



Report name	Issued recommendations	Execution status
Systemic report "How business can seek execution of court decisions in Ukraine"	<p>To amend internal regulations and to take appropriate organizational steps in order to indicate a responsible department with functions of:</p> <ul style="list-style-type: none"> (1) monitoring court decisions to be executed, (2) monitoring the process of such decisions execution and (3) preparation of regular public reports on the implementation, as well as on problematic issues creating obstacles to proper court decisions execution. <p>State Tax Service of Ukraine State Customs Service</p>	Not started - new recommendation
Systemic report "Big challenges for small business"	<p>To adjust the administrative practice, when applying certain legislation, with regard to the case-law on similar issues. This should provide not only for formal monitoring, but also for a real change in the law application practice of a state body. In particular, to amend the regulations related to the administrative appeal procedure and to oblige the authorities to add a brief overview of the relevant court practice in the text of each decision made as a result of the administrative appeal procedure and/or to make the decision in line with the court practice or to provide relevant reasoning for deviations from it. The criterion for changing law application practice may be a significant change in the results of court proceedings (up to the rate of decision-making to satisfy the claim of business entities to the state body no more than 40% in the respective categories of cases) or a significant reduction in the total number of lawsuits (mutatis mutandis/in other conditions being equal).</p> <p>State Tax Service of Ukraine State Customs Service</p>	Not started - new recommendation
Systemic report "Main problems faced by business in customs sphere"	<p>To take organizational steps to ensure mandatory and prompt execution of court decisions by the subordinates and to bring them to disciplinary liability in case of delays.</p> <p>State Tax Service of Ukraine State Customs Service</p> <p>To update the Explanation Letter, dated August 4, 2016 № 26593/7/ 99-99-19-01-01-17 or issue a new one or methodical recommendations for the customs to clarify the procedure for enforcing court decisions as well as decisions adopted within the framework of the administrative appeal procedure, approved in declarant's favor. Due attention should be paid to the need to take into account not only the operative but also the reasoning part of the court decisions on the merits of the dispute. If a court decision were to find decision or action of the customs authority that led to (resulted in, caused) payment of excessive amount of customs duties as being erroneous or false - to state that such a language constitutes sufficient ground to proceed with the refund of overpaid sums of customs duties without initiating an additional judicial procedure.</p> <p>State Customs Service</p> <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 Customs Service</p> <p>To issue Methodological Recommendations to ensure proper consideration by customs authorities of the existing case law on classification according to the relevant Ukrainian Classification of Goods for Foreign Economic Activity codes. Among other things such a document would have to establish that while conducting classification of goods under UCGFEA having the same, identical or similar characteristics, due attention should be paid to practice generated by both domestic courts as well as by the European Court of Justice.</p> <p>State Customs Service</p> <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 Customs Service</p>	<p>Not started</p> <p>Implemented</p> <p>In process</p> <p>In process</p> <p>In process</p>

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	<p>To prepare text of the governmental Draft Law of Ukraine on introducing amendments to Sections XVIII "Customs Offences and Liability" and XIX "Customs Offence Proceedings" of the CCU (or setting forth these sections in the new wording) aimed at ensuring balance, commensurability and fairness of liability for customs infringements, taking into account best practices employed in the EU, in particular, Proposal for a Directive No. 2013/0432/COD (draft). In particular, such Draft Law should provide for/contain:</p> <p>a) financial liability for legal entities that infringed customs rules during their business activity, - to be introduced as an alternative to administrative liability of their officials (or with a significant softening of the latter);</p> <p>b) reference to a specific form of guilt (intention or negligence) as a mandatory element of each administrative offence;</p> <p>c) sufficiently specified list of aggravating and attenuating circumstances (including, inter alia, status of Empowered economic operator; level of cooperation with the customs authority demonstrated in course of customs infringement's investigation, etc.);</p> <p>d) lower and upper liability thresholds (in the form of the amounts of fines) for each article to make it possible to vary amount of fines depending on the circumstances of the case;</p> <p>e) amounts of fines for infringing customs rules (which are established depending on the value of goods) to be brought in line with the indicative figures, specified in the Proposal for a Directive No. 2013/0432/COD (draft).</p> <p>Ministry of Finance State Customs Service</p>	Not started
	<p>To elaborate and approve Inter-Agency Instruction on interaction of customs and law enforcement authorities. Such a document should, among other things, regulate (1) time limits for customs clearance, including liability (sanctions) for failure to observe such time limits; (2) restrictions with respect to the number of actions aimed at retrieving samples of the declarant's goods; (3) communication between customs and law enforcement agencies in the course of such interaction.</p> <p>Ministry of Finance Ministry of Internal Affairs of Ukraine State Security Service of Ukraine State Customs Service</p>	In process
	<p>To prepare amendments to the existing Draft Law of Ukraine No.4614 dated 06.05.2016 "On Introducing Amendments to the Customs Code of Ukraine to Ensure Protection of Intellectual Property Rights While Moving Goods Across Customs Border of Ukraine" No.4614 dated 06.05.2016; or to introduce an alternative draft law to ensure implementation in Ukraine of the requirements set forth in (i) Regulation (EC) No 608/2013 of the European Parliament and of the Council regarding customs enforcement of intellectual property rights; as well as (ii) Commission Implementing Regulation (EU) No. 1352/2013 establishing the forms provided for in Regulation (EU) No 608/2013, in particular:1.1.To bring the concept "goods infringing Intellectual Property Rights" in line with EU requirements, including exclusion of goods that are objects of so-called "parallel trade" from the substantial scope of this concept (in accordance with Clauses 3-5 of Article 1 of Regulation No. 608/2013);1.2.To set forth clear procedural terms, unified with European Union requirements, applicable within the procedure for suspending customs clearance of goods suspected of infringing IPR (as stipulated by Articles 3, 7, 9, 11-12, 17-18, 23, 26 of the Regulation No.608/2013);1.3.To improve the regulation of the procedure for destruction of goods, whose customs clearance has been suspended on suspicion of violating IPR, including laying down the "tacit consent" principle for their destruction in the absence of objections from a declarant or owner of goods; establishing a simplified procedure for the destruction of goods containing in small consignments (according to Articles 25 - 26 of Regulation No. 608/2013);1.4.To approve unified IPR protection measures related forms in accordance with European Union standards (as prescribed by Regulation No.1352/2013).</p> <p>Ministry of Finance State Customs Service</p>	Implemented
	<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.</p> <p>Ministry of Finance State Customs Service</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.</p> <p>Ministry of Finance State Customs Service</p>	In process

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	<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.</p> <p>Ministry of Finance State Customs Service</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.</p> <p>Ministry of Finance State Customs Service</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.</p> <p>Ministry of Finance State Customs Service</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.</p> <p>Ministry of Finance State Customs Service</p>	In process