

Importing to Ukraine: customs procedures

Introduction

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The Customs Code of Ukraine is the basis of legislation governing imports into Ukraine and related customs formalities. It should be noted that the Code can be considered business-friendly, i.e., it is aligned more towards foreign economic operators than the state. For instance, in case of ambiguous interpretation of the rights and obligations of companies and individuals, the decision should be made in favour of the said companies and individuals, and not in favour of the customs authorities of Ukraine.

With regard to imports from the EU, the Association Agreement between the EU and Ukraine is of course of crucial importance. According to this Agreement, each contracting party reduces or eliminates tariffs on the internal goods of the other contracting party.

1. Customs regime of imports

Import is a customs regime under which foreign goods are allowed to circulate freely on the customs territory of Ukraine subject to payment of all customs duties as per the Ukrainian legislation for their importation and completion of all necessary customs formalities.

In order to transfer goods to the customs regime of import, it is necessary to:

- 1) submit documents for these goods to the customs authorities (often it is the incorrect execution of documents that causes the greatest difficulties in customs clearance), and
- 2) pay the customs duties established by law (import duty, excise duty, VAT).

In accordance with the EU-Ukraine Association Agreement, most EU import taxes were reduced or cancelled.

During martial law in Ukraine, military goods and certain other goods, such as power generators, generator sets, electric batteries, heaters and other goods of the relevant group are exempt from import duties and import VAT.

Also, all requirements for non-tariff regulation of foreign economic activity must be met.

2. Customs tariff

The customs tariff contains a list of rates of customs duties on goods imported into the customs territory of Ukraine and is systematised in accordance with the Ukrainian Classification of Goods for Foreign Economic Activity (UCGFEA) based on the Harmonised Commodity Description and Coding System.

Since the beginning of 2023, the new Law "On the Customs Tariff of Ukraine" has been in force to adapt the Ukrainian commodity nomenclature to the requirements of the current 7th edition of the EU Harmonised Commodity Description and Coding System of 2022.

The purpose of the Law is to:

- fulfil international obligations;
- adapt Ukraine's statistical system to international methodologies, standards, and classifications;
- eliminate discrepancies in the classification systems of goods in foreign economic activity of Ukraine and trade partner countries; and
- speed up and simplify customs clearance procedures.

Ultimately, it is expected to reduce the time required for customs clearance of goods due to the need to re-describe, classify and code goods when they move from one system to another through international trade.

3. Customs clearance process

Customs clearance in Ukraine consists of the following stages (each of them requiring certain customs formalities):

1. Submission of a preliminary declaration with the data necessary for the goods to cross the customs border of Ukraine.

Concurrently, a declaration of the prescribed form on the planned importation of goods into the customs territory of Ukraine (preliminary customs declaration) is sent to the customs authority. Such a declaration shall contain the following information:

- the name, volume (quantity), and value of goods imported into the customs territory of Ukraine;
- the type of transport used to import goods into the customs territory of Ukraine;
- the checkpoint on the state border of Ukraine (customs authority) through which the goods are imported;
- information on the documents confirming compliance with the prohibitions and/or restrictions established in accordance with the Law on the Transit of Goods across the Customs Border of Ukraine.

2. A carrier or an authorised declarant submits a general declaration of arrival.

The general declaration of arrival shall be submitted:

- to the customs authority in whose area of operation the checkpoint across the state border of Ukraine is located, where the goods first cross the customs border of Ukraine before entering the customs territory of Ukraine, including the customs transit procedure;
- in line with the conditions determined by the Customs Code of Ukraine depending on the means and methods of transportation of goods across the customs border of Ukraine;
- carriers or, as authorised by them, another person: importer, consignee or other person authorised to deliver the goods to the customs authority.

3. Crossing the customs border with the provision of customs control forms and control of the relevant non-tariff regulation authorities.

When moving goods across the customs border of Ukraine, the declarant, an authorised person or a carrier, depending on the type of vehicle used to transport the goods, shall provide the customs authority with documents and information as per the list set out in the Customs Code.

4. Delivery of goods to the customs control zone of the customs office of arrival:

- if the recipient has the status of an authorised economic operator (AEO is a special status that certifies a high level of trust in a business entity and greatly eases customs formalities), or
- for customs clearance under the IM40EA special regime (a simplified import procedure whereby goods are sent to business entities immediately after crossing the border rather than being inspected by the internal customs office).

5. Submission of the customs declaration to the customs authority.

Along with the customs declaration, an invoice or other document determining the value of the goods shall be submitted to the customs authority, and in cases specified by the Customs Code of Ukraine, a customs value declaration shall be submitted.

6. Carrying out customs clearance and all necessary procedures - in case of non-tariff regulation measures.

7. Completion of customs clearance.

4. Forms of customs control

Customs control in Ukraine is carried out directly by customs officials, in particular through:

- verification of documents and information submitted to the customs authorities during the movement of goods across the customs border of Ukraine;
- customs investigation;
- keeping records of goods moved across the customs border of Ukraine;
- oral questioning of citizens and employees of enterprises;

- submission of requests to other state authorities, institutions and organisations, authorised bodies abroad to determine the authenticity of the documents submitted to the customs authority.

5. Determining customs value

The customs value is the value of goods used for customs purposes and is based on the price actually paid or payable for these goods. The most common problem faced by importers is the adjustment of the customs value of goods, which requires additional documents for formal reasons.

In accordance with the decision of the Supreme Court of Ukraine dated 13 October 2021 in case No. 804/15600/15, additional documents confirming the declared customs value may be requested only if there are reasonable doubts about the accuracy of the information provided by the declarant.

Appeals against decisions on the customs value of goods account for 80% of the total number of disputes with the customs authorities, of which 90% of cases are won by taxpayers, i.e., plaintiffs.

6. Electronic customs

The official web portal of the State Customs Service of Ukraine currently offers a wide range of information, including:

- an interactive map of border crossing points;
- a map of the customs infrastructure;
- an interactive module for analysing import and export operations to determine the average customs value of imported goods from different countries;
- "Single Window for International Trade" with access to a personal account.