

Law on Single Customs Tariff

Section 1. GENERAL REGULATIONS

Article 1. Purpose of the Law

The procedure defined by this law for the formation and application of a Single Customs Tariff of Ukraine with regard to the entry onto the customs territory of Ukraine of commodities and other items is established for the purpose of levying customs duties on the aforementioned commodities and other items.

Article 2. Jurisdiction of the Law

The sphere of activity of this Law is the single customs territory of Ukraine.

Customs taxation on the territory of special customs zones is regulated by this Law, other laws of Ukraine, and international accords that establish a special legal regime for those zones in each individual instance.

Article 3. The Single Customs Tariff of Ukraine

The Single Customs Tariff of Ukraine is a systematized compilation of customs duties rates levied on commodities and other items that enter the customs territory of Ukraine.

The Single Customs Tariff of Ukraine is defined in accordance with this Law and international accords of Ukraine.

The Single Customs Tariff of Ukraine establishes on the single customs territory of Ukraine customs taxation of items that enter the customs territory of Ukraine.

The Single Customs Tariff of Ukraine is based on internationally accepted norms and is developed with the idea of maximum correspondence to principles and rules of customs matters that are widely accepted in international practice.

The rates of the Single Customs Tariff of Ukraine are uniform for all subjects of foreign economic activity independent of form of ownership, organization of economic activity, and territorial location except when stipulated by laws of Ukraine and its international accords.

The Single Customs Tariff of Ukraine is approved by the Ukrainian Supreme Soviet upon request of the Ukrainian Cabinet of Ministers.

Article 4.

Customs Duties Levied on Commodities and Other Items That Are Moved Across the Customs Bonier of Ukraine

Commodities and other items that enter the customs territory of Ukraine are subject to customs duties unless otherwise stipulated by this Law.

Article 5. The Customs and Tariff Council of Ukraine

The Customs and Tariff Council functions under the Ukrainian Cabinet of Ministers for the purpose of developing proposals concerning questions of customs and tariff regulation, taking into account the interests of subjects of foreign economic activity and the state as a whole.

To the Customs and Tariff Council is entrusted:

—development of proposals with regard to basic directions in customs and tariff policy of Ukraine, including proposals concerning establishment, cancellation, or amendment of duty rates, the granting of tariffs privileges and preferences, and changes in nomenclature of the Single Customs Tariff of Ukraine;

—preparation and examination of drafts of legislative acts of Ukraine and international accords of Ukraine with regard to customs and tariff regulation;

—development of measures directed at protection of the Ukrainian market when commodities enter the customs territory of Ukraine and exit beyond its borders;

—other functions stipulated by this Law and other legislative acts.

The State Customs Committee of Ukraine fulfills functions of the operations apparatus of the Customs and Tariff Council.

Regulations concerning the Customs and Tariff Council and its makeup are approved by the Ukrainian Cabinet of Ministers.

Section II. CUSTOMS DUTIES AND THEIR FORMS

Article 6. Customs Duties

Customs duties that are levied by a customhouse are a tax on commodities and other items that are moved across the customs border of Ukraine.

Article 7. Types and Rates of Customs Duties

In Ukraine the following types of customs duties are applied:

—ad valorem, levied as a percentage of the customs value of commodities and other items subject to customs duties;

—specific, levied in an established monetary amount per unit of commodities and other items subject to customs duties;

—combined, which unites both of these forms of customs duties.

It is prohibited to apply other forms of customs duties besides those established by this Law.

Article 8. Entry Customs Duties

Entry customs duties are levied on commodities and other items when they enter the customs territory of Ukraine.

Entry customs duties are differentiated as follows:

—preferential rates of entry customs duties stipulated by the Single Customs Tariff of Ukraine apply to commodities and other items that come from states that belong, together with Ukraine, to customs unions or create with it special customs zones or in the event of the establishment of any special preferential customs regime in accordance with international accords with the participation of Ukraine, as well as to commodities and other items of developing countries;

—favorable rates of entry customs duties stipulated by the Single Customs Tariff of Ukraine apply to commodities and other items that come from countries or economic unions that enjoy most favored status in Ukraine, which means that foreign subjects of economic activity of these countries or unions enjoy privileges with regard to customs duties, with the exception of instances when the afore mentioned customs duties and the privileges for them are established within the framework of a special preferential customs regime;

—full (general) entry customs duties rates stipulated by the Single Customs Tariff of Ukraine apply to the rest of the commodities and other items.

Article 9. Exit Customs Duties

Exit customs duties are levied on commodities and other items when they exit the borders of the customs territory of Ukraine.

Article 10. Seasonal Customs Duties

Seasonal entry and exit customs duties may be established on individual commodities and other items for a period of no more than four months from the moment of their establishment.

Article II. Special Types of Customs Duties

In individual instances the following may be applied to the entry onto the customs territory of Ukraine and the exit beyond the border of that territory of commodities independent of their type of customs duties:

- special customs duties;
- anti-dumping customs duties;
- compensatory customs duties.

Article 12. Special Customs Duties

Special customs duties are applied:

- as a protective measure when commodities enter the customs territory of Ukraine in such quantities or under such conditions as to harm or threaten to harm domestic producers of similar or directly competing commodities;
- as a preventive measure with regard to participants of foreign economic activity that violate statewide interests in this sector and as a measure for halting unfair competition in instances defined by laws of Ukraine;
- as a measure in response to discriminatory actions and (or) unfriendly actions on the part of foreign states against Ukraine or in response to actions of individual countries and their unions that restrict the exercise of the legal rights and interests of subjects of foreign economic activity of Ukraine.

The rate of special customs duties is established in each separate instance.

Article 13. Anti-Dumping Customs Duties.

Anti-dumping customs duties are applied in instances:

of the entry onto the customs territory of Ukraine of commodities at a price substantially lower than their competitive price in the country of export at the moment of export if such entry harms or threatens to harm domestic producers of similar or directly competing commodities or binds the organization or expansion of production of similar commodities in Ukraine.

of the exit beyond the borders of the customs territory of Ukraine of commodities at a price substantially lower than prices for the rest of the exporters of similar or directly competing commodities at the moment of exit if such exit harms or threatens to harm statewide interests of Ukraine.

The rate of the anti-dumping customs duties cannot exceed the difference between the competitive wholesale price of the object of dumping in the country of export as of the moment of export and the declared price upon its entry onto the customs territory of Ukraine or the difference between the price of the object of dumping from Ukraine and the average price of the Ukrainian export or similar or directly competing commodities during that same period of time.

Article 14. Compensatory Customs Duties

Compensatory customs duties are applied in instances:

—of the entry onto the customs territory of Ukraine of commodities whose production or export is directly or indirectly subsidized if such entry harms or threatens to harm domestic producers of similar or directly competing commodities or binds the organization or expansion of production of similar commodities in Ukraine;

—of the exit beyond the borders of the customs territory of Ukraine of commodities whose production or export is directly or indirectly subsidized if such exit harms or threatens to harm the state interests of Ukraine.

The rate of the compensatory customs duties may not exceed the revealed amount of the subsidies.

Article 15. Procedure for Applying Special, Anti-Dumping, and Compensatory Customs Duties

An investigation is conducted to establish instances that are grounds for the application of special,

anti-dumping, and compensatory customs duties.

The investigation is conducted by the Ministry of Foreign Economic Relations at the application of Ukrainian or foreign interested state organs, enterprises, and organizations as well as at the initiative of the Customs and Tariff Council of Ukraine.

According to the results of the investigation, special, anti-dumping, and compensatory customs duties are applied in instances stipulated in Articles 12, 13, and 14 of this Law.

Article 16. The Customs Value

The levying of customs duties on commodities and other items that are subject to imposition of customs duties is conducted on the basis of their customs value, in other words, the price that is actually paid or is subject to payment for them at the moment they cross the customs border of Ukraine. When determining the customs value, the price of the commodity indicated in the dispatch note and invoice is included in it, as well as the following actual expenses if they are not included in the dispatch note and invoice:

—expenses for transportation, loading, unloading, reloading, and insurance to the point where the customs border of Ukraine is crossed;

—commission and brokers expenses;

—payment for the use of objects of intellectual property that pertain to those commodities and other items and that must be paid by the importer (exporter) directly or indirectly as a condition for their entry (exit).

When there is a clear lack of correspondence of the declared customs value of commodities and other items to the value that is determined according to the provisions of this Article or in the event of the impossibility of verifying its calculation, customs organs of Ukraine determine the customs value consistently on the basis of the price on identical commodities and other items or prices on similar commodities and other items existing in leading exporter countries of the aforementioned commodities and other items.

Article 17. Calculation and Payment of Customs Duties

Customs duties are calculated by the customs organ of Ukraine in accordance with the provisions of this Law and the rates of the Single Customs Tariff of Ukraine in effect on the day of the submission of the customs declaration and are paid either in Ukrainian currency or in foreign currency, which is purchased by the National Bank of Ukraine.

Customs duties are deposited to the state budget of Ukraine.

When determining the customs value and paying customs duties, foreign currency is changed into Ukrainian currency at the rate of exchange of the National Bank of Ukraine that is applied to settlements on foreign economic operations and in effect on the day of the submission of the customs declaration.

Customs duties are paid to customs organs of Ukraine or, with regard to commodities and other items that are sent through international mail, to communications enterprises. The procedure for granting delays in payment of customs duties and payment in installments is established by the State Customs Committee of Ukraine.

Article 18. Determining the Country of Origin of Commodities

The country of origin of commodities is considered to be the country where the commodities were fully produced or underwent sufficient processing or reworking.

The following are considered to be commodities fully produced in a given country:

a) minerals extracted within the borders of its territory or economic zone;

plant products grown on its soil

live animals raised in it;

d) products derived in it from live animals

e) products of the hunting, fishing, and sea industries produced in it;

0 products of the sea industry obtained or produced on the open seas by ships of the given country as well as

ships leased (chartered) by it;

g) secondary raw materials and waste materials that are the result of production and other operations performed in the given country;

h) commodities produced in the given country exclusively from products indicated in points a-g of this Article.

The processing or reworking of commodities in the given country is considered to be sufficient if:

—the declared commodities are classified in terms of the tariff as distinct from the materials or goods that originate in third countries and were used for their preparation; or

—in the value of the declared commodities the portion of the added value is no less than 50 percent.

The following industrial operations may not be defined as sufficient processing of commodities:

—the preservation of commodities during the time of their storage or transportation;

—preparation of commodities prior to sale and transportation (retailing of a consignment, formation of a shipment, sorting, and repackaging);

—simple assembly operations;

—mixing of commodities (components) without giving the final product a nature that substantially distinguishes it from the initial components.

Section III. CUSTOMS DUTIES EXEMPTIONS AND TARIFF PRIVILEGES AND PREFERENCES

Article 19. Customs Duties Exemptions

The following are exempted from payment of customs duties:

a) vehicles that perform regular international transportation of cargo, baggage, and passengers as well as material and technical supplies and provisions, fuel, food, and other property necessary for their normal use while they are on the road and at intermediate stops or purchased abroad in conjunction with servicing accidents (breakdowns) of those vehicles;

b) material and technical supplies and provisions, fuel, raw materials for industrial processing, food, and other property that exits the borders of the customs territory of

Ukraine to provide for the production activity of Ukrainian ships and ships leased (chartered) by Ukrainian enterprises and organizations engaged in sea industry, as well as the output of their industry that enters the customs territory of Ukraine;

c) Ukrainian currency, foreign currency, and securities;

d) commodities and other items that are subject to conversion to the ownership of the state in instances stipulated by laws of Ukraine;

e) commodities and other items that, prior to their passage across the customs border of Ukraine, have become as a result of damage unsuitable for use as goods or materials;

f) items that enter Ukraine for official and personal use or exit the border by organizations and persons that, in accordance with international accords of Ukraine and laws of Ukraine, enjoy the right of duty-free entry and exit of such commodities;

g) commodities and other items that originate on the customs territory of Ukraine and enter back onto that territory without processing or reworking, as well as commodities and other items of foreign origin that exit back beyond the border of the customs territory of Ukraine without processing or reworking;

h) commodities and other items that enter the customs territory of Ukraine again and originate from another territory for which customs duties were already paid during an initial entry onto the customs territory of Ukraine and which temporarily exited its borders;

i) commodities and other items that exit the borders of the customs territory of Ukraine again and originate from that territory for which customs duties were already paid during an initial exit beyond the borders of the customs territory of Ukraine and which temporarily entered that territory;

j) other commodities and other items that are defined by laws of Ukraine.

Article 20. Reductions in the Level of Customs Duties

A reduction in the rate of customs duties is permitted upon the entry onto the customs territory of Ukraine and the exit beyond the borders of that territory of commodities and other items:

- a) that are repaired and previously entered the customs territory of Ukraine or exited the bounds of that territory;
- b) that are damaged prior to their movement across the customs border of Ukraine but are suitable for use as goods or materials;
- c) in other instances defined by laws of Ukraine.

Article 21. Customs *Duties* Levied When Crossing the Borders of Special Customs Zones

Duty-free entry and exit or favorable levying of customs duties is permitted on goods:

- that enter special customs zones on the territory of Ukraine for final consumption in those zones;
- that exit special customs zones for consumption beyond the customs territory of Ukraine and originate in those zones;
- that exit special customs zones onto the customs territory of Ukraine and originate in those zones.

The amount of the privileges stipulated by this Article and the procedure for granting them is established by the Ukrainian Supreme Soviet in accordance with laws of Ukraine on special customs zones by way of the adoption of a separate law for each such zone.

Article 22. Tariff Preferences

Establishment of preferences with regard to rates of the Single Customs Tariff of Ukraine is permitted in the form of exemption from the customs duty, reduction of the rates of the customs duty, or establishment of quotas on preferential entry with regard to commodities and other items:

- that originate in states which create together with Ukraine a customs union or a free trade zone;
- that originate in developing countries that enjoy a General System of Preferences;
- that circulate in border trade.

Article 23. Conditional Duty-Free Entry and Exit

Commodities and other items that enter temporarily onto the customs territory of Ukraine and are designated for return exit beyond its border within an established period of time in an unchanged state or in repaired form as well as commodities and other items that exit temporarily beyond the customs territory of Ukraine and are designated for return entry onto that territory within an established period of time in an unchanged state are permitted across the customs border of Ukraine without payment of customs duties. The period of time for conditional duty-free entry and exit is determined by the customs code of Ukraine.

Article 24. Refund of Customs Duties

Duties paid for commodities that enter the customs territory of Ukraine for construction, assembly, processing, or reworking with subsequent return exit within a period of one year may be fully or partially returned to the owner of the commodities upon their exit beyond the borders of the customs territory of Ukraine and the presentation of certificates concerning the use of these commodities for purposes aforementioned in this Article.

Article 25. Refund of Overpaid and Collection of Underpaid Customs Duties

Sums of overpaid customs duties are subject to return to the owner of commodities and other items at his request within a period of one year from the moment that the duty is collected.

Customs duties not paid within a period of time granted for deferral of payment or payment in installments

as well as those not paid as a result of other actions that caused the shortfall are collected at the instructions of the customs organs of Ukraine on a compulsory basis.

Customs duties not paid on a timely basis are collected for the entire period of indebtedness into the budget with imposition of a fine in the amount of 0.2 percent of the sum of the shortfall for each late day, including the day of payment.

Section IV. FINAL REGULATIONS

Article 26. International Accords of Ukraine

If rules other than those listed in this Law and other acts of Ukrainian legislation on the customs tariff are established by international accord of Ukraine, the rules of the international accord apply.

[Signed) L. Kravchuk, president of Ukraine Kiev, 5 February 1992

Decree on Implementation

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("Decree of the Ukrainian Supreme Soviet on the implementation of the Law of Ukraine 'On a Single Customs Tariff'")

(Text) The Ukrainian Supreme Rada decrees:

1. To implement the Law of Ukraine "On a Single Customs Tariff" as of 1 March 1992.
 2. Until such time as Ukrainian legislation is brought into correspondence with the Law of Ukraine "On a Single Customs Tariff," existing acts of Ukrainian legislation are applied insofar as they do not contradict this Law.
 3. For the Ukrainian Cabinet of Ministers, prior to 1 April 1992:
 - to draft and submit for the approval of the Ukrainian Supreme Soviet a Single Customs Tariff;
 - to bring rulings of the Government of Ukraine into correspondence with the Law of Ukraine "On a Single Customs Tariff" and to ensure review and cancellation by ministries, state committees, and agencies of Ukraine of their legislative acts, including instructions, that contravene the aforementioned Law.
- {Signed] 1. Plyushch, chairman of the Ukrainian Supreme Rada 5 February 1992