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ARTICLES

The Progressive Development and Codification of International Customs Law

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In this article, the progressive development and codification of international customs law as a type of law-making activity in international customs relations is characterised and a new definition of this activity is proposed. It is demonstrated that the progressive development and codification of international customs law took place long before the establishment of the World Customs Organization (WCO) and the World Trade Organization, and that its implementation occurred within the framework of the League of Nations and the United Nations. The most common legal forms of regulatory consolidation resulting from the progressive development and codification of international customs law are identified. Using the example of five universal conventions of the WCO, indicators of recognition of the provisions of these conventions by its members, such as the number of WCO members, and the number of contracting and non-contracting parties, are analysed.

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1. Introduction

For many centuries, the basis of the legal regulation of relations in the field of Customs was mainly formed by the norms of state customs law. Most rulers of states did not recognise the existence of international customs law, as well as international law in general, and the legally binding force of its norms. Therefore, there was no unified or coherent approach to understand the essence, that is, the defining features and nature, and content, of international customs law and its interaction with national customs law, even between representatives of states of the same geographical region (S. Perepolkin et al., 2022).

Only at the end of the nineteenth and the beginning of the twentieth century did the situation in this area begin to change. This was made possible by many factors, including changes in approaches to understanding the essence of international law as a whole, the emergence and activities of international organisations (e.g. the International Union for the Publication of Customs Tariffs; S. Perepolkin et al., 2025), as well as the developmentof the first multilateral regional and universal international customs treaties, based on the codification of the rules of conduct of special international customs law. One of the first such treaties was the *International Convention on the Simplification of Customs Formalities* of 3 November 1923 (League of Nations (LN), 1923).

The international scientific discourse on various customs issues made a significant contribution to the change in approaches to understanding international customs law. Its interaction with national customs law was made by the results of, in particular, the recognition by its participants of the formation of universal international customs law. Cheng (2010), for example, believes that since there is currently no independent national customs law that has become part of international customs law, scholars need to re-conceptualise the definition of national customs law and lay a new foundation for modern international customs law. As for the understanding of international customs law, according to Cheng, it consists of rules accepted under the new legal order created by the World Trade Organization (WTO), based on rule-making treaties in customs matters as an essential part of international customs law, while its procedural aspects are mainly based on multilateral treaties adopted within the framework of the World Customs Organization (WCO) (Cheng, 2010).

A similar approach to the understanding of international customs law is advocated by Kafeero (2009) and Lyons (2018). According to Kafeero, international customs law should be considered as a set of various customs rules of the WTO and the *International Convention on the Simplification and Harmonisation of Customs Procedures* of 18 May 1973 (the *Revised Kyoto Convention*) (Kafeero, 2009). The position of Lyons is that the foundations of international customs law were laid down by the *Final Act of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT)* and other multilateral international conventions (Lyons, 2018).

Ballreich (1985) describes international customs law in relation to national customs law. Ballreich argues that international customs law restricts the exercise by states of their independent financial prerogatives based on sovereignty, of which customs prerogatives are also a part. And, since the sovereign customs prerogatives of states can only be limited based on a direct agreement of states, that is, on the basis of a treaty, and only for the period provided for by such an agreement, the understanding of international customs law should be approached from the perspective of the law of international treaties (Ballreich, 1985).

International customs law is defined by Einhorn (2014) as international obligations undertaken by states, as well as supranational organisations, such as the European Community, and customs territories, such as Taiwan, to regulate, administer and control customs duties and other means of controlling the cross-border movement of, for example, goods. According to Edirisinghe (2012), international customs law is a set of international conventions, treaties, norms and standards that governments instruct their customs authorities to implement and observe, and which, if violated, would constitute a breach of that government's legally binding international obligations. Lux, a researcher of European Union (EU) customs law, considers international customs law as a set of multilateral and bilateral international treaties, supplemented by international recommendations, explanatory notes and guidelines, that is, acts of so-called 'soft' law emanating from international organisations (Lux, 2007).

It should be noted that, given the existing pluralism of approaches to understanding law and its individual branches, there may be as many definitions of international customs law as there are scholars engaged in its study. In this study, international customs law is defined as a branch of international law whose principles, rules and standards are developed to facilitate the achievement of the individual and common interests of participants in international customs relations. As evidenced in the literature, scholars recognise the importance of studying various theoretical and applied aspects of its operation, in particular, its interaction with national customs law and other branches of national and international law. For the most part, researchers argue that the content of international customs law is formed by the rules of conduct developed by the WTO and the WCO, the main form of expression of which is international treaties. Are these the only two international organisations involved in the development of universal international customs law, and are international treaties the only form of expression of its rules of conduct? What type of activities made it possible to develop and revise the universal rules of conduct of international customs law and their subsequent recognition by all interested participants in international customs relations? These and many other issues remain to be addressed by researchers of international customs law.

Given the above, and considering the need to continue the scientific study of the evolution of international customs law from specific to universal, as well as its current status and development prospects, the purpose of this article is to characterise the progressive development and codification of international customs law as a type of law-making activity in international customs relations. To achieve this goal, the article will:

- revise the approach to the initiation of the progressive development and codification of international customs law, and thus to the early history of the formation of universal international customs law
- analyse the main directions of its progressive development and codification
- determine the most common legal forms of consolidation of the results obtained upon its implementation
- using the example of five universal WCO conventions, analyse the indicators of recognition of their provisions both by the members of the WCO and by other subjects of international customs law, such as the number of WCO members, and the number of contracting and non-contracting parties.

2. Methods

The study employed a combination of historical, logical, dialectical, hermeneutic and comparative methods of analysis and synthesis, and generalisation methods, to analyse the progressive development and codification of universal international customs law from its inception to the present. The dialectical method facilitated the examination of activities related to norm development, enabling the analysis of early and intermediate attempts at multilateral norm-making by states on various customs issues. These attempts were carried out through international congresses, conferences and the work of universal international organisations. Both international customs conventions and soft law instruments were considered to understand their role in the progressive development and codification of international customs law. Historical and logical methods were applied to trace the chronological evolution of customs law, with particular attention to developments preceding the establishment of the WCO and the WTO. For example, the study traced the creation of a unified international tariff nomenclature, examining its development alongside the statistical nomenclature and the decision-making process regarding the advisability of adopting it as an international treaty. The hermeneutic method was applied to the analysis of multilateral international customs treaties, particularly the five WCO conventions most frequently cited by researchers, as well as several soft law instruments developed by the WCO. The methods of analysis

and synthesis facilitated the study of scholarly approaches to understanding international customs law and its interaction with national customs laws and other participants in international customs relations. The comparative method was employed to analyse quantitative indicators of contracting parties to WCO international conventions as of August 2025, considering regional membership distinctions across different WCO regions. Finally, the method of generalisation supported a summary of the research findings and the formulation of its conclusions.

3. Results

3.1. The concept of the progressive development and codification of international law

Given that the legal formulation 'progressive development and codification of international law' comprises the terms 'progressive development of international law' and 'codification of international law', we turn to the provisions of the United Nations (UN) Charter and the Statute of the International Law Commission (ILC) of the UN to present their official interpretation. The adoption of the UN Charter and the inclusion of provisions stipulating that the General Assembly shall conduct studies and make recommendations 'for the purpose of ... encouraging the progressive development of international law and its codification' (para. (a), part 1, Article 13) highlighted the need to establish an interpretation of the terms 'progressive development of international law' and 'codification of international law' that would be clear to all UN member states (UN, 1945).

For this reason, the Committee on the Progressive Development of International Law and its Codification, established on 11 December 1946, to implement the provisions of Article 13 of the UN Charter, recognising that the methods of work of the Assembly in this field may be of a very diverse nature, carried out this task as follows. Tasks related to the preparation of draft conventions on matters not yet governed by international law, or where the law was not yet sufficiently developed in state practice, were classified as part of the 'progressive development of international law'. Other tasks, including the more precise formulation and systematisation of law in areas where norms had already been established through extensive state practice, precedents and doctrine, were classified as 'codification of international law'. In addition to clarifying the meaning of these terms, the Committee emphasised that they are not mutually exclusive, and it is often difficult to draw a clear distinction between them. In practice, the formulation and systematisation of international law norms (codification) can reveal the need to develop certain norms (progressive development). During codification, it is inevitable that gaps in existing international law must be addressed or that the content of certain norms must be clarified or updated considering developments in international relations. This prudently cautious approach

was deemed appropriate to reflect in the official text of the Statute of the ILC, which notes that this interpretation of the terms is used in the Statute solely 'for convenience' (Article 15) (UN, 2005).

3.2. The progressive development and codification of international customs law

By its very nature, the progressive development and codification of international customs law is one of the types of law-making activities carried out within the framework of the process of formation of general international law. As in the case of the progressive development and codification of international law, the formation of general international customs law also occurs gradually, through law-making activities within individual institutions of international customs law, each of which is a component of the overall field. In areas where principles, norms and standards already exist, this process mostly takes the form of codification. In cases where the relevant rules of conduct are substantially updated or developed for the first time, such activity takes on the character of progressive development. Thus, during the twentieth century, initiatives towards the progressive development and codification of international customs law were undertaken on matters of importance to the international community, such as harmonisation of the system of description and coding of goods simplification and harmonisation of customs procedures, rules of origin, customs value and mutual administrative assistance in customs matters. International customs treaties (conventions) of regional and universal character were chosen as the final form of the legal consolidation of such initiatives. As a result, during the twentieth century, several dozen international treaties were developed in various areas of the legal regulation of international customs and related relations (S. M. Perepolkin, 2020).

It is not possible to analyse all international customs treaties currently in force within the scope of this article. Accordingly, to illustrate effective initiatives in the progressive development and codification of international customs law, this study focuses on five key conventions developed by the WCO:

1. the *International Convention on the Simplification and Harmonisation of Customs Procedures* of 18 May 1973
2. the *International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences* of 9 June 1977
3. the *International Convention on the Harmonized Commodity Description and Coding System* of 14 June 1983
4. the *Convention on Temporary Admission* of 26 June 1990

5. the *International Convention on Mutual Administrative Assistance in Customs Matters* of 27 June 2003.

The selection of these specific conventions was guided by several factors, including their long-standing role in shaping the legal regulation of international customs relations, their interconnections with one another and with other instruments developed by the WCO, their frequent citation by scholars of both international and national customs law, and the recognition of their provisions as binding by a substantial number of contracting parties compared to other WCO conventions. The *International Convention on Mutual Administrative Assistance in Customs Matters* of 27 June 2003 constitutes an exception to this pattern. Its inclusion is intended as an illustration of the progressive development of rule-making in the field of mutual administrative assistance in customs matters, even though it has not been recognised by even a minimal number of contracting parties.

3.2.1. Harmonized commodity description and coding system

One of the most well-known international agreements of this kind, which entered into force on 1 January 1988, is the *International Convention on the Harmonized Commodity Description and Coding System* of 14 June 1983 (the *HS Convention*), developed by the WCO. As of August 2025, it has 161 contracting parties, including the EU (with a status comparable to WCO membership) (Table 1).

Table 1. Indicators of the contracting parties to the *HS Convention*, considering their affiliation with different WCO regions.

WCO regions	Number of WCO members	Contracting party to the *HS Convention*	Not a contracting party to the *HS Convention*
South America, North America, Central America and the Caribbean	33	21 (63.6%)	12 (36.4%)
Europe	52 + EU	52 (100% + EU)	0
East and Southern Africa	24	22 (91.7%)	2 (8.3%)
North of Africa, Near and Middle East	18	17 (94.4%)	1 (5.6%)
West and Central Africa	24	23 (95.8%)	1 (4.2%)
Far East, South and South East Asia, Australasia and the Pacific Islands	35	26 (74.3%)	9 (25.7%)
Total	186 members and the EU	161 countries (Council members, 86.6% and the EU)	25 countries (13.4%)

Source: Authors, adapted from WCO (2025a, 2025e, 2025f).

In fact, the Harmonized Commodity Description and Coding System, often abbreviated as the Harmonized System or simply HS, being a multipurpose nomenclature of goods, is used by 212 countries, territories or Customs or Economic Unions as the basis for their customs tariffs, as well

as for the collection of international trade statistics (Wagner, 2023; WCO, 2025c). Researchers of its structure, content (Weerth, 2008) and purpose (Shumba, 2024) rightly call it the most successful legally binding instrument of the WCO (Weerth, 2020). At the same time, they rarely note that the WCO HS was far from the first attempt by participants in international customs relations to develop a single commodity nomenclature suitable for use by all interested nations for statistical purposes and the adoption of their own tariff laws.

The first attempts to discuss such a possibility took place within the framework of several international congresses convened between 1853 and 1908. The first among them were the nine International Statistical Congresses, which met between 1853 and 1876. In 1885, the International Institute of Statistics was founded to coordinate the work of the International Statistical Congresses. The Institute considered the development of statistical nomenclature during various meetings held every two years, for example, the meetings in Rome in 1887 and in Paris in 1889 (Nixon, 1960).

In addition, in 1889, the participants of another International Commercial Congress convened in Paris discussed the possibility of adopting comparative classifications and unified dictionaries for their customs tariffs and official statistics in the interests of all nations. As a result of the discussion, the Congress proposed that various national chambers of commerce prepare an international nomenclature and customs glossary. Subsequently, in 1900 in Paris, the participants of the First International Congress on Customs Regulation decided that the developed common nomenclature should be adopted by concluding an international treaty. Subsequently, the proposal to develop an international treaty to establish customs tariffs in all countries in accordance with a single classification of goods was repeatedly discussed and supported at other international conferences, in particular, the International Conference on World Economic Expansion convened in 1905 in Mons (Belgium), and the Second and Third International Congresses of Chambers of Commerce, convened in Milan in 1906 and in Prague in 1908, respectively (United States Tariff Commission, 1968).

In practice, the adoption of a unified nomenclature of goods through the signing of an international convention on 31 December 1913 was the result of the Second International Conference on Commercial Statistics held in Brussels. The adoption of a single statistical nomenclature (the Brussels Nomenclature of 1913), the draft of which was presented for discussion during the First International Conference on Commercial Statistics in 1910, was agreed upon by 29 out of 33 participants of the international conference (UN, 1948).

It should be noted that despite the fact that the approved Brussels Nomenclature of 1913 primarily concerned statistical issues, in particular, it served as the basis for the first compilation of commercial statistics by the International Bureau of Commercial Statistics in 1922; it was also used to build the tariff nomenclatures of many countries (e.g. Bolivia, Panama,

Guatemala, Ecuador). As a rule, countries compiled their statistical nomenclatures based on their tariff nomenclatures. Therefore, changes in one automatically affected changes in the other.

It was only after the founding and launch of the LN that countries attempted to change this situation. In the late 1920s and early 1930s, the LN made serious international efforts to simultaneously develop separate statistical and tariff nomenclatures, each of which could be used for the purposes for which it was developed. In the field of Customs, these efforts were focused on the development of the first universally recognised unified international tariff nomenclature. This work was initiated at the World Economic Conference held in Geneva in May 1927 and culminated in the adoption of the Draft Customs Nomenclature by the LN in 1931 (LN, 1937).

The Draft Customs Nomenclature of the LN was received ambiguously by its member states. Therefore, after considering the recommendations received from them, in 1937 the LN prepared a revised version of the Nomenclature. However, it did not receive adequate support from its member states. At the same time, even though no international convention was signed on this issue, about 20 countries used the Draft Customs Nomenclature of the LN to revise their customs tariffs (United States Tariff Commission, 1968).

The Second World War brought about significant changes in international trade relations and the convergence of the customs systems of its member states. Therefore, immediately after the war, the countries concerned returned to the development of a common customs nomenclature within the framework of the European Customs Union Study Group (ECUSG) (Kormych, 2017).

As a result of the work of this group, on 15 December 1950, all interested participants in international customs and trade relations were invited to sign the *Convention on Nomenclature for the Classification of Goods in Customs Tariffs*. The Convention entered into force on 11 September 1959, and the commodity nomenclature described in its contents remained one of the most recognised HS nomenclatures until the entry into force of the WCO HS (Kingdom of Belgium, 2025).

3.2.2. Simplification and harmonisation of customs procedures

Another example of an international treaty developed by the WCO because of the multi-stage progressive development and codification of international customs law is the *Convention on Temporary Admission* of 26 June 1990 (*Istanbul Convention*). As of August 2025, 76 contracting parties have acceded to its provisions (Table 2).

Table 2. Indicators of the contracting parties to the *Istanbul Convention*, considering their affiliation with different WCO regions, as well as contracting parties that are not members of the WCO.

WCO regions	Number of WCO members	Contracting party to the *Istanbul Convention*	Not a contracting party to the *Istanbul Convention*
South America, North America, Central America and the Caribbean	33	4 (12.1%)	29 (87.9%)
Europe	52 + EU	46 (88.5% + EU)	6 (11.5%)
East and Southern Africa	24	5 (20.8%)	19 (79.2%)
North of Africa, Near and Middle East	18	8 (44.4%)	10 (55.6%)
West and Central Africa	24	2 (8.3%)	22 (91.7%)
Far East, South and South East Asia, Australasia and the Pacific Islands	35	10 (28.6%)	25 (71.4%)
Total	186 members and the EU	75 countries (Council members, 40.3% and the EU)	111 countries (59.7%)

Source: Authors, adapted from WCO (2024, 2025a, 2025f).

The structure of the *Istanbul Convention* consists of a preamble, 34 articles of the main text and 13 annexes that form its integral part. Subject to accession to the text of the Convention and all its annexes, it cancels and replaces in whole or in part the provisions of 15 international agreements related to the temporary importation regime (WCO, 2025e). It should be noted that compared to other universal international treaties developed because of the progressive development and codification of international customs law, the *Istanbul Convention* is far from being the first in terms of the number of contracting parties. For example, as of August 2025, 138 independent participants in international customs relations are contracting parties to the updated *Revised Kyoto Convention* (Table 3).

Table 3. Indicators of the contracting parties to the *Revised Kyoto Convention*, considering their affiliation with different WCO regions, as well as contracting parties that are not members of the WCO.

WCO regions	Number of WCO members	Contracting party to the *Revised Kyoto Convention*	Not a contracting party to the *Revised Kyoto Convention*
South America, North America, Central America and the Caribbean	33	11 (33.3%)	22 (66.7%)
Europe	52 + EU	48 (92.3% + EU)	4 (7.7%)
East and Southern Africa	24	17 (70.8%)	7 (29.2%)
North of Africa, Near and Middle East	18	13 (72.2%)	5 (27.8%)
West and Central Africa	24	18 (75%)	6 (25%)
Far East, South and South East Asia, Australasia and the Pacific Islands	35	27 (77.1%)	8 (22.9%)
Total	186 members	134 countries (Council members, 72% and the EU),	52 countries (28%)

WCO regions	Number of WCO members	Contracting party to the *Revised Kyoto Convention*	Not a contracting party to the *Revised Kyoto Convention*
	and the EU	Cook Islands, Kiribati, Tuvalu	

Source: Authors, adapted from WCO (2025a, 2025b, 2025f).

The structure of the *Revised Kyoto Convention* consists of a preamble and 20 articles of the main text, a General Annex and 10 Special Annexes that form its integral part. At the same time, this does not in any way affect the *Istanbul Convention*'s belonging to the list of universal international conventions of general international customs law, since the number of contracting parties is an important factor, but not the only one, for an international treaty to be recognised as such. In international legal practice, there is no precisely defined number of parties to an international treaty, which would give such a treaty the status of a universal international treaty of general international law.

In this regard, it is important to directly enshrine in the articles of such treaties the possibility of recognising their provisions as binding by other subjects of international customs law. Thus, in accordance with Article 11 of the *HS Convention*, the contracting parties to the Convention may be member states of the WCO, Customs or Economic Unions having competence to enter into treaties the subject matter of which is all or some of the matters governed by this Convention or any other state to which the Secretary-General sends an invitation on the instructions of the WCO. According to its Article 24, a contracting party to the *Istanbul Convention* may be any member of the WCO, any member of the UN or its specialised agencies, any state, or the government of any separate customs territory proposed by a contracting party to the *Istanbul Convention* and authorised to conduct its own diplomatic relations, which is not a member of the WCO, the UN or its specialised agencies and to which the Depositary, at the request of the management committee, has sent an invitation, or any Customs or Economic Union. At the same time, only members of the WCO and members of the UN or its specialised agencies can become contracting parties to the *Revised Kyoto Convention* (Article 8). Contracting parties to the *International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences* of 9 June 1977 (*Nairobi Convention*) (Article 15) are any state that is a member of the WCO, any state that is a member of the UN or its specialised agencies, or any Customs and Economic Unions (WCO, 2025d).

In view of the above, the list of universal international customs conventions of general international customs law, developed because of its progressive development and codification, should also include other international conventions. Such conventions may be developed by the WCO or other international organisations, such as the UN. Thus, according to Article 52 of the *Customs Convention on the International Transport of Goods*

under Cover of TIR Carnets of 14 November 1975 (*TIR Convention*), the contracting parties to the Convention may be any state that is a member of the UN or any of its specialised agencies, any state that is a member of the International Atomic Energy Agency, any party to the Statute of the International Court of Justice, any other state invited by the UN General Assembly, or any Customs and Economic Unions (UN, 1975). The contracting parties to the *International Convention on the Harmonisation of Frontier Controls of Goods* of 21 October 1982 (Article 16) may be any states or any regional organisations in the field of economic integration established by sovereign states and authorised to negotiate, conclude, and apply international agreements on matters addressed by the provisions of this Convention (UN, 1982).

3.2.3. Mutual administrative assistance in customs matters

Throughout most of the twentieth century, international treaties served as the exclusive final form of the progressive development and codification of international customs law. Gradually, however, particularly due to the law-making activities of the WCO and the outcomes of the multilateral negotiation rounds under GATT in the second half of the twentieth century, other forms of external expression of rules of conduct began to be used. The most well-known of these are resolutions, recommendations and declarations of international organisations, as well as the final acts of international conferences. Generalised under the name of 'soft law', they have been ambiguously perceived by representatives of scientific schools of international law from different countries. This situation remains unchanged (Wolffgang & Kafeero, 2014).

The study authors believe that soft law acts are an integral part of the progressive development and codification of international customs law. Their adoption is possible at different stages of its implementation. One of the peculiarities of such acts is the recommendatory nature of their provisions. However, if the subjects of international customs law consider it necessary to make the rules of conduct set out in their content mandatory, they can always initiate the development of one or more general international customs treaties based on the provisions of such acts. Thus, it can be assumed that the adoption by the Customs Co-operation Council on 5 December 1953 of the *Recommendation on Mutual Administrative Assistance* contributed to the emergence of a general practice of concluding bilateral agreements on mutual administrative assistance and/or its provision on a non-treaty basis between its member states and certain customs territories. Subsequently, the first multilateral international treaties began to appear in the area of mutual administrative assistance in customs matters, such as the *Berlin Agreement on Cooperation and Mutual Assistance in Customs Matters* of 5 December 1962, concluded between the socialist countries, and the *Convention on the Provision of Mutual Assistance in Customs Matters* of 7 September 1967 (*Naples Convention*), to which the member states of the European Economic Community were contracting parties (S. M. Perepolkin, 2020).

Later, on 9 June 1977, the first general international treaty of a universal nature in this area was adopted – the *Nairobi Convention*. As of August 2025, the provisions of this Convention were recognised as binding by 53 contracting parties (Table 4).

Table 4. Indicators of the contracting parties to the *Nairobi Convention*, considering their affiliation with different WCO regions.

WCO regions	Number of WCO members	Contracting party to the *Nairobi Convention*	Not a contracting party to the *Nairobi Convention*
South America, North America, Central America and the Caribbean	33	2 (6.1%)	31 (93.9%)
Europe	52 + EU	22 (42.3%)	30 (57.7% + EU)
East and Southern Africa	24	9 (37.5%)	15 (62.5%)
North of Africa, Near and Middle East	18	6 (33.3%)	12 (66.7%)
West and Central Africa	24	6 (25%)	18 (75%)
Far East, South and South East Asia, Australasia and the Pacific Islands	35	8 (22.9%)	27 (77.1%)
Total	186 members and the EU	53 countries (Council members, 28.5%)	133 countries and the EU (71.5%)

Source: Authors, adapted from WCO (2025a, 2025f).

The structure of the *Nairobi Convention* consists of a preamble and 23 articles of the main text, as well as 11 annexes that form its integral part.Subsequently, in 2000, with a view to improving the effectiveness of mutual administrative assistance, the WCO adopted the *Declaration on the Improvement of Customs Co-operation and Mutual Administrative Assistance* (*Cyprus Declaration*), and on 27 June 2003, the development of another general international treaty of a universal nature in this area was completed – the *International Convention on Mutual Administrative Assistance in Customs Matters* (*Johannesburg Convention*). As of August 2025, the provisions of the *Johannesburg Convention* have been recognised as binding by three contracting parties (Table 5).

Table 5. Indicators of the contracting parties to the *Johannesburg Convention*, considering their affiliation with different WCO regions.

WCO regions	Number of WCO members	Contracting party to the *Johannesburg Convention*	Not a contracting party to the *Johannesburg Convention*
South America, North America, Central America and the Caribbean	33	0	33 (100%)
Europe	52 + EU	1 (1.9%)	51 (98.1% + EU)
East and Southern Africa	24	1 (4.2%)	23 (95.8%)
North of Africa, Near and Middle East	18	0	18 (100%)
West and Central Africa	24	0	24 (100%)

WCO regions	Number of WCO members	Contracting party to the *Johannesburg Convention*	Not a contracting party to the *Johannesburg Convention*
Far East, South and South East Asia, Australasia and the Pacific Islands	35	1 (2.9%)	34 (97.1%)
Total	186 members and the EU	3 countries (Council members, 1.6%)	183 countries (Council members, 98.4% and the EU)

Source: Authors, adapted from WCO (2008, 2025a, 2025f).

At the time of writing this article, the *Johannesburg Convention* of 2003 had not entered into force. However, some of its provisions are actively used by the WCO member states at the bilateral level of international legal regulation of relations of mutual administrative assistance.

Soft law acts in the field of international customs law play an important role in establishing new areas of international customs cooperation, especially through the written consolidation and discussion of the principles and standards for their implementation by its participants. One of the most recognised among them is the Customs Co-operation Council *Resolution on the SAFE Framework of Standards to Secure and Facilitate Global Trade* of 23 June 2005 (WCO, n.d.).

It should be noted that in a situation where the subjects of international customs law are not ready to conclude new general international treaties of a universal nature or to amend the text of such existing treaties, the adoption of soft law acts may be used as an alternative way of carrying out law-making activities in the field of international customs law. In particular, with the help of soft law acts and the above innovations in lawmaking in international customs relations, the provisions of existing general international treaties of a regional and universal nature are further developed, as well as introducing new categories of international customs law and expanding its terminology base. Examples of such innovations in the field of international customs law are the categories of integrated supply chain management, preliminary electronic information, authorised economic operators and customs administration (Grainger, 2007; Mikuriya, 2007).

4. Conclusion

The progressive development and codification of international customs law is a type of law-making activity carried out by establishing and precisely formulating the content of existing rules of conduct in certain legal forms of the external expression of international law. It revises outdated rules and develops new rules of conduct to achieve the maximum possible unified or harmonised implementation in the context of constantly evolving international customs relations.

The universalisation of international customs law through its progressive development and codification in the field of customs and tariff regulation began in the second half of the nineteenth century. Starting from 1853,

the primary international and legal way to achieve the desired outcome for interested participants in international customs relations was international conferences (congresses).

With the emergence of international organisations, including the LN, the UN, the WCO and the WTO, the progressive development and codification of international customs law started on an ongoing basis in various areas of legal regulation in the field of Customs. Such activities were most pronounced in the following areas of legal regulation in the field of Customs: harmonisation of the system of description and coding of goods, simplification and harmonisation of customs procedures, rules of origin, customs value and mutual administrative assistance in customs matters.

The main final form of legal consolidation of the results of the progressive development and codification of international customs law is international customs conventions of a regional and universal nature. Along with international customs conventions, the results of the progressive development and codification of international customs law may also be enshrined in various acts of soft law, in particular, resolutions, recommendations, declarations of international organisations and final acts of international conferences.

An analysis of the circle of Contracting Parties and indicators of full or partial recognition by WCO members of the mandatory provisions of the *Revised Kyoto Convention*, *Nairobi Convention*, *HS Convention*, *Istanbul Convention*, and the *Johannesburg Convention* showed that none of these international treaties are fully recognised by all WCO members (Table 6).

Table 6. Indicators of the contracting parties to the WCO universal conventions among its members.

WCO conventions	Contracting party	Not a contracting party
HS Convention	161 (86.6%)	25 (13.4%)
Revised Kyoto Convention	134 (72%)	52 (28%)
Istanbul Convention	75 (40.3%)	111 (59.7%)
Nairobi Convention	53 (28.5%)	133 (71.5%)
Johannesburg Convention	3 (1.6%)	183 (98.4%)

Source: Authors, adapted from WCO (2025d).

Even though all the above conventions are universal international customs treaties, the number of their contracting parties and the rates of full or partial recognition of their provisions by the WCO members in different regions of the WCO vary significantly. In addition, it has been established that 18 WCO members, or 9.7 per cent of their total number, are not contracting parties to any of the above international conventions.

Given the above, it is too early to claim that there is currently no independent national customs law that has effectively become part of international customs law. The universalisation of international customs law is ongoing. Alongside it, changes are also taking place within the customs laws of participants in international customs relations. At the same time, the

practice of such interactions, illustrated by the example of EU customs law and that of its member states, demonstrates that this is a lengthy process, even among countries within the same geographical region (S. M. Perepolkin et al., 2022).

Further research into theoretical and applied aspects of the progressive development and codification of international customs law remains relevant both for the development of the sciences of national and international customs law and for the practice of law enforcement in the field of Customs.

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References

Ballreich, H. (1985). Customs Law, International. In R. Bernhardt (Ed.), *Encyclopedia of Public International Law* (Vol. 8, pp. 114–123). Elsevier. https://doi.org/10.1016/B978-0-444-87911-0.50038-6

Cheng, C.-J. (Ed.). (2010). *Customs Law of East Asia*. Kluwer Law International. https://surl.li/kuttjn

Edirisinghe, L. (2012, October 31). *Understanding International Customs Law for better Logistics*. Daily Mirror Online. https://www.dailymirror.lk/features/understanding-international-customs-law-for-better-logistics/185-23105

Einhorn, T. (2014). Customs Law, International. *Oxford Public International Law*. https://doi.org/10.1093/law:epil/9780199231690/law-9780199231690-e1023

Grainger, A. (2007). Supply Chain Security: Adding to a Complex Operational and Institutional Environment. *World Customs Journal*, *1*(2), 17–30. https://doi.org/10.55596/001c.90944

Kafeero, Ed. (2009). *Customs Law of the East African Community in light of WTO Law and the Revised Kyoto Convention* [Inaugural Dissertation, University of Münster]. https://repositorium.uni-muenster.de/document/miami/d11545e5-5268-4218-9244-4f1957a15ef1/diss_kafeero.pdf

Kingdom of Belgium. (2025). *Convention sur la nomenclature pour la classification des marchandises dans les tarifs douaniers et annexe, signées à Bruxelles, le 15 Décembre 1950 [Convention on Nomenclature for the Classification of Goods in Customs Tariffs and Annex, signed at Brussels, 15 December 1950]*. https://diplomatie.belgium.be/fr/traites/accords-dont-la-belgique-est-depositaire

Kormych, B. (2017). The European Customs Union Study Group: Drafting the EU Customs Law. *European Political and Law Discourse*, *4*(6), 7–13. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3111656

League of Nations. (1923). International Convention Relating to the Simplification of Customs Formalities. *The American Journal of International Law*, *19*(4), 146–166. https://doi.org/10.2307/2213197

League of Nations. (1937). *Draft Customs Nomenclature* (2nd ed., Vol. 1). League of Nations Economic Committee, Sub-committee of Experts for the Unification of Customs Tariff Nomenclature. https://deriv.nls.uk/dcn23/1903/4831/190348312.23.pdf

Lux, M. (2007). EU Customs Law and International Law. *World Customs Journal*, *1*(1), 19–29. https://doi.org/10.55596/001c.90876

Lyons, T. (2018). *EU Customs Law* (3rd ed.). Oxford University Press. https://doi.org/10.1093/oso/9780198784029.001.0001

Mikuriya, K. (2007). Supply Chain Security: The Customs Community's Response. *World Customs Journal*, *1*(2), 51–60. https://doi.org/10.55596/001c.91056

Nixon, J. W. (1960). *A History of the International Statistical Institute 1885–1960*. International Statistical Institute. https://surl.li/ijhdip

Perepolkin, S., Havrylenko, O., & Mazur, A. (2022). Formation and Development of International Customs Law: Periodisation Issues. *World Customs Journal*, *16*(2), 115–128. https://doi.org/10.55596/001c.116324

Perepolkin, S. M., Mazur, A. V., Marchenko, O. O., Mozorov, O. V., & Yefimova, I. V. (2022). Sui Generis of European Union Customs Law. *World Customs Journal*, *16*(2), 35–56. https://doi.org/10.55596/001c.116320

Perepolkin, S., Morozov, O., Lehka, O., & Stryzhak, I. (2025). International Union for the Publication of Customs Tariffs – Investigation of a Forgotten International Customs Organisation. *World Customs Journal*, *19*(1), 64–79. https://doi.org/10.55596/001c.133238

Perepolkin, S. M. (2020). Кодифікація та прогресивний розвиток міжнародного митного права [Codification and Progressive Development of International Customs Law]. *The Journal of V. N. Karazin Kharkiv National University, Series Law*, *29*, 324–331. https://doi.org/10.26565/2075-1834-2020-29-43

Shumba, W. (2024). The International Convention on the Harmonized Commodity Description and Coding System: Legal Pillar Behind the Harmonized System. *Global Trade and Customs Journal*, *19*(2), 114–123. https://doi.org/10.54648/gtcj2024004

United Nations. (1945, June 26). *Charter of the United Nations and Statute of the International Court of Justice*. United Nations Treaty Collection. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=I-1&chapter=1&clang=_en

United Nations. (1948, February 12). *Statistical Commission. Committee on Statistical Classification. Historical Background of the Development of Minimum Lists for International Trade*. Economic and Social Council. https://digitallibrary.un.org/record/805673?v=pdf&ln=en

United Nations. (1982, October 21). *International Convention on the Harmonization of Frontier Controls of Goods*. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XI-A-17&chapter=11&clang=_en

United Nations. (2005). *Statute of the International Law Commission 1947*. https://legal.un.org/ilc/texts/instruments/english/statute/statute.pdf

United States Tariff Commission. (1968). *The Development of a Uniform International Tariff Nomenclature. From 1853 to 1967 With Emphasis on the Brussels Tariff Nomenclature* (TC Publication No. 237). https://www.usitc.gov/publications/tariff_affairs/pub237.pdf

Wagner, O. (2023). The Connection Formula in Classifying Goods Under the Harmonized System (HS) Convention. *World Customs Journal*, *17*(2), 59–78. https://doi.org/10.55596/001c.88843

Weerth, C. (2008). Basic principles of customs classification under the Harmonized System. *Global Trade and Customs Journal*, *3*(2), 61–67. https://doi.org/10.54648/GTCJ2008007

Weerth, C. (2020). The World Trade Organization and World Customs Organization Key Conventions and Agreements (TFA, HSC, RKC): Membership Trends and Opportunities. *World Customs Journal*, *14*(1), 107–126. https://doi.org/10.55596/001c.116312

Wolffgang, H.-M., & Kafeero, E. (2014). Old Wine in New Skins: Analysis of the Trade Facilitation Agreement Vis-À-Vis the Revised Kyoto Convention. *World Customs Journal*, *8*(2), 27–38. https://doi.org/10.55596/001c.93063

World Customs Organization. (n.d.). *WCO SAFE Package. WCO tools to secure and facilitate global trade*. https://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/frameworks-of-standards/safe_package.aspx

World Customs Organization. (2008). *Position as regards ratifications and accessions (as of 30 June 2008). International Convention on Mutual Administrative Assistance in Customs Matters (Johannesburg Convention). Done at Brussels, 27 June 2003*. https://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/conventions/eg0014e1.pdf?la=en

World Customs Organization. (2024). *Position as regards signatures, ratifications and accessions (as of 26 September 2024)*. Convention on Temporary Admission (Istanbul Convention). Concluded on 26 June 1990, entered into force on 27 November 1993. https://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/conventions/pg0343ea.pdf?la=en

World Customs Organization. (2025a). *Conventions sponsored or administered by the Customs Co-operation Council. Synopsis of position as of 30 June 2025*. https://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/revised-kyoto/sg0235eb.pdf?la=en

World Customs Organization. (2025b). *Position as regards ratifications and accessions (at 06 June 2025)*. International Convention on the simplification and harmonization of Customs procedures (as amended) (done at Kyoto on 18 May 1973, amended on 26 June 1999). https://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/revised-kyoto/pg0348ea.pdf?la=en

World Customs Organization. (2025c, June 27). *WCO Council endorses project proposal aimed at enhancing the Harmonized System Framework*. https://www.wcoomd.org/en/media/newsroom/2025/june/wco-council-endorses-project-proposal-aimed-at-enhancing-the-harmonized-system-framework.aspx

World Customs Organization. (2025d, July 1). *Conventions and Agreements*. https://www.wcoomd.org/en/about-us/legal-instruments/conventions.aspx

World Customs Organization. (2025e, July 1). *The Republic of El Salvador becomes the 162nd Contracting Party to the Harmonized System Convention*. https://www.wcoomd.org/en/media/newsroom/2025/july/the-republic-of-el-salvador-becomes-the-162nd-contracting-party-to-the-harmonized-system-convention.aspx

World Customs Organization. (2025f, October 16). *Membership. List of Members with membership date*. https://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/wco-members/list-of-members-with-membership-date.pdf?db=web