

## MULTILATERAL INTERNATIONAL TREATIES OF UKRAINE IN UKRAINIAN CUSTOMS LEGISLATION: IGNORANCE, MISUNDERSTANDING OR STATE POLICY?

**Purpose of the article.** The purpose of the article is to develop proposals aimed at eliminating the mistakes that occurred during Ukraine's accession to various multilateral international customs treaties in force and the shortcomings of their publication in the database of the Legislation of Ukraine web portal of the Parliament of Ukraine, and also at preventing their recurrence in the future.

**Methods.** Achievement of the research objective necessitated the use of various methods of scientific knowledge, including: historical and legal method; dialectical method; comparative method; systemic and structural method; hermeneutical method; method of analysis; method of synthesis; method of generalization, etc.

**Results.** Ukraine is a contracting party to many multilateral international treaties on customs matters. However, in accordance with the provisions of the Customs Code of Ukraine, only those international treaties of Ukraine ratified by the Verkhovna Rada of Ukraine are recognised as part of the legislation of Ukraine on customs matters. As regards multilateral international treaties of Ukraine ratified by the President of Ukraine, their affiliation with the customs legislation of Ukraine is recognised on the basis of the practice of the judicial authorities of Ukraine. The article proves that regardless of which governmental authority of Ukraine gave its consent to the binding nature of a multilateral international customs treaty for our country, no consistent approach has been developed by theorists and practitioners to understand their essence and purpose, and to determine their place in the customs legislation of Ukraine. The translations of the texts of such international treaties posted in the database of the official web portal of the Verkhovna Rada of Ukraine «Legislation of Ukraine» are usually not official and do not correspond to the versions of their originals in the official languages posted on the websites of the depositories of such international treaties.

**Conclusions.** Examples of mistakes that occurred during Ukraine's accession to various existing multilateral international customs treaties and shortcomings of their publication in the database of the web portal of the Parliament of Ukraine «Legislation of Ukraine» relate only to the international customs treaties of Ukraine considered in the article and may be expanded. With a view to eliminating the errors and shortcomings highlighted in the article and preventing their occurrence in the future, further research into the theoretical and applied aspects of Ukraine's accession to the existing multilateral international customs treaties remains relevant both for the development of the sciences of national customs and international customs law and for the practical activities of the law enforcement authorities of Ukraine in the field of customs.

**Key words:** international customs conventions, the World Customs Organisation, decrees of the President of Ukraine, laws of Ukraine, the Verkhovna Rada of Ukraine, the Customs Code of Ukraine, international customs law, customs business.

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**Introduction.** Since the declaration of Ukraine's independence and its recognition by other countries as an independent subject of international law, our country has become a contracting party to many multilateral international treaties on customs matters.

At the same time, an unambiguous approach to understanding their essence and purpose, as well as determining their place in the customs legislation of Ukraine has not yet been developed by theorists and practitioners (Perepolkin, 2012).

For example, it is relevant to note that both the Verkhovna Rada of Ukraine and the President of Ukraine have expressed their consent to be bound by such multilateral international treaties for Ukraine. However, pursuant to part 1 of Article 1 of the Customs Code of Ukraine, only international treaties of Ukraine, ratified by the Verkhovna Rada of Ukraine, are recognised as an integral part of the legislation of Ukraine on customs matters (Customs Code of Ukraine, 2012).

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At the same time, if we analyse the practice of the judicial authorities of Ukraine, which generally complies with the provisions of the Resolution of the Plenum of the High Specialised Court of Ukraine for Civil and Criminal Cases «On the Application of International Treaties of Ukraine by Courts in the Administration of Justice» of 19 December 2014 No. 13 (Plenum of the Higher Specialized Court of Ukraine for Civil and Criminal Cases, 2014), we can conclude that in the texts of decisions in the name of Ukraine, judges refer to the provisions of existing multilateral international treaties, regardless of whether the Verkhovna Rada of Ukraine or the President of Ukraine have expressed their consent to the mandatory application of the treaties. Among such international treaties, it is worth mentioning the following: International Convention on the Simplification and Harmonisation of Customs Procedures of 18 May 1973; Customs Convention on the International Transport of Goods under Cover of TIR Carnets of 14 November 1975; Convention on the Harmonised Commodity Description and Coding System of 14 June 1983; Convention on Temporary Importation of 26 June 1990; General Agreement on Tariffs and Trade of 15 April 1994; Agreement on the Application of Article VII of the GATT of 15 April 1994 and many other international treaties of Ukraine in force.

A common practice among judges is to: establish the correlation between the provisions of the articles of the Customs Code of Ukraine (CCU) and the relevant principles and provisions of international treaties, such as the General Agreement on Tariffs and Trade; recognise international treaties ratified by the President of Ukraine as part of national legislation, such as the International Convention on the Harmonised Commodity Description and Coding System of 14 June 1983; state the fact of building certain institutions of national customs law Decision of the Kharkiv District Administrative Court of 14 June 2018, No. 820/2557/18 in the case of the administrative claim of the Private Enterprise «Trading House « Zolota Mylia» to the Kharkiv Customs of the SFS on the recognition of unlawful and cancellation of acts (Decision of the Kharkiv District Administrative Court, 2018); Decision of the Kharkiv District Administrative Court of 18 November 2019 No. 520/8424/19 in the case of the claim of Aromaros-U Limited Liability Company against the Main Department of the SFS in Kharkiv Region for cancellation of tax assessment notices (Decision of the Kharkiv District Administrative Court, 2019); Decision of the Dnipro District Administrative Court of 23 December 2019 in case No. 160/9312/19 on the administrative claim of the Limited Liability Company «Engineering Lighting Technologies» against the Kyiv City Customs of the SFS on the recognition of unlawfulness and cancellation of decisions (Decision of the Dnipropetrovsk District Administrative Court, 2019); Decision of the Poltava District Administrative Court of 2 January 2020 No. 440/4426/19 in the case of the claim against the Poltava Customs of the SFS on the recognition of unlawfulness and cancellation of the decision, obligation to take certain actions, etc (Decision of the Poltava District Administrative Court, 2020; Perepolkin, 2020).

In addition, an analysis of the processes of Ukraine's accession to multilateral international treaties on customs matters, the quality of translated texts and the timeliness of their updates on the official web portal of the Verkhovna Rada of Ukraine «Legislation of Ukraine» after changes to the official texts by the depositories of international treaties, showed the existence of numerous errors and shortcomings, the existence of which indicates incompetence or negligence of persons to ensure the proper implementation of the relevant processes.

In view of the above, the purpose of the article is to develop proposals aimed at eliminating the mistakes that occurred during Ukraine's accession to various multilateral international customs treaties and the shortcomings of their publication in the database of the Legislation of Ukraine web portal of the Parliament of Ukraine, and to prevent their recurrence in the future.

**International treaties of Ukraine on customs matters, ratified by the President of Ukraine.** One of the first international conventions to which Ukraine acceded on the basis of a presidential decree was the International Convention on Mutual Administrative Assistance in the Prevention, Investigation and Suppression of Customs Offences of 9 June 1977 (Nairobi Convention), developed by the World Customs Organisation (WCO) (Decree of the President of Ukraine No. 699/2000, 2000).

The Nairobi Convention entered into force on 21 May 1980 and as of September 2023, 52 contracting parties have recognised its provisions as binding (World Customs Organization, 2023).

The structure of the Nairobi Convention consists of a preamble and 23 articles of the main text, as well as 11 annexes that constitute its integral part, namely: assistance provided by the customs administration on its own initiative (Annex 1); assistance upon request in the collection of import and export duties and taxes (Appendix 2); assistance on request regarding control (Appendix 3); assistance on request regarding

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supervision (Appendix 4); investigation and notification of requests in favor of the other Contracting Party (Appendix 5); participation of representatives of customs administrations in the consideration of cases in court or tribunal (Appendix 6); the presence of representatives of the customs administrations of one Contracting Party in the territory of the other Contracting Party (Appendix 7); participation in investigations conducted abroad (Appendix 8); collection of information (Appendix 9); providing assistance in the fight against drug and psychotropic substance smuggling (Appendix 10); providing assistance in combating smuggling of works of art, antiques and other cultural values (Appendix 11).

A prerequisite for accession to the Nairobi Convention is the precise indication by the future Contracting Party of at least one Annex to be accepted by it. Subsequently, such a Contracting Party may notify the Secretary-General of the WCO of the additional acceptance of one or more Annexes, with the obligatory indication of the numbers or titles of such Annexes.

In accordance with the provisions of the Decree of the President of Ukraine No. 699/2000 dated 23 May 2000, 2000, our country has acceded to the main text of the International Convention on Mutual Administrative Assistance in the Prevention, Investigation and Suppression of Customs Violations and its Annexes I, II, III, V, VI, VII, VIII (Perepolkin, 2010).

Thus, Annexes IV, IX, X and XI remain inoperative for Ukraine. Despite this, the database of the Legislation of Ukraine web portal of the Ukrainian Parliament contains translations of all Annexes of the Nairobi Convention. However, the absence of the mark «official translation» allows us to conclude that the posted translation of the text of the Nairobi Convention is not official (Convention on Mutual Administrative Assistance for the Prevention, Investigation International, and Repression of Customs Offenses, 1977).

The next, and one of the most well-known multilateral international treaties to which Ukraine acceded by virtue of a presidential decree, is the International Convention on the Harmonised Commodity Description and Coding System of 14 June 1983, developed by the WCO (Decree of the President of Ukraine No. 466/2002, 2002).

Since 1 January 1988, the date of entry into force, and until now (September 2023), 160 countries and the European Union (EU) have been Contracting Parties to this international treaty. At the same time, the Harmonised Commodity Description and Coding System, or as it is often abbreviated as the «Harmonised System» or simply «HS», is used as the basis for customs tariffs and for the collection of international trade statistics by 212 countries, territories or customs or economic unions.

Along with the acknowledgement of the fact that the International Convention on the Harmonised Commodity Description and Coding System of 14 June 1983 is the international treaty most widely recognised by the international customs law, to which Ukraine is a contracting party, it should be noted that for reasons unknown to us, its officially translated text is not available in the database of the Legislation of Ukraine web portal of the Ukrainian Parliament. For the majority of respondents, the only explanation for the current situation was that since the consent to be bound by the provisions of the Convention was not given by the Verkhovna Rada of Ukraine, it cannot be considered an integral part of Ukrainian customs legislation. However, such an explanation contradicts the provisions of the Resolution of the Plenum of the High Specialised Court of Ukraine for Civil and Criminal Cases «On the Application of International Treaties of Ukraine by the Courts in the Administration of Justice» No. 13 of 19 December 2014, the practice of the judicial authorities of Ukraine, as well as examples of other international treaties on customs matters, which were ratified by decrees of the President of Ukraine, being included in this database.

In this regard, it should also be noted that, in general, the decision to use a presidential decree rather than a ratification law to accede to the International Convention on the Harmonised Commodity Description and Coding System of 14 June 1983 should be considered highly debatable.

In order to clarify our opinion, we note that in accordance with the provisions of Article 1 of the Law of Ukraine «On the Customs Tariff of Ukraine» dated 19 October 2022 and the Resolution of the Cabinet of Ministers of Ukraine «On Approval of the Procedure for the Ukrainian Classification of Goods for Foreign Economic Activity and Invalidation of Certain Resolutions of the Cabinet of Ministers of Ukraine» No. 428 dated 21 May 2012, the Harmonised Commodity Description and Coding System is the basis for the Ukrainian Classification of Goods for Foreign Economic Activity, which is the commodity nomenclature of the Customs Tariff of Ukraine. Accordingly, the provisions of the HS and the amendments made to it from time to time directly determine the need to amend the Customs Tariff of Ukraine, which is established by the law of Ukraine. In addition, according to Article 92(1)(9) of the Constitution of Ukraine, the laws of Ukraine exclusively determine the principles of foreign relations, foreign economic activity,

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and customs (Constitution of Ukraine, 1996), and according to Article 9(2)(e) of the Law of Ukraine «On International Treaties of Ukraine» of 29 June 2004, international treaties of Ukraine, the implementation of which leads to the amendment of laws of Ukraine or the adoption of new laws of Ukraine, are subject to ratification (Law of Ukraine dated June 29, 2004, No. 1906-IV, 2004).

Another multilateral international treaty to which Ukraine has acceded by virtue of a presidential decree is the International Convention on the Harmonisation of Frontier Controls of Goods under Frontiers, developed by the Inland Transport Committee of the United Nations Economic Commission for Europe (UNECE), dated 21 October 1982 (Geneva Convention of 1982) (International Convention on the Harmonization of Frontier Controls of Goods, 2004).

As of September 2023, 58 Contracting Parties (57 countries and the EU) have acceded to the provisions of this Convention. The structure of the 1982 Geneva Convention consists of the main text (preamble and four chapters containing 26 articles) and nine annexes that are its integral part, namely coordination of customs control with other types of control (Annex 1); health control (Annex 2); veterinary control (Annex 3); phytosanitary control (Annex 4); control of compliance with technical standards (Annex 5); quality control (Annex 6); activities of the administrative committee (Annex 7); facilitation of border crossing procedures in the course of international road transport (Annex 8); facilitation of border crossing procedures in the course of international rail freight transport (Annex 9) (Perepolkin, 2010).

For Ukraine, the provisions of the 1982 Geneva Convention entered into force on 12 September 2003 on the basis of Presidential Decree No. 616/2002 of 4 July 2002 (Decree of the President of Ukraine No. 616/2002, 2002).

In accordance with the provisions of the above decree, our country acceded to the main text of the Convention and its annexes. However, unlike the Decree of the President of Ukraine No. 699/2000 of 23 May 2000, by which our country confirmed its consent to accede to the provisions of the Nairobi Convention, the text of the Decree of the President of Ukraine No. 616/2002 of 4 July 2002 does not contain the exact numbering of annexes applicable to our country, as is usually the case when acceding to a multilateral international treaty, which has a certain number of annexes as an integral part.

In this regard, it is important to note that at the time of Ukraine's accession to the 1982 Geneva Convention, there were seven annexes to the Convention. However, on 20 May 2008, in accordance with the provisions of Article 22 of the 1982 Geneva Convention, Annex 8 entered into force for all its Contracting Parties, and on 30 November 2011, Annex 9 (United Nations, 2023).

As is the case with the official translation of the text of the International Convention on the Harmonised Commodity Description and Coding System of 14 June 1983, the official translation of the main text of the International Convention on the Harmonisation of Frontier Controls of Goods of 21 October 1982 and its first seven annexes is not available in the database of the Legislation of Ukraine web portal.

The official translations of Annex 8 (Appendix 8 Simplification of Border Crossing Procedures in International Road Transport, 2023) and Annex 9 (Appendix 9 Simplification of Border Crossing Procedures in International Rail Freight Transport, 2023) are available in this database. However, based on the results of the verification of compliance with the version of Annex 8 published in the Legislation of Ukraine database, it was found that it does not contain the amendment to Art. 7 (in which the words «two years» are replaced by «five years»), which entered into force for all Contracting Parties to the International Convention on the Harmonisation of Frontier Controls of Goods of 21 October 1982 on 27 May 2021 (United Nations, 2023).

**International treaties of Ukraine on customs matters, ratified by the Verkhovna Rada of Ukraine.** One of the first international customs conventions to which Ukraine confirmed its participation and recognised its provisions as binding as one of the successor states of the former USSR, based on the law of Ukraine, was the Customs Convention on the International Carriage of Goods under Cover of TIR Carnets of 14 November 1975 (TIR Convention, 1975) (TIR Convention, 1994).

As an international treaty, the TIR Convention of 1975 entered into force on 20 March 1978, and its provisions became binding for independent Ukraine on 11 October 1994.

As of September 2023, the TIR Convention of 1975 has 78 Contracting Parties, including 77 states and the EU.

The TIR Convention of 1975 is one of the most effective international transport conventions and, in fact, the only global system of international customs transit. It covers the whole of Europe and extends to North Africa and the Middle East; it is used by the United States, Canada, as well as Chile and Uruguay. However,

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in the case of transit operations between EU member states, the principles of the TIR Convention of 1975 do not apply, as the EU has its own transit system within the single territory.

The TIR Convention of 1975 is an international treaty open for accession, consisting of a preamble and 7 chapters and 11 annexes, namely: Annex 1 «Model TIR Carnet»; Annex 2 «Rules concerning the technical conditions applicable to road vehicles that may be admitted to international transport under customs seals and stamps»; Annex 3 «Procedure for the admission of road vehicles»; Annex 4 «Model Certificate of Admission of Road Vehicles»; Annex 5 «TIR Plate»; Annex 6 «Explanatory Notes»; Annex 7 «Admission of containers»; Annex 8 «Composition, functions and rules of procedure of the TIR Administrative Committee and the TIR Executive Board»; Annex 9 «Admission to the TIR procedure» (authorisation for associations to issue TIR Carnets and authorisation for natural and legal persons to use TIR Carnets); Annex 10 «Information to be provided by Contracting Parties to authorised associations and international organisations»; Annex 11 «eTIR procedure» (United Nations, 2023).

At the same time, the verification of the compliance of the translation of the text of the TIR Convention (1975) in the Legislation of Ukraine database revealed that it is unofficial and does not contain numerous amendments that have been made to both the articles of the main text of the Convention and its annexes over the long period of its validity. For example, the version of the TIR Convention (1975) available in the Legislation of Ukraine database contains only 8 out of 11 Annexes (TIR Convention, 1994).

Another example of a multilateral international treaty on customs matters, the binding nature of which has been recognised by our country on the basis of Ukrainian law, is the WCO Convention on Temporary Importation of 26 June 1990 (Istanbul Convention of 1990).

The structure of the 1990 Istanbul Convention includes a preamble and 34 articles of the main text, as well as 13 annexes (Convention on Temporary Admission, 1990).

As of September 2023, 74 Contracting Parties, including the EU, have recognised its provisions as binding.

The Law of Ukraine «On the Accession of Ukraine to the Convention on Temporary Importation» of 24 March 2004 entered into force on 27 April 2004 (Law of Ukraine dated March 24, 2004, No. 1661-IV, 2004). As for the entry into force of the provisions of the Istanbul Convention of 1990, this took place on 22 September 2004 in the manner and within the timeframe provided for in Article 26(2) of the Convention.

However, in the database of the Legislation of Ukraine web portal of the Ukrainian Parliament, the date of accession to the 1990 Istanbul Convention is 24 March 2004, i.e. the relevant event is linked to the date of adoption by the Verkhovna Rada of Ukraine of the Law of Ukraine «On Ukraine's Accession to the Convention on Temporary Importation». At the same time, it is also stated below that the date of entry into force is 22 September 2004 (Convention on Temporary Admission, 1990).

In view of the above, the question arises as to how a state can accede to an international treaty before its provisions enter into force for such a state? How is this possible if, as of 24 March 2004, the relevant law of Ukraine had not yet entered into force, and therefore the procedure for accession to the 1990 Istanbul Convention, which consists in depositing the pre-prepared instruments of accession with the depositary, had not even begun? Additionally, according to the WCO official website, the depositary received the relevant documents from Ukraine on 22 June 2004 (World Customs Organization, 2023).

Therefore, given that the accession of any subject of international customs law to the circle of Contracting Parties to a particular international customs treaty is possible only after such treaty enters into force for such subject, in the manner and within the time limits provided for in such treaty, the reference to the date of Ukraine's accession to the Istanbul Convention of 1990 should be removed from the database of the Legislation of Ukraine web portal of the Parliament of Ukraine.

It would also be advisable to remove the abbreviation «(ukr/rus)» from the website, as is the case with the pages containing the texts of the TIR Convention (1975) and the International Convention on the Simplification and Harmonisation of Customs Procedures, which are located after the titles «Convention on Temporary Importation», «Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention), 1975» and «International Convention on the Simplification and Harmonisation of Customs Procedures (Kyoto Convention)» (Convention on Temporary Admission, 1990; TIR Convention, 1994; Kyoto Convention, 1973).

In addition to the above, it is also worth mentioning the peculiarities of implementing the provisions of the Istanbul Convention of 1990 in customs law enforcement practice after its provisions became part of the customs legislation of Ukraine.

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It is quite logical and correct to assume that the accession of our country to any international customs treaty in force requires a preliminary check for compliance with the provisions of the customs legislation of Ukraine with the provisions of such treaty. In case the results of the audit reveal any discrepancies between the provisions of the international agreement and the provisions of the legislative and regulatory acts, all discrepancies shall be eliminated by amending such legislative and regulatory acts and/or adopting new acts in order to eliminate legal conflicts and conflict situations before such international agreement is recognised as part of the customs legislation of Ukraine. However, in the case of Ukraine's accession to the Istanbul Convention of 1990, the relevant comparative analysis was either not carried out in time or was originally planned to be carried out and possible discrepancies eliminated after the date of entry into force of the Istanbul Convention for Ukraine.

As a result, it turned out that the provisions of the then effective Customs Code of Ukraine of 11 July 2002 and other laws of Ukraine on customs matters, for example, the Law of Ukraine «On the Unified Customs Tariff» of 5 February 1992, only partially comply with the provisions of the Istanbul Convention of 1990, and therefore need to be amended. The Ukrainian customs legislation also needed codification and progressive development in terms of bylaws on temporary importation (Perepolkin, 2006).

As a result, the harmonisation of Ukrainian customs legislation with the provisions of the 1990 Istanbul Convention, which was in force for Ukraine, instead of being completed by 22 September 2004, took several more years. This activity was carried out both through amendments to the existing legislative acts of Ukraine in the field of temporary importation (Law of Ukraine dated February 17, 2004, No. 1495-IV, 2004; Law of Ukraine dated May 19, 2009, No. 1349-VI, 2009; Resolution of the Cabinet of Ministers of Ukraine dated August 8, 2007, No. 1027, 2007) and through the adoption of new acts (Resolution of the Cabinet of Ministers of Ukraine dated December 31, 2004, No. 988-r., 2005; Order of the State Customs Service of Ukraine dated December 17, 2007, No. 1058, 2008).

The last international treaty of Ukraine on customs matters in our review, the binding nature of which has been recognised by the Ukrainian law, is the WCO International Convention on the Simplification and Harmonisation of Customs Procedures of 18 May 1973 (Kyoto Convention of 18 May 1973) as amended by the Protocol amending the International Convention on the Simplification and Harmonisation of Customs Procedures of 26 June 1999 (Kyoto Convention as amended).

As of September 2023, 134 Contracting Parties, including the EU, have recognised its provisions as binding.

The structure of the Kyoto Convention as amended consists of a preamble and 20 articles of the main text, a General Annex and 10 Special Annexes that form its integral part (World Customs Organization, 2023).

Joining the circle of Contracting Parties to this International Convention was considered by representatives of the State Customs Service of Ukraine and other state authorities of Ukraine as one of the greatest achievements of our country in the field of customs and was announced long before the entry into force on 3 February 2006 of the Protocol amending the International Convention on the Simplification and Harmonisation of Customs Procedures of 26 June 1999.

However, in the end, the process and consequences of the activities of the competent state authorities responsible for the accession became one of the largest known examples of unprofessional activities in the history of Ukraine's accession to the existing international customs treaties.

From the very beginning of the accession process, representatives of the Ukrainian government authorities responsible for this activity failed to understand that only Contracting Parties to the Kyoto Convention of 18 May 1973 have the right to accede to the provisions of the current Protocol amending the International Convention on the Simplification and Harmonisation of Customs Procedures of 26 June 1999.

As a result, the accession documents sent to the WCO Secretary General, which were executed on the basis of the provisions of the Law of Ukraine on Accession to the Protocol Amending the International Convention on the Simplification and Harmonisation of Customs Procedures of 5 October 2006 (Law of Ukraine dated October 5, 2006, No. 227-V, 2006), were not accepted.

At this time, the date of signing the above law was recognised in Ukraine as the date of accession to the Kyoto Convention as amended. The relevant information is still available in the database of the Legislation of Ukraine web portal of the Ukrainian Parliament. Along with this information, it is also stated that the provisions of the Convention entered into force for Ukraine on 15 September 2011 (Kyoto Convention, 1973). Above, we have already drawn attention to the issue of accession and entry into

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force of the provisions of an international treaty for a country, so we will continue to describe Ukraine's accession to the Kyoto Convention as amended.

The subsequent entry into force on 12 November 2006 of the Law of Ukraine «On Ukraine's Accession to the Protocol Amending the International Convention on the Simplification and Harmonisation of Customs Procedures» of 5 October 2006 intensified the work of the Ukrainian government authorities responsible for legal activities in the field of development and adoption of legal acts to ensure the fulfilment of international obligations assumed by Ukraine under this Convention. For example, the Decree of the President of Ukraine «On Measures to Intensify European Integration Border Cooperation» of 19 December 2007, which required the Cabinet of Ministers of Ukraine to take measures to adapt national legislation to the provisions of the International Convention on the Simplification and Harmonisation of Customs Procedures (Decree of the President of Ukraine dated December 19, 2007, No. 1236/2007, 2007).

In addition, it should be noted that the accession to the provisions of the Protocol amending the International Convention on the Simplification and Harmonisation of Customs Procedures of 26 June 1999 was also of great importance in view of the adaptation of Ukrainian customs legislation to the customs legislation of the European Union, including all provisions of the Kyoto Convention as amended, carried out within the framework of the process of integration of our country with the EU member states. At the same time, the verification of the expression of consent to the accession of the European Community to the Kyoto Convention as amended at that time showed that the latter had acceded, on the basis of the EU Council Decision of 17 March 2003, only to the provisions of the main text of the Protocol amending the International Convention on the Simplification and Harmonisation of Customs Procedures of 26 June 1999 and its Annexes I and II, with an additional clarification that the issue of accession to Annex III of the Protocol would be decided later (Décision (CE) № 231/2003 du Conseil du 17 mars 2003, 2003).

We would like to emphasise that, on the one hand, the activities carried out to fulfil the international obligations assumed by Ukraine under the Kyoto Convention as amended and to bring the Ukrainian customs legislation in line with all its provisions in the future will have a positive impact on the extension of the period for the development of the draft Customs Code of Ukraine dated 13 March 2012, as well as on the preparation of a report to the WCO on the fulfilment by Ukraine of its international obligations under the provisions of the Kyoto Convention as amended. However, on the other hand, it should be noted that such activities have been carried out for a long time on the basis of an international treaty that is not in force for Ukraine, with all the possible negative consequences of such activities.

It took almost five years for our country to correct the mistake made in 2006 when it acceded to the Kyoto Convention as amended, namely on 15 September 2011.

This became possible after two key conditions were met. Firstly, after the Law of Ukraine «On Amendments to the Law of Ukraine «On Accession of Ukraine to the Protocol Amending the International Convention on the Simplification and Harmonisation of Customs Procedures» of 15 February 2011 came into force on 5 March 2011, according to the provisions of which Ukraine had already acceded to the International Convention on the Simplification and Harmonisation of Customs Procedures in the amended version in accordance with Annex I to the Protocol amending the International Convention on the Simplification and Harmonisation of Customs Procedures (Law of Ukraine dated February 5, 2006, No. 227-V, 2011). Secondly, after the expiry of the period stipulated by Part 2 of Article 18 of this Convention, i.e. after three months from the date of acceptance by the WCO Secretary General of the required package of documents on accession from Ukraine.

**Conclusions.** Summing up the above, it is proposed to include the following in the list of priority actions aimed at ensuring the proper place of multilateral international treaties of Ukraine in the legislation of Ukraine on customs matters and their proper application in law enforcement practice, in particular, aimed at eliminating the mistakes that occurred during Ukraine's accession to such international treaties and the shortcomings of their publication in the database of the web portal of the Parliament of Ukraine «Legislation of Ukraine», as well as preventing their recurrence in the future:

1. Ensure that official translations of the texts of multilateral international treaties of Ukraine on customs matters are published in the database of the web portal of the Parliament of Ukraine «Legislation of Ukraine»;

2. In case Ukraine has not acceded to all the annexes to the international customs treaty, ensure that the official translation of both the main text of the international treaties and the texts of the annexes

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applicable to our country is published in the database of the Legislation of Ukraine web portal of the Parliament of Ukraine;

3. Ensure monitoring of the current versions of Ukraine's international customs treaties on the websites of their depositories in terms of the entry into force of amendments to their main text or annexes, as well as timely updating of the official translations of the texts of such international treaties in the database of the Legislation of Ukraine web portal of the Parliament of Ukraine;

4. Remove references to the dates of Ukraine's accession to multilateral international customs treaties from the database of the Legislation of Ukraine web portal of the Parliament of Ukraine, leaving information on the dates when their provisions entered into force for Ukraine. The latter should correspond to the information from the official websites of the depositories of such international treaties;

5. At the stage of studying the possibility of Ukraine's accession to the provisions of a multilateral international agreement on customs matters, ensure that its provisions are checked for compliance with the provisions of the current legislation of Ukraine on customs matters. In case of discrepancies between the rules set forth in the text of the multilateral international agreement and the rules set forth in the Ukrainian customs legislation, ensure that the identified discrepancies are eliminated before the provisions of such international agreement enter into force for Ukraine;

6. It is recommended that the Ukrainian state authorities authorised to ensure the process of accession to the existing multilateral international customs treaties periodically conduct advanced training of their personnel on various issues of international treaty law, in particular, to familiarise them with the mistakes and shortcomings that occurred in the practice of our country's accession to the existing multilateral international customs treaties.

Further research into the theoretical and applied aspects of Ukraine's accession to the existing multilateral international customs treaties remains relevant both for the development of the sciences of national customs and international customs law and for the practical activities of the law enforcement authorities of Ukraine in the field of customs.

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## БАГАТОСТОРОННІ МІЖНАРОДНІ ДОГОВОРИ УКРАЇНИ В УКРАЇНСЬКОМУ МИТНОМУ ЗАКОНОДАВСТВІ: НЕЗНАННЯ, НЕПОРОЗУМІННЯ ЧИ ДЕРЖАВНА ПОЛІТИКА?

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**Мета статті.** Метою статті є розробка пропозицій, спрямованих на усунення помилок, допущених під час приєднання України до різних чинних багатосторонніх міжнародних митних договорів, та недоліків їх оприлюднення в базі даних веб-порталу «Законодавство України» Верховної Ради України, а також на запобігання їх повторенню в майбутньому.

**Методи дослідження.** Досягнення мети дослідження зумовило необхідність використання різних методів наукового пізнання, серед яких: історико-правовий метод; діалектичний метод; порівняльний метод; системно-структурний метод; герменевтичний метод; метод аналізу; метод синтезу; метод узагальнення тощо.

**Результати.** Україна є стороною багатьох багатосторонніх міжнародних договорів з митних питань. Однак, відповідно до положень Митного кодексу України, частиною законодавства України з питань митної справи визнаються лише ті міжнародні договори України, згода на обов'язковість

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яких надана Верховною Радою України. Що стосується багатосторонніх міжнародних договорів України, ратифікованих Президентом України, то їх належність до митного законодавства України визнається на підставі практики судових органів України. Авторами доведено, що незалежно від того, який орган державної влади України надав згоду на обов'язковість багатостороннього міжнародного митного договору для нашої держави, серед теоретиків і практиків не вироблено єдиного підходу до розуміння їх сутності та призначення, а також до визначення їх місця в митному законодавстві України. Переклади текстів таких міжнародних договорів, розміщені в базі даних офіційного веб-порталу Верховної Ради України «Законодавство України», як правило, не є офіційними і не відповідають версіям їхніх оригіналів офіційними мовами, розміщеним на веб-сайтах депозитаріїв міжнародних договорів.

**Висновки.** Приклади помилок, допущених при приєднанні України до різних чинних багатосторонніх міжнародних митних договорів та недоліків їх оприлюднення в базі даних веб-порталу Верховної Ради України «Законодавство України», стосуються лише розглянутих у статті міжнародних митних договорів України і можуть доповнюватися. З метою усунення висвітлених у статті помилок і недоліків та запобігання їх виникненню в майбутньому подальші дослідження теоретичних і прикладних аспектів приєднання України до чинних багатосторонніх міжнародних митних договорів залишаються актуальними як для розвитку наук національної митної справи та міжнародного митного права, так і для практичної діяльності правоохоронних органів України у сфері митної справи.

**Ключові слова:** міжнародні митні конвенції, Всесвітня митна організація, укази Президента України, закони України, Верховна Рада України, Митний кодекс України, міжнародне митне право, митна справа.