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IMPROVEMENT OF THE INTERACTION ALGORITHM OF PARTICIPANTS DURING CUSTOMS AND LOGISTICS SERVICE OF CARGO

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УДОСКОНАЛЕННЯ АЛГОРИТМУ ВЗАЄМОДІЇ УЧАСНИКІВ ПІД ЧАС МИТНО-ЛОГІСТИЧНОГО ОБСЛУГОВУВАННЯ ВАНТАЖІВ

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Abstract. *The scientific novelty of the obtained results lies in the substantiation of the basis participants interaction of the customs and logistics service using improvement of the regulation of customs brokerage activity, which, unlike the existing ones, reflect the economic interest of both the state and the enterprises of customs brokers. The article substantiates the model of regulation of customs brokerage activity based on the distribution of regulatory functions between State bodies and associations of customs brokers, on the basis of self-regulation, by transferring to associations of customs brokers the functions of regulation of customs brokerage activity with provision of compensation for losses through the formation of compensation funds.*

Keywords: *custom border, custom service, customs clearance, customs broker, customs brokerage activity.*

Анотація. *У сучасних умовах переміщення вантажів через митний кордон України особлива увага приділяється вдосконаленню організації діяльності підприємств, що сприяють такому переміщенню шляхом надання митних послуг. Митно-брокерська діяльність потребує спрощення ініціювання та управління, скорочення дозвільних і погоджувальних процедур, зменшення адміністративного тиску з боку Державної митної служби України.*

Це питання набуває особливої актуальності у зв'язку з вимогами міжнародних організацій щодо імплементації норм міжнародних договорів у національне законодавство, адаптації зарубіжного досвіду регулювання митно-брокерської діяльності в Україні. Митно-брокерська діяльність є дуже важливою у здійсненні митних формальностей при переміщенні товарів і транспортних засобів через митний кордон України.

Формування пропозиції здійснення митно-брокерської діяльності може стати передумовою підвищення якості та швидкості виконання митних формальностей на кордоні, сприятиме залученню нових вантажопотоків, ефективності посередницької сфери зовнішньоекономічної діяльності.

Наукова новизна отриманих результатів полягає в обґрунтуванні основ взаємодії учасників митної та логістичної служби з використанням вдосконалення регулювання митно-брокерської діяльності, які, на відміну від існуючих, відображують економічні інтереси як держави, так і підприємств, митних брокерів. У статті обґрунтовується модель регулювання митно-брокерської діяльності на основі розподілу функцій регулювання між державними органами та об'єднаннями митних брокерів, на засадах саморегулювання, шляхом передачі об'єднанням митних брокерів функцій регулювання митно-брокерської діяльності з забезпеченням відшкодування збитків шляхом формування компенсаційних фондів.

Ключові слова: митний кордон, митне обслуговування, митне оформлення, митний брокер, митно-брокерська діяльність.

Introduction. The selection of the most efficient customs service provider can considerably improve the return on investment on Customs Management Services as it will lead to higher administrative efficiency and reduce the shipping, handling, haulage, warehousing, and staff costs.

In the conditions of the introduced martial law in Ukraine, special attention is being paid to the modernization of the system business structures, among which an important place is occupied by customs brokers who ensure the unhindered movement of goods and vehicles across the customs border of Ukraine. Today, the intermediary activities of customs brokers need to simplify their activities, reduce the permitting and approval procedures, and reduce the administrative influence of state authorities.

The topic of the study acquires special relevance in connection with the requirements of international organizations regarding the implementation of the norms of international agreements into national legislation, adaptation of foreign experience in the regulation of customs brokerage activities in Ukraine. Customs broker activity is very important in carrying out customs procedures regarding goods and vehicles moving across the customs border of Ukraine.

Formation of methods of regulation of customs brokerage activity can become a prerequisite for improving the quality and speed of customs formalities when moving goods across the customs border of Ukraine, which will contribute to the attraction of new cargo flows and the realization of Ukraine's transit potential.

Literature review and problem statement. In some parts of the world, customs brokers have been offering advice and providing services to importers and exporters for hundreds of years. In some other regions, the customs broker is a nascent profession. And in yet other countries, the customs broker does not exist as a unique service provider leaving

others to fill the knowledge gap as part of a broader service option. Where there are customs brokers, there has been a tendency to organise and work together to better understand the customs function, enhance the services offered to importers and exporters and ultimately, improve the environment in which international trade is conducted within that country. In the late 1980s, several of those countries with longstanding customs broker communities began exploring how they could collaborate to their mutual benefit and that of their clients [1].

Self-administration in the sphere of servicing is a significant instrument for service quality improvement, development of economic activity, increase of level of service consumers' protection and rights, provision of effective interaction between subjects of economic activity and public authorities, creation of institutional environment for further authorization of organizations of professional self-administration for functions of public and legal management, decrease of State Budget expenses for regulation of economic activity, more effective protection of rights of subjects of economic activity violated by state authorities [2].

Researchers generally have viewed nonmarket regulation of firm behavior as synonymous with direct regulation by the government [2].

However, it should be noticed that these organizations can also exist in other branches of entrepreneurship, although the mentioned term is not used by the legislation of the said countries in relation to them.

Foreign economic literature uses the term «self-regulation» for cases when a subject of economic activity imposes certain restrictions on itself without any external pressure thereto. It must be said that there is special authority – Ombudsman, which may be either unipersonal or collegial and aims at realization of this

function in the countries where self-regulatory organizations have existed for a long time [3].

The issues of self-regulation were investigated by: O. Bakalinska, O. Belyanevych, O. Vinnik, V. Makhinchuk, S. Solodchenko and others. However, this issue remains relevant, despite the new search accents. The issue of forming the structure of logistics chains was studied in scientific works by T. Vorkut, O. Bakaeva, M. Belousova, V. Sergeeva but the process of interaction with customs authorities during execution they did not consider foreign trade transactions.

The aim and objectives of the study – modeling of the process of interaction of the participants of the customs and logistics service during the movement of cargo through the customs border of Ukraine.

In accordance with the objectives of the study, the following tasks were solved: prove the expediency of introducing the distribution of functions of regulating customs brokerage activity between state customs authorities and professional associations of customs brokers, by transferring indirect functions of regulating customs brokerage activity to them, prove the need to create a compensation fund for the implementation of compensation payments to consumers of customs brokerage services.

Results. In many countries, the use of customs brokers is mandatory to facilitate the process of import, export and transit, and to assist traders in ensuring compliance. However, practice shows that – apart from the high cost of their service – customs brokers are often part of vested interest groups, presenting obstacles rather than facilitating trade. The approach to state regulation of entrepreneurship as a certain system will allow to outline those aspects of interaction between the state and business sectors that ensure its highest efficiency.

Lack of an appropriate national regulatory and administrative framework that can facilitate the clearance of goods without the use of customs brokers is a major challenge. In the absence of an electronic system, the trader may find the process of clearing goods particularly cumbersome without the assistance of customs brokers.

The mindset of customs authorities can also be a key challenge. Over time, customs brokers have become part of the port ‘ecosystem’ and customs staff may be more comfortable working with professional customs brokers.

Another challenge may be the inability of governments to identify transparent and objective criteria for the approving permit of customs brokers activity in Ukraine.

An enabling regulatory and administrative framework which encourages a mindset change among government authorities, especially customs officials, is a key factor which will determine successful implementation.

The adoption of automated risk management, post-clearance audits will also contribute to success, fostering a transparent disclosure of information while, at the same time, allowing traders to manage procedural formalities.

Self-regulation is regarded as regulation of specific markets and spheres of business by economic agents themselves, without interference from the state. That is why western economic literature often refers to self-regulation as to independent administrative power [4]. Other foreign scientists consider that self-regulatory organizations (hereinafter – SRO) are an institute, which regulates interrelations of entrepreneurs, state and customers. Establishment of SRO will allow state authorities considerably to decrease expenses for regulation of activity in a number of branches on account of cancellation of licensing and certification, which in the end should lead to downsizing of government machine and decrease of corruption. Business-community will get the opportunity by themselves to determine effective ways to use funds accumulated in SRO and assigned for self-regulation aims [5].

Self-regulation’s relative efficiency increases with uncertainty over institutional implementation, populism, and political polarization. Inefficient regulation occurs more frequently than inefficient self-regulation. Case

studies examine legal origin's effect on regime choice and compare Progressive regulation to New Deal self-regulation [6].

To realize the concept of «self» in self-regulation, SROs should encourage market participants and their professional associations to contribute to the development of industry best practices and standards. It is common for SROs to work with the industry to develop appropriate codes of conduct, and where appropriate, ensure compliance with these codes. From a government oversight perspective, government should consider applying general performance standards to SROs to ensure that they have the flexibility they need to develop appropriate rules of conduct and compliance and enforcement programs through their direct interaction with industry participants. This approach is more cost effective both for the SRO and the government regulator. It also has the benefit of contributing to a strong compliance culture within the firms that participate in the development of industry best practices and standards.

Industry financing should be a major source of an SRO's overall funding thereby reducing the amount of government funding needed to support the regulatory framework for customs-broker markets.

They can also modify them quickly to respond to market changes. Given the procedural requirements imposed on agencies, a government regulator's response may lag behind market changes. Self-regulation generally imposes fewer costs than government regulation.

Thus, the more enterprises enter self-regulatory organization, the harder it is or them to agree. The scheme of acquiring competitive advantages may also turn out ineffective [7].

Self-regulation can result in substantial cost savings to the government because those regulatory costs are largely shifted to the regulated industry. Properly implemented and monitored, a program of self-regulation will effectively advance the statutory objectives consistent with the public interest and the

interests of the regulated entities at a lower cost than statutory regulation. Incorporating self-regulation into the regulatory regime should diminish the need for tax dollar financing, provided that SROs and government regulators cooperate and coordinate with one another to avoid duplicating activities [9].

Model of regulation of customs broker activity is adoption of the Law of Ukraine «On self-regulatory organizations» and Decree «On self-regulatory organizations of professional participants of the market of customs broker services».

We offer to identify subjects' model of customs broker activity regulation: State Fiscal Service of Ukraine and self-regulatory organizations, and at the same time to exclude the State Border Service of Ukraine from subjects of regulation of customs broker activity.

Organizational method of regulation of customs broker activity (instructions, provisions that permit, forbid, restrict, normalize customs broker activity), unlike the currently operating regulation, needs to be delegated to professional associations of customs brokers, which are self-regulatory in their activity [2]. Although SROs are private organizations, they are still subject to government-imposed regulation to a degree.

However, the government does delegate some aspects of the industry oversight to self-regulatory organizations. The ability of an SRO to exercise regulatory authority does not stem from a grant of power from the government. Instead, SROs often accomplish control through internal mechanisms that regulate the flow of business operations. The authority may also come from an external agreement between like businesses. The purpose of these organizations is to govern from within while avoiding ties to a country's governance.

Effective activity of customs brokers on the ground of self-regulation is impossible without resource allocation, that is why there appears the need to create compensation fund that will cover payments for refunding of losses

inflicted by members of self-regulatory professional association.

Compensation fund covers payments for refunding of losses inflicted by members of professional association of customs brokers, which are self-regulatory in their activity, to consumers and other subjects of customs broker activity. Model of customs broker regulation (fig. 1) is represented as a system of interaction of organizational, economic and legal methods, principles and instruments in the sphere of state regulation and self-regulation of customs broker activity [2].

The losses inflicted by members of professional association of customs brokers, activity of which is self-regulatory, to consumers and other subjects of customs broker activity first include reduction of income to the State Budget of Ukraine as a result of failure to pay fines in case if an enterprise-customs

broker is brought to administrative liability for violation of customs rules (only upon effective court decision). Coverage of expenses, associated with functioning of professional association of customs brokers and regulation of customs broker activity, is to be carried out from the established compensation fund. Compensation fund of customs broker association, which is self-regulatory in its activity, is formed in cash on account of contributions of members of such an organization. A bank that has license for carrying out professional activity on securities market – depository activity of custodian – may manage the compensation fund of a self-regulatory organization. Custodian expenses are paid on account of income from utilization of property of compensation fund passed to the management [2].

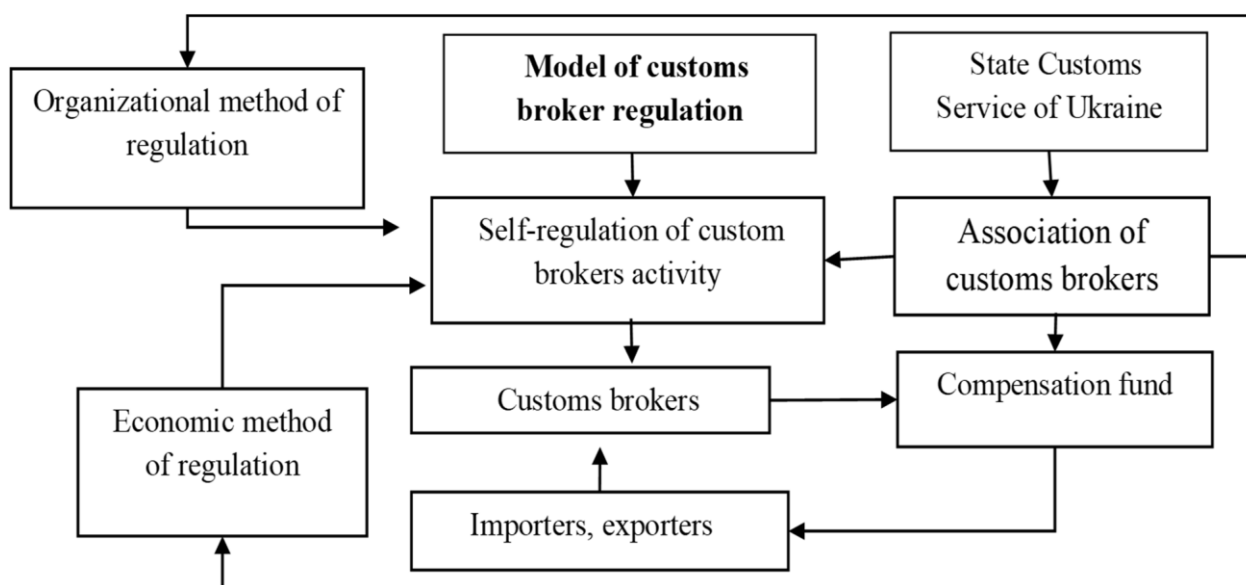


Fig. 1. Model of regulation for the Customs Broker activity

Risks of using the mechanism of self-regulation in customs broker activity should also be mentioned. The first reason is associated with limitation of number of members of self-regulatory organization and expressing of monopoly on the market of customs broker services.

Thus, removal of negative consequences of functioning of monopolies on the market of customs broker services should be attributed to obligatory functions of state regulation, which consists in: stimulation of competition development, use of regulation methods that are

capable to restrict monopoly state of enterprises-customs brokers.

So, model of customs broker activity regulation will promote supports the establishment of transparent, accountable, and consistent regulation. It is our conviction that

failure to do so will negatively affect the customs process and the customs brokerage community, as well as the many thousands of importers and exporters who depend on a high standard of services from their customs brokers.

As enhanced trade facilitation and refined Customs risk management strategies make possible the opportunity for common Customs frameworks and modernization efforts, such as regional Single Window initiatives, it is critical to educate both the public and private sector on the benefits available through active support and participation. Only through such awareness can we hope to succeed in bringing together the myriad political, operational and legal innovations necessary to capitalize on this opportunity.

Trade compliance and trade facilitation success are more likely to be enhanced when Customs brokers, multinational traders, Customs administrations, and participating government agencies have a strategic framework for these initiatives to take hold. Professional Customs brokers have a unique perspective given their broad exposure to all parties engaged in the supply chain, their operational experience, and their exposure to various systems and tools to manage Customs declaration complexity in multiple countries.

Similarly time-consuming manual processing systems, over-regulation, or outright corruption will discourage trade and investment and further undermine a country's development. «In the worst cases», up to 20 signatures are required to obtain customs clearance of goods.

When modeling the supply chains of foreign trade goods, one of the tasks is to determine the need to attract a sufficient number of intermediaries to provide services.

This issue concerns both the services of forwarders and customs brokers providing a range of services for customs clearance of goods.

An error made when declaring goods and vehicles moving across the customs border may be perceived by the customs authority as an unreliable declaration, which will entail additional costs associated with the demurrage of goods in the customs control zone, payment of fines for violations of customs rules.

The need to use the services of customs intermediaries in the supply chain of foreign trade goods, in our opinion, is dictated by the complexity of declaring goods, the number of operations performed with the goods and, at the same time, the desire to optimize the overall logistics costs in the final price of the goods.

In our opinion, the most complete algorithm for choosing a customs intermediary is shown in the second fig. 2.

So, establishing (recognizing) a brokers' association at the national/regional level, which can provide support to their members while assisting Customs administrations with the fulfilment of their regulatory responsibilities can also provide valuable training, capacity building, and an oversight framework which, given the limited resources some administrations may have, might add to the overall capacity of brokers. However, Customs administrations should support Customs brokers, including through brokers' associations, by informing/educating them about the regulations and requirements, including, where appropriate, those of other government agencies.

The proposed algorithm allows subjects of foreign trade to choose a reliable customs broker by means of forming the appropriate request and sending it to the Association of Customs Brokers, which provides a certificate of the quality of the provision of customs brokerage services. The algorithm for choosing a customs broker is built taking into account the previously introduced proposals for improving the regulation of customs broker activity.

Conclusions. The study presents a theoretical generalization and a new solution to an important scientific task, which is manifested in the development and justification of theoretical provisions and methodological

approaches to the organizational conditions of the regulation of customs brokerage activity. The work developed a model regulation of customs brokerage activity, which consists in balance of interests of all its participants and reflects the aggregate interest of both the state and business entities in accordance with international requirements, the principle of deregulation of the state's influence on the customs services market.

Propose complete algorithm for choosing a customs intermediary for need to use the services of customs intermediaries in the supply chain of foreign trade goods, in our opinion, is dictated by the complexity of declaring goods, the number of operations performed with the goods and, at the same time, the desire to optimize the overall logistics costs in the final price of the goods.

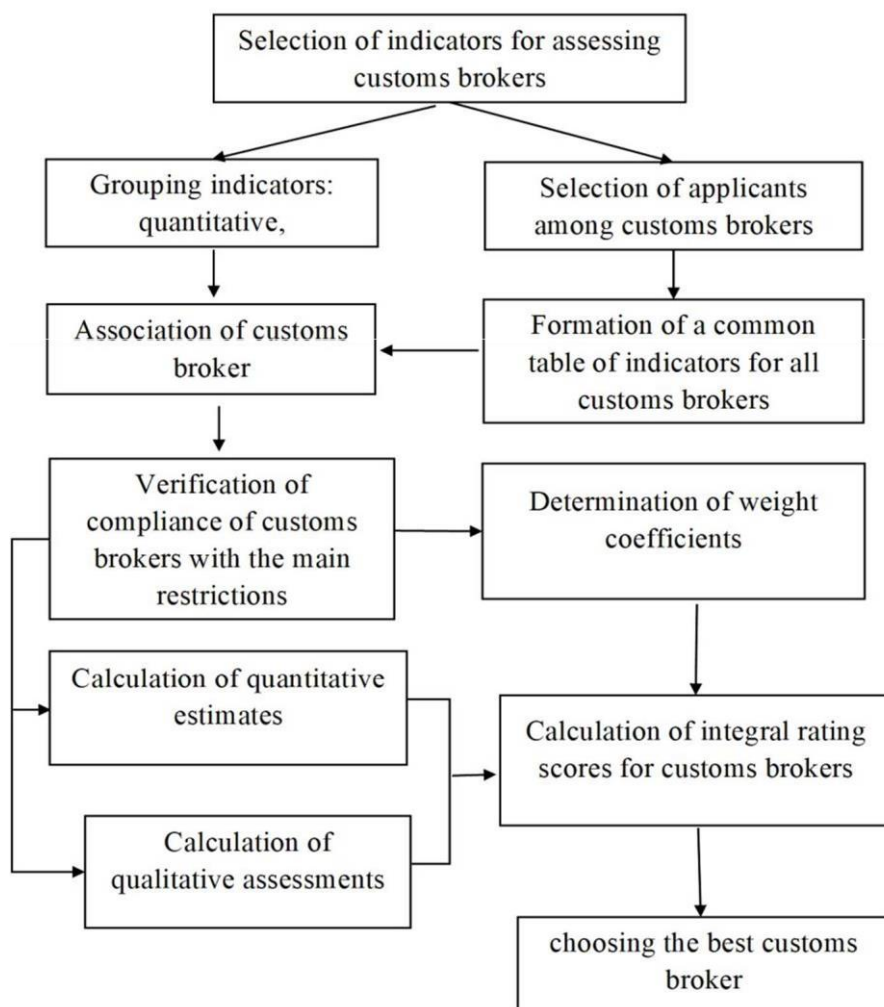


Fig 2. Algorithm for choosing a custom broker

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