can get acquainted with the volume of Ukraine's imports and exports with any country and for any product. In a few clicks, you can track how much, from where, and what goods Ukraine imported and exported. You can find out the volume of taxable imports, the amount of state budget revenues from the State Customs Service of Ukraine, the tax burden per dollar, the volume of goods in 26 different units of measurement, and many other statistics. Any data can be exported in Excel format for convenient offline work (*Statistics and registers*).

Since the bulk of the data that customs authorities work with is reflected in customs declarations and given the public interest in them, Article 11 of the Customs Code of Ukraine requires that this data be depersonalized and made available in an open data format (*Customs Code of Ukraine, 2012*).

Statistical imports are compiled to ensure objective and reliable accounting of data on the importation of goods across the customs border of Ukraine in accordance with international methodological requirements and recommendations. At the same time, it is important to note that the basis for the formation of statistical import data are customs declarations, according to which customs clearance of goods is completed, as they contain the most complete and accurate information about the goods, regardless of the actual payment of taxes on the import of such goods (*Statistics and Registers*).

The second group includes registers (e.g., the Register of Intellectual Property Objects, the Register of Customs Brokers, Information on the Functioning of the Single State Information Portal «Single Window for International Trade», etc.) And the third group includes such tools as reference books and classifiers (in particular, the classifier of types of transport, the classifier of the State Customs Service, the classifier of types of budget revenues controlled by customs authorities, the classifier of exemptions from export duty, Classifier of Payment Methods, Classifier of Documents, Classifier of Package Types, Classifier of Declaration Types, Classifier of Transaction Types, Classifier of Delivery Terms, Classifier of Safeguards, Classifier of Customs Regimes, Classifier of Import Exemptions, Classifier of Container Types).

The statistics on declaration, movement of goods and vehicles, registers, directories and classifiers are presented in Excel format, which, in our opinion, requires their further transformation into a Single Customs Information Resource, which would provide for the possibility of registration in the office and easy search for the necessary data, with systematization by various search criteria, and provision of podcasts on how to use it. This, in turn, would help to improve financial control in the customs sector.

Results and Conclusions. The article examines the principles of financial control in the customs sphere. The author's own definition of «financial control in the customs sphere» is proposed, which should be understood as a system of measures and actions carried out or provided by authorized entities to verify the state of compliance with legislation in the customs sphere and the level of performance of tasks, management decisions, and functions.

It is noted that at the legislative level it is proposed to systematize the subjects of state financial control on the basis of gradation, taking into account the type of financial control and functional purpose, and eradicating: 1) entities authorized to exercise external financial control (the President of Ukraine, the Verkhovna Rada of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea and relevant councils, the Cabinet of Ministers of Ukraine, and the Accounting Chamber); 2) entities authorized to exercise internal financial control (the State Control and Audit Service of Ukraine, local administrations and executive bodies of relevant councils); 3) entities vested with specific internal financial control

functions (Ministry of Finance of Ukraine, State Customs Service of Ukraine, State Tax Service of Ukraine, State Treasury of Ukraine, State Securities and Stock Market Commission, State Property Fund of Ukraine, Bankruptcy Agency); 4) entities authorized to exercise internal (departmental) control (control services, which are independent structural units (departments, head offices, divisions, branches, sectors, groups) within the These structural subdivisions (control services) are functionally and organizationally independent from the heads and departments of the controlled entities).

The role of some of the entities authorized to exercise financial control over the customs sphere, in particular, the Accounting Chamber, the Temporary Investigation Commission of the Verkhovna Rada of Ukraine, the Ministry of Finance of Ukraine, and the State Customs Service of Ukraine, is clarified.

The author analyzes practical examples and regulatory frameworks. The author emphasizes the need to adopt a special law which would comprehensively regulate control and inspection activities.

The prospect of further research in this area may be the study of international experience (in particular, the European Union countries) in terms of financial control and implementation of the best practices for Ukraine.

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ФІНАНСОВИЙ КОНТРОЛЬ В МИТНІЙ СФЕРІ: ПОНЯТТЯ, СУБ'ЄКТИ, ІНСТРУМЕНТИ

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Стаття присвячена дослідженню фінансового контролю в митній сфері. Проаналізовано наявні теоретичні та нормативні підходи до визначення поняття «контроль», «фінансовий контроль». Запропоновано авторське визначення «фінансовий контроль в митній сфері» під яким слід розуміти систему заходів та дій, що здійснюються або забезпечуються уповноваженими на те суб'єктами за для перевірки стану дотримання законодавства в митній сфері та рівня виконання завдань, управлінських рішень, функцій. З'ясовано роль окремих із суб'єктів, уповноважених на здійснення фінансового контролю щодо митної сфери, зокрема Рахункової палати, Тимчасової слідчої комісії Верховної Ради України, Міністерства фінансів України, Державної митної служби України. Систематизовано інструменти, пов'язані із даними, що можуть бути використаними в митній сфері (в тому числі для здійснення фінансового контролю) на групи. **Метою** написання статті є дослідження інституційно-інструментальної спроможності фінансового контролю в митній сфері. Задля досягнення мети поставлені науково-дослідницькі завдання, серед яких: проведення аналізу наявних теоретичних та нормативних підходів до визначення поняття «контроль», «фінансовий контроль»; виокремлення суб'єктів фінансового контролю в митній сфері; характеристика ролі інформаційних систем та технологій при здійсненні митного контролю; вироблення пропозицій щодо удосконалення митного законодавства. **Методи.** Методологічну основу дослідження становлять фундаментальні категорії, поняття, принципи та методи сучасної юридичної науки. Комплекс методів, використаних у дослідженні фінансового контролю в митній справі, засновано на принципах об'єктивності, системності, визначеності, детермінізму, єдності теорії та практики. Використання загальних та спеціальних методів наукового пізнання дозволило досягти поставленої мети дослідження та сприяло достовірності отриманих результатів. **Результати та висновки.** Запропоновано авторське визначення «фінансовий контроль в митній сфері» під яким слід розуміти систему заходів та дій, що здійснюються або забезпечуються уповноваженими на те суб'єктами за для перевірки стану дотримання законодавства в митній сфері та рівня виконання завдань, управлінських рішень, функцій. Вказано на необхідності подальшої трансформації інструментів, пов'язаних із даними, що можуть бути використаними в митній сфері в Єдиний митний інформаційний ресурс, який би передбачав можливість реєстрації в кабінеті, та легкого пошуку необхідних даних, їх систематизацією за різними критеріями пошуку, надання подкастів щодо користування. Зазначене в свою чергу, сприяло би покращенню й фінансового контролю в митній сфері.

Ключові слова: фінансовий контроль, митна сфера, ІТ технології, інструменти, інформаційно-комунікаційні технології, реєстри, суб'єкти, аудит, перевірка, довідники, класифікатори.