



Customs Office

**“VISA FREE”
MOVEMENT
OF GOODS**

Transparent
customs for trade
with the EU


EY
Building a better
working world



UKRAINIAN CENTRE
FOR EUROPEAN
POLICY

Hereby, the Ukrainian Centre for European Policy launches a series of reports aimed at initiating a discussion on possible ways of real integration of Ukraine into the European Single Market by individual sectors, putting the Association Agreement between Ukraine and the EU in practice. We believe that at the current stage of implementation of the provisions of the Association Agreement, both parties need an impetus involving further steps towards enhancing integration and Ukraine's accession to the common economic space of the EU (as regards the triangle of free movement of goods, capital and persons). We believe that this approach can significantly step up European integration processes in Ukraine, transcending the commitments already contained in the text of the Association Agreement.

Authors

Robert Zeldi
Anton Melnyk

EY Ukraine

Dmytro Naumenko

*NGO Ukrainian
Centre for European
Policy*

Peer review

Oleksandra Bulana

*Institute for Economics and
Forecasting of the National Academy
of Sciences of Ukraine*

Free movement of goods across the customs border is an important factor in boosting trade between Ukraine and the EU. The Association Agreement specifies a number of commitments that Ukraine has to fulfil in order to harmonise national legislation with the requirements of the relevant EU acquis, but these steps will be insufficient for actual approximation of Ukrainian and EU customs procedures and customs control. The Policy Brief lays down a much more profound list of mutual steps (related to both legislative approximation and implementation) for Ukraine and the EU to undertake in order to ensure that Ukrainian and European goods move across the EU-Ukraine customs border the way they do today within the EU, that is on “visa-free” terms, which implies harmonisation of regulations, procedures, and systems of information exchange, as well as avoiding duplication of customs controls because it slows down trade between our countries.

Since 2014, after temporary preferences were introduced, most of the duties for Ukrainian goods (apart from a number of individual items) have been abolished by the EU. However, in order to ensure truly free movement of goods, in addition to the abolition and reduction of customs duties, it is necessary to harmonise the controls carried out by the customs authorities of Ukraine and the EU.

Free movement of goods is one of the three pillars of the single EU market (along with the free movement of capital and persons) – this is exactly why discussion of real free trade as regards exporting Ukrainian goods to the EU (or “visa-free” movement of goods to use analogy to the crossing of the EU border by Ukrainian nationals) should necessarily involve elimination of barriers related to the physical crossing of the EU customs border, which means that in the long run Ukraine will have to join the common customs territory of the EU.

Implementation of the Association Agreement is a very convenient and effective tool for ensuring free movement of goods across the EU-Ukraine border. For instance, Ukraine has to incorporate the EU acquis in national customs legislation. At the same time, harmonisation of Ukrainian and EU customs regulations should generate a common customs control approach that will be recognised on both sides of the border.

As the EU common market is based on “three pillars”, so “visa-free” movement of goods has three main components:

- Harmonisation of customs rules;

- Harmonisation of requirements for the quality and safety of manufactured goods;
- Harmonisation of sanitary and phytosanitary measures.¹

Harmonisation of customs regulations aims to ensure free flow of goods so that the export procedure cease to be a problem for Ukrainian businesses, that is, to establish the same customs environment on both sides of the Ukraine-EU border. Eventually, a Vinnytsia farmer will be able to send apples from his garden to France with the same ease as a Lviv resident can visit Poland thanks to visa-free travel.

“Dismantling” the economic (customs) borders between Ukraine and the EU is a realistic mission. However, to this intent two crucial steps should be taken:

- **Optimisation and simplification of customs procedures** related to trade between Ukraine and the EU so that each party would have to go through a minimal number of formal requirements in relation to goods received from the other party;
- **Harmonisation of approaches to customs control** in a way that would help reduce the need for enhanced customs controls between the EU and Ukraine, which could be implemented by way of mirroring the basic EU requirements to import of goods from third countries.

These, in turn, can be achieved by applying the “more-for-more” principle or additional efforts

1) The issue of ACAA (Agreement on Conformity Assessment and Acceptance of Industrial Products) as well as sanitary and phytosanitary measures should be examined separately. However, without a significant progress in these areas, Ukraine will not be able to achieve the effect of “visa-free” movement of goods.

on the part of Ukraine, provided that the EU will also take certain steps (even if they are not explicitly stipulated in documents such as the Free Trade Agreement). The following table includes a tentative list of such reciprocal measures (including both elements envisaged by the Agreement and additional ones):



Steps on the part of Ukraine



Steps on the part of the EU

Mutual Recognition of Authorised Economic Operators

This should contribute to simplification of EU customs procedures for the Ukrainian enterprises granted the AEO status by the Ukrainian customs authorities. That is, with preferences such as priority customs clearance in Ukraine, these enterprises will by default enjoy the same simplified procedure during customs clearance in the EU.

- Introduction of amendments to the laws and regulations governing the activities of Authorised Economic Operators (AEO).
- Negotiations with the EU concerning the terms of an agreement on recognition of authorised economic operators.

• Negotiations with Ukraine on the terms of an agreement on recognition of authorised economic operators.

Harmonised Customs Legislation

Harmonisation of customs legislation is a prerequisite for implementation of all other measures listed herein. Without such harmonisation, mutual recognition of authorised economic operators, creation of a paperless customs environment and mutual recognition of the results of customs control will not be possible.

- Implementation of the EU Customs Code (UCC) and other EU acquis in the customs field.
- Harmonisation of the Customs Tariff structure and the product nomenclature with those of the EU.
- Alignment of the practices of customs legislation application by the customs authorities of Ukraine and the EU.

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Common Transit System (NCTS)

Ukraine's accession to the NCTS can contribute to a substantial facilitation of import and export procedures – as the customs authorities of the two parties will exchange a large amount of information in electronic customs declarations. This will accelerate border controls – if only because there will be no need to fill out new transit declarations on the other side of the border.

- Introduction of amendments to the legislation on the use of a common transit system between Ukraine and the EU.
- Compliance with the technical requirements necessary for Ukraine to join the European transit system.

• Inviting Ukraine to join the NCTS Convention.

Paperless Customs Environment

Exchange of electronic documents other than customs declarations (for example, the EU and EFTA have established electronic exchange of information through more than 200 standardised electronic documents) can significantly facilitate free movement of goods. By extending electronic exchange to documents such as certificates of origin, electronic invoices, shipping documents, etc. it will be possible to achieve significant time savings in customs clearance both in the EU and in Ukraine.

- Arranging the technical aspects of the exchange of information on issued certificates of origin and numbers of approved exporters.
- Amending the legislation as regards the possibility of using electronic documents received from customs authorities of foreign states.
- Introducing elements of control based on the “single-window” principle drawing on the single EU-Ukraine information system.
- Signing agreements on information cooperation between the customs authorities of Ukraine and the EU.

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Mutual Recognition of Certain Customs Control Results (results of weighing, scanning, etc.)

Customs controls are carried out on both sides of the border – for example, customs inspection (which tends to take more time than any measures) can be conducted both when exporting goods from Ukraine and when importing them into the EU. By establishing an appropriate level of trust between customs authorities and exchanging information about controls that have been carried out it will be possible to avoid double controls and the loss of time associated with it.

- Harmonisation of technical issues as regards exchange of information and the scope of customs controls the results of which are recognised by the other party.
- Amending the legislation as regards the admissibility of use of the customs control results obtained by European authorities for the customs control in Ukraine.
- Signing agreements on information cooperation between the customs authorities of Ukraine and the EU.

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Tentative List of Draft Laws / International Agreements for “Visa-Free” Movement of Goods

Title	Status
Areas: harmonised customs legislation, mutual recognition of authorised economic operators, mutual recognition of certain forms of customs control	
Draft Law of Ukraine “On Amendments to the Customs Code as Regards Implementation of the Rules of the EU Customs Code (Council Regulation (EC) N 1383/2003 (Repealed and replaced by Regulation (EC) N 608/2013)”	Not drafted yet
Draft law on alignment of the Customs Tariff of Ukraine with the Combined Nomenclature of the EU.	Not drafted yet, the existing draft law (registration No. 7306 dated

	17.11.2017) implies aligning the applicable version of HS 2017, preserving the 10-digit code
Draft Law of Ukraine “On Amendments to the Customs Code of Ukraine (regarding certain issues of the implementation of Chapter 5, Section IV of the Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, of the other part)”	Registration No. 7473 dated 29.12.2017
Draft Law of Ukraine “On Amendments to the Customs Code of Ukraine as Regards Protection of Intellectual Property Rights in the Movement of Goods across the Customs Border of Ukraine”	Registration No. 4614 dated 06.05.2016. Consideration adjourned
Draft Law of Ukraine “On Amendments to the Customs Code of Ukraine (regarding implementation of the Association Agreement between Ukraine and the EU)”	Registration No. 4615 dated 06.05.2016
Ukraine-EU international agreements on the mutual recognition of authorised traders and customs control results	It is necessary to start the negotiation process (after the relevant regulations are adopted)
Area: Common Transit System	
Draft Law of Ukraine “On Amendments to the Customs Code of Ukraine as Regards Bringing Transit Procedures in Line with the Convention on a Common Transit Procedure and the Convention on Facilitation of Trade in Goods”.	Registration No. 5627 dated 29.12.2016 – vote failed on 15.05.2018
Area: Paperless Customs Environment	
Draft Law of Ukraine “On Amendments to the Customs Code of Ukraine and Certain Other Legislative Acts of Ukraine Regarding Introduction of a Single-Window Mechanism and Optimisation of Control Procedures in Movement of Goods across the Customs Border of Ukraine”	Registration No. 7010 dated 28.07.2017. On July 5, 2018, No. 7010 was adopted by The Verkhovna Rada and is being prepared for the signature of the President
International agreements (interstate and interagency ones) on the exchange of information between the customs authorities of Ukraine and the EU	Work has not started (it is necessary to launch the negotiation process)

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The views and opinions expressed in this policy brief reflect personal position of the authors and do not necessarily reflect the official policy or position of Ministry of Foreign Affairs of the Netherlands, Embassy of Sweden to Ukraine, International Renaissance Foundation and Open Society Initiative for Europe (OSIFE).



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UCEP contacts:
Ukraine, Kyiv, Mykhalivska St. 21A
Tel: +38 (067) 461-81-80
press@ucep.org.ua | www.ucep.org.ua

