

Report name	Issued recommendations	Execution status
Systemic report "Main problems faced by business in customs sphere"	<p>To develop a draft law on introducing amendments to the Code of Ukraine on Administrative Offenses of Ukraine by supplementing Chapter 12 of the Code of Ukraine on Administrative Offenses of Ukraine ("Administrative Offenses in the Areas of Trade, Public Catering, Services, Finance and Entrepreneurship") with an article to govern administrative liability of officers (officials) of customs authorities for violation of customs legislation, as well as to grant the power to issue protocols on such violations to the central executive authority tasked to implement the state regulatory policy, the policy on supervision (control) in the field of business activity, licensing and permit system in the field of business activity, as well as deregulation of business activity.</p> <p>Ministry of Finance Ministry of Justice</p>	In process
	<p>To develop and publish guidelines on procedures for declaring and controlling accuracy of customs value's determination, including specification of the main stages of interaction between declarant and customs authority, as well as their rights and obligations (following the model employed in the UK Notice 252). Such an interpretation should be posted on the State Fiscal Service of Ukraine website or other official public sources.</p> <p>Ministry of Finance</p>	In process
	<p>To prepare governmental draft Law of Ukraine introducing the following amendments to the Customs Code of Ukraine:</p> <p>1.1. To supplement Paragraph 7 of Article 55 of the Customs Code of Ukraine to ensure that the general rule stating that validity period of guarantees issued by guarantors pursuant to Section X of the Customs Code of Ukraine "...shall not exceed 90 calendar days as of the date of the goods' release" would not apply to financial guarantees issued in the form of a document.</p> <p>1.2. To supplement Article 312 of the Customs Code of Ukraine with the provision stating that the validity period of a financial guarantee issued in the form of a document shall not exceed 365 calendar days after release of goods, provided that within 120 calendar days, following adoption of decision on customs value's adjustment, a declarant would notify customs authority about its disagreement with such a decision.</p> <p>1.3. To amend Article 314 of the Customs Code of Ukraine in order to harmonize eligibility criteria for parties entitled to grant financial guarantees to secure payment of customs duties with the current European practices (particularly taking into account provisions of Article 27 and Article 28 of the Convention on a Common Transit Procedure EU/EFTA).</p> <p>Ministry of Finance</p>	In process
	<p>To ensure creation of a public electronic register of decisions on classification of goods, similar to practice employed in the EU. In the Council's view, not only decisions adopted by customs authorities during customs clearance should be entered into such a registry, but also those ones adopted by the State Fiscal Service authorities during documentary inspections and (for the sake of comprehensiveness of registry information) court decisions adjudicating correctness of the classification of goods.</p> <p>Ministry of Finance State Tax Service of Ukraine</p>	In process
	<p>To prepare and conduct educational training programs for the personnel of the State Fiscal Service of Ukraine on reasoning decisions on classification of goods by using examples from the practice of the European Court of Justice. Such trainings should be public (to the extent possible) to disseminate a uniform understanding of issues pertaining to classification of goods.</p> <p>Ministry of Finance State Tax Service of Ukraine</p>	In process
	<p>In order to (1) place actions substantially similar to search outside the scope of customs examination procedure; and (2) narrow down powers of the law enforcers to demand from customs authorities carrying out such actions, - prepare governmental draft law on introducing amendments to Paragraph 2 Article 325 of the Customs Code of Ukraine to explicitly state that law enforcement authorities are not entitled to demand from persons that are transferring goods, commercial transportation vehicles through customs border of Ukraine carrying out operations, foreseen in paragraph one of this article (i.e., loading, unloading, reloading, fixing damaged packaging, unpacking, packing, re-packing, weighting along with the determination of other substantial characteristics of goods subjected to customs clearance, including taking samples of such goods, replacement of identification signs or marks on such goods or packaging thereto, commercial transportation vehicles as well as replacement of commercial transportation vehicles). Yet, such powers of the fiscal authorities shall remain in the effective wording of this article</p> <p>Ministry of Finance Ministry of Justice</p>	In process

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	<p>To implement Clauses 15.3 - 15.9 of the European Union Customs Blueprints, - in particular, to create a central IPR unit as a center of operational expertise under the State Fiscal Service of Ukraine. Ministry of Finance State Tax Service of Ukraine</p>	In process
	<p>To adopt a secondary legislative act (in the form of an order), which would establish the possibility and necessity (at least for the first two or three years while Authorized Economic Operator mechanism is being put into operation) to engage foreign specialists to train local personnel and actually conduct audits, required for granting Authorized Economic Operator status. Ministry of Finance</p>	In process
	<p>To ensure openness of data about average time required for release of goods, taking into account methodology contained in the "Time Release Study" document of the World Customs Organization. The relevant data can be regularly published at the official website of the SFS of Ukraine. Along with the publication of this data, an interactive survey of companies should be carried out in terms of such data's authenticity/acknowledgement. Ministry of Finance State Tax Service of Ukraine</p>	In process
	<p>To introduce a transparent system for evaluating the effectiveness of post-clearance audit of companies; based on which risk criteria for operations and/or enterprises should be continuously updated. The relevant statistics should be disclosed and provided on a regular basis (on quarterly and annual basis), according to the following indicators:i.the number of carried out audits; ii.total amounts of additionally imposed charges with a separate indication of the amount of so-called "agreed obligations";iii.percentage correlation between the total number of inspections and audits where an additional charge was imposed in the amount exceeding certain indicator (this indicator may be set as a fixed UAH amount or as a percentage of the total amount of operations of the company that became the subject of an audit). The introduction of the relevant indicator will enable systemic assessment of post-clearance audit effectiveness, preventing small amounts from distorting overall figures;iv.percentage of audits (amongst the total number of inspections) where customs declarations were checked without physical examination of goods and/or seeking disclosure of additional documents and/or issuing decisions on classification of goods and/or adjustments of customs value;v.percentage of customs declarations whose clearance involved employing customs control measures in the form of physical inspection of goods and/or request for additional documents, making decisions regarding classification of goods and/or adjustments of customs value;vi.financial indicators demonstrating outcomes of customs control measures in the form of physical inspection of goods and/or request for additional documents, making decisions regarding classification of goods and/or adjustment of the customs value;vii.the number of cases launched for infringing customs rules;viii.the total amount of sanctions imposed to customs rules infringers following consideration of cases on infringement of customs rules;ix.percentage correlation between the total number of cases on customs rules infringement and cases where sanctions were imposed on infringers. Ministry of Finance State Tax Service of Ukraine</p>	In process
	<p>In order to control the declared customs value, ensure functioning of the system of interaction between fiscal authority and a declarant, where all information exchange will be carried out in electronic form. It appears it might be achieved by introducing changes to the respective software of the State Fiscal Service of Ukraine. Ministry of Finance State Tax Service of Ukraine</p>	In process
	<p>To ensure a gradual switch of customs value control from customs clearance to post-clearance audit stage, save when fiscal authority has reasonable doubts (to be justified by the respective criteria) about ability to collect amounts of additionally imposed charges in the future. For instance, use of risk-oriented system based on score-ranking method is advisable vis-à-vis entities incorporated shortly before customs clearance, where managers/owners have changed or have been brought to criminal or administrative liability. It appears that initially such a switch of control could be determined in methodological recommendations (letters) issued by the State Fiscal Service of Ukraine and/or the Ministry of Finance of Ukraine followed by introducing respective amendments to the Customs Code of Ukraine. Ministry of Finance State Tax Service of Ukraine</p>	In process
	<p>To update software employed for communication between the State and declarants. Based on successful examples of other countries - to ensure functioning of a single, up-to-date online system that would maximize automation of relevant iterations, simplify declaring procedures and ensure transparency. Ministry of Finance State Tax Service of Ukraine</p>	In process

Report name	Issued recommendations	Execution status
Systemic report "Problems with administering business taxes in Ukraine"	<p>To amend the Tax Code to provide for personal disciplinary, administrative and financial liability of the officials of the tax authorities for unlawful delays with processing VAT refunds. Ministry of Finance</p>	<p><b>In process</b></p>
	<p>The administrative appeal procedures available to the taxpayers willing to challenge the results of the tax audits shall be effective and time-efficient, rather than formalistic as it often appears to be (please see Section "Administrative appeal" for details). While appointing and performing the tax audit, the tax authorities shall strictly comply with the procedures prescribed by the law, and the supervising authorities shall ensure such compliance in an effective manner. The Tax Code shall be amended to specify particular sanctions to be imposed on the officials of the tax authorities for procedural and other violations during appointment and performance of the tax audit. Such sanctions shall be personalized and variable (from reprimand to dismissal and fine) depending on the degree of violation by the particular official. Ministry of Finance State Tax Service of Ukraine</p>	<p><b>In process</b> — comments: Although this recommendation has been discussed repeatedly, the extent of its' practical implementation remains quite limited.</p>
	<p>To forbid the tax authorities to initiate criminal proceedings against the taxpayer's officials based on the results of the tax audit until the taxpayer's tax obligation is duly acknowledged (i.e., until the administrative appeal and / or consideration in a court are finished). If the results of the tax audit are successfully challenged by the taxpayer in court, the criminal proceedings initiated merely based on results thereof, shall be immediately ceased. Ministry of Finance</p>	<p><b>In process</b> — comments: Article 56.22. of the Tax Code of Ukraine provides as follows: "If a taxpayer challenges a decision of a control authority to the court or through the appropriate administrative procedure, such taxpayer cannot be accused of tax evasion exclusively on the ground of such decision of the control authority until the proceedings have been ultimately settled by the court or through the appropriate administrative procedure."</p>
	<p>To reflect in the Tax Code and enforce in practice the approach evidenced by a widespread judicial practice, whereby minor mistakes or deficiencies in primary documents cannot be used as a ground for charging additional tax liabilities, penalties and fines on the taxpayer. Ministry of Finance</p>	<p><b>In process</b> — comments: The Supreme Court in its decisions specifies that the facts of the occurrence of errors in executed primary documents or the absence of individual ones, shall not, as such, constitute the ground for the conclusions on the absence of the actual business transaction, - provided that the other data or evidence prove otherwise. The implementation of this recommendation requires preparation of a special explanation of the SFS with concrete examples of such errors.</p>
	<p>To amend the Tax Code to foresee personal administrative and financial liability of the officials of the tax authorities for instances of malpractice and nonprofessional behaviour. Ministry of Finance</p>	<p><b>In process</b> — comments: The respective amendments to the legislation are being approved by the Ministry of Finance together with the relevant regulatory authorities.</p>