

**ЕКОНОМІКА ТА УПРАВЛІННЯ НАЦІОНАЛЬНИМ ГОСПОДАРСТВОМ**

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**EXPERIENCE OF LEADING COUNTRIES IN BUILDING MECHANISMS OF EXPORT CONTROL AND AREAS OF IMPLEMENTATION OF SUCH EXPERIENCE IN UKRAINE****ДОСВІД ПРОВІДНИХ КРАЇН СВІТУ У ПОБУДОВІ МЕХАНІЗМІВ ЕКСПОРТНОГО КОНТРОЛЮ ТА НАПРЯМИ ІМПЛЕМЕНТАЦІЇ ЦЬОГО ДОСВІДУ В УКРАЇНІ**

**Urgency of the research.** Harmonization of the system of state export control with analogous systems of other countries is one of the key factors supporting the high rates of economic activity in the field of production and sale of military and dual-use goods.

**Target setting.** The development of measures for the harmonization of the national export control system in Ukraine with analogous systems of other countries requires monitoring of the development of export control systems in the leading countries of the world as the basis for implementation in the work of the domestic system of the best international standards, implementation of advanced technological advances and export control instruments.

**Actual scientific researches and issues analysis.** Leading scientists (such as S. Halaka, H. Perepelytsia, O. Siver, O. Hryshutkin, O. Bovenko, A. Ostapenko and others) work on issues of application of organizational and economic instruments of export control. However, available researches do not reveal comprehensive assessment of the international experience in building systems and mechanisms of export control.

**Uninvestigated parts of general matter defining.** The scientific works existing do not reveal a comprehensive assessment of international experience in the development of export control systems and mechanisms

**The research objective.** The objective of the article is to bring results of generalizations about the experience of leading countries in building the export control mechanisms, and on this basis - to determine areas of implementation of this experience in Ukraine.

**The statement of basic materials.** A comparative analysis of the list of controlled products in the leading countries of the world is carried out. The grouping of countries is presented in accordance with the rules and procedures of state export control. The normative legal acts of the leading countries of the world on the subject of economic appointment and principles of policy in the field of state export control are analyzed. The peculiarities of operational management in the field of state export control in the USA and EU countries are established

**Conclusions.** The directions of improvement of the domestic system of export control are defined on the basis of analysis of the best experience in constructing the system and mechanisms of state export control of the leading countries.

**Keywords:** export control; military goods; dual-use goods; export; import; movement of economic assets.

**Актуальність теми дослідження.** Гармонізованість системи державного експортного контролю з аналогічними системами інших країн виступає одним із ключових факторів підтримки високих темпів економічної діяльності у сфері виробництва і реалізації товарів військового призначення та подвійного використання.

**Постановка проблеми.** Розроблення заходів гармонізації національної системи експортного контролю в Україні з аналогічними системами інших країн потребує моніторингу розвитку систем експортного контролю провідних країн світу як основи для впровадження у роботі вітчизняної системи кращих міжнародних стандартів, імплементації передових технологічних досягнень та інструментів експортного контролю.

**Аналіз останніх досліджень та публікацій.** Над проблематикою застосування організаційно-економічного інструментарію експортного контролю плідно працюють провідні науковці (зокрема, С. П. Галака, Г. М. Перепелиця, О. І. Сівер, О. М. Гришуткін, О. Я. Бовенко, А. В. Остапенко).

**Виділення недосліджених частин загальної проблеми.** Наявні наукові праці не розкривають комплексної оцінки міжнародного досвіду побудови систем та механізмів експортного контролю.

**Постановка завдання.** Мета статті – з'ясувати особливості побудови механізмів експортного контролю провідних країн світу, і на основі отриманих результатів розробити напрями імплементації в Україні кращого міжнародного досвіду організації експортного контролю.

**Виклад основного матеріалу.** Здійснено компаративний аналіз списків контрольованих товарів у провідних країнах світу. Представлено групування країн відповідно до правил та процедур державного експортного контролю. Проаналізовано нормативно-правові акти провідних країн світу на предмет економічного призначення та принципів політики у сфері державного експортного контролю. Встановлено особливості оперативного управління у сфері державного експортного контролю у США та країнах ЄС.

**Висновки.** На основі аналізу кращого досвіду побудови системи та механізмів державного експортного контролю провідних країн визначено напрями удосконалення вітчизняної системи експортного контролю.

**Ключові слова:** експортний контроль; товари військового призначення; товари подвійного використання; експорт; імпорт; переміщення економічних активів.

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**Urgency of the research.** The phenomenon of export controls has emerged as an idea of normative (legal) restrictions of “undesirable” export of certain assets, if the use of these assets by other countries catalyses global security risks.

Export control as a phenomenon of social life involves certain measures, if economic asset (product), subject to the state export controls, crosses the border. In other words, export control is possible in a situation, where there is interaction between business entities of at least two states. In such circumstances, is it quite fair to say that the procedure and activities of export control of different states should be harmonized with one another to some extent. This is due to three main reasons: first, the need for a coherent interaction of the state export control authorities on monitoring economic transactions; second, practicality of minimization of “double” bureaucratic procedures, which increase the transaction costs of business entities unnecessarily; third, the actual content of export control aimed at avoiding and minimizing threats in the field of international relations and should be based on clear international standards.

It should also be noted that foreign trade business entities, creating their own economic development strategy, usually pay attention to regulatory regimes in other countries, because the above is related to certain economic risks. Thus, the availability of the effective and efficient system of the state export control, which is harmonized with the similar systems in other countries, that is “understandable” for business entities in different countries, is one of the key factors of supporting high rates of economic activity in manufacturing, supply and sale of military and dual-use goods.

It is therefore advisable to conduct a research aimed at finding out peculiarities of building mechanisms of export control mechanisms of leading countries, and based on the results obtained, to develop areas of implementation of the best international experience of export control in Ukraine. This is how the relevance of the research is justified.

**Target setting.** In this context, learning, understanding and implementing of the experience of leading countries to build national export control mechanisms are relevant and meaningful. It is just due to the impact of this work both the state’s ability to implement agreed measures regarding the state export control with the relevant authorities of other countries, and the effectiveness of control and verification procedures at the practical level depend on.

Thus, the state policy in the field of export control should include continuous monitoring of the export control systems of leading countries, especially countries, which have leading positions in the global weapon market. Programs (measures) of harmonization of the national export control system in Ukraine with the similar systems in other countries, implementation of the best international standards in the national system, implementation of advanced technological achievements and export control instruments, should be developed on the basis of the said monitoring.

**Actual scientific researches and issues analysis.** Some generalizations of administrative and managerial, organizational and economic instruments of export control are given in the workbook under the editorship of O. Hryshutkin [1]. The meaning of export control at the practical level is presented in the legislation of Ukraine [4].

Scientific researches [5; 8] present a description of individual elements of the export control systems in the world. Studying elements of the export control systems in individual countries has been carried out on the basis of reference books and information resources on the Internet [2; 3; 6; 7]. Some scientific researches give a description of certain elements of the export control systems in leading countries.

However, these sources do not reveal comprehensive assessment of the international experience in building systems and mechanisms of export control.

**Uninvestigated parts of general matter defining.** At the same time, the economic literature has almost no information on issues of building organizational and economic mechanisms of export control. There is no even a clear understanding of export control as an object of economic research.

The following unexplored aspects of the problem have been emphasised in the context of the subject of the research: analysis of the experience in building the export control systems in the US and EU, analysis of modern peculiarities of transformation of the export control systems of these countries, a realistic evaluation of opportunities of implementation of the learned experience in Ukraine.

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**The research objective.** The objective of the article is to bring results of generalizations about the experience of leading countries in building the export control mechanisms, and on this basis - to determine areas of implementation of this experience in Ukraine.

**The statement of basic materials.** Formation of mechanism of export control is believed to be associated with the beginning of "Cold War" and attempts to stop nuclear weapon spread in the second half of the 1940s. The Congress of the USA adopted the Atomic Energy Act of 1946, which contained provisions aimed at non-spread of technologies in the field of nuclear energy and creation of certain export control mechanisms [1, p. 43]. In particular, any information under the Act, relating to manufacturing and the use of nuclear materials and related equipment, was declared as "restricted." According to modern specialists, the Act was also aimed at preserving the US monopoly for manufacturing and the use of nuclear energy, i.e. it had purely economic reasons [2].

Today, many countries of the world, including Ukraine, have adopted regulations governing the mechanism and procedures of export control and created the authorities exercising specific control and licensing procedures in the field of export control [3; 4].

Leading countries in the world weapon market are the US, Russia, China and some EU countries - UK, Germany, France. We believe that studying the experience of these countries is of interest in the context of the subject of the research. However, given the Euro-Atlantic orientation of Ukraine's foreign policy course, the object of the research is the export control system of the US and some EU countries.

*The European Union.* The EU export control system as a whole is not considered tight as export restrictions are considered one of the factors limiting economic growth.

Currently, the EU export of military equipment, military technology and dual-use economic assets is up to 10% of the total EU export, the export is carried out by more than 5,000 companies [5, p. 27]. In other words, one in ten of the EU foreign supply is subject to export control.

One of the economic factors of development of the EU export control system is rapid expansion of dual-use economic assets suppliers, due to liberalization of economic activities and support of the national competitiveness. In recent years, the requirements for attracting investment and establishing economic activities have been greatly simplified in many areas of material production [6].

All the EU states are members of only two regimes of export control - the Australia Group and the Nuclear Suppliers Group. Cyprus is not a member of regime "Wassenaar Agreement," Cyprus, Estonia, Latvia, Lithuania and Malta have not acquired yet membership in the Zangger Committee, the same countries along with Romania, Slovakia and Slovenia do not participate in the Missile Technology Control Regime [3; 6].

According to leading experts, the policy of the EU countries in the field of export control consists of several elements, and the so-called "market economy policy" is also taken into account. The market economy policy includes consideration of status of both the national and international market of military and dual-use goods, interests of participants of the market, interests of economic integration of the EU countries, and the impact of international trade liberalization factors [1, p. 304].

In forming the policy of the state export controls in the EU countries, various criteria, including criteria in the field of economy and economic security are considered. In particular, the efficient use of human and economic resources.

The main role in forming export control regime is played by the EU Customs Union, which has been created by the Member States of the European Community. The EU regulations provide obligations for the non-spreading of goods, control of movement (transfer) of goods, the procedure for application and implementation of sanctions, responsibility for violating the law, etc. [6].

Specific restrictions concern certain types of economic assets, which come in certain countries. Typically, these are dual-use goods, if they are shipped to Asia and Africa. Goods and nuclear technologies can be shipped free, except for cases, when these economic goods are delivered in countries, listed in the so-called "sanction lists."

The EU authorities actively use the procedure of introduction of temporary restrictions, in the first place - on the application of embargo (complete or partial ban of supplies in some countries). Partial

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embargo is in effect with regard to Angola, Serbia, Libya, Ethiopia, Afghanistan, China, Iran, Armenia, Azerbaijan and other countries [7, p. 23].

Movement of any economic assets within the EU is free, with the exception for military goods and certain exceptions (military equipment repair service, know-how, designed for military equipment, etc.).

The export control systems of the EU countries, though formed by common principles and standards, have some differences due to the policy of formulation and implementation of measures in the field of economic security and peculiarities of military and industrial complex. Thus, the United Kingdom is trying to comply with obligations, which it has undertaken as a sovereign state and a member of the EU, taking into account position of its strategic partners, especially the US. In addition, the British government, especially the Export Control Service, has ideology of "being an exporter assistant rather than a controller," that is trying to perform mainly information and advisory functions. In France, legislation on export control is based on incorporate provisions of the international agreements and commitments. The French authorities are aimed at implementing of recommendations of international organizations, including the UN and the OSCE, even if these recommendations are not part of the national law of France [3].

O. Bovenko presents data on different causes, which have led to the existence of differences in the export control systems of European countries. Among these causes there is administrative (Member States of the EU use different approaches and interpretations in the field of export control, which is explained by different background of formation of the relevant law), substantive (Member States of the EU have set different rules and procedures for permits (export licenses) provided by relevant regulations), operational (Member States of the EU interpret positions of control lists in a different way) [5, p. 26-27].

The export control system of the EU and individual European countries is in the state of reform. In June 2011 the European Commission has developed a document entitled "The Green Book. The European Union Dual-Use Export Control System: Providing Security and Competitiveness in a Changing World" [5; 8]. Clearly, the stated reform, in case of success, has an impact on the export control system of Ukraine, since Ukraine has declared European integration as one of the key priorities of the foreign policy and a number of provisions of European regulations in the field of foreign trade have been introduced to the national laws.

*The United States (US).* The US export control system is considered the oldest, because some elements of the system were created in the early twentieth century.

The US law on export control impacts both the international legal system of export control, and legislation in other countries, including the EU countries [2].

The specificity of the US export control mechanism is the large number of legal norms, which establish the rules and procedures in the field of export control. The said is due to specifics of the military and industrial complex of the country, which produces a significant number of military and dual-use goods, as well as active foreign policy, which provides for restrictions in relations with some countries and assistance in relations with others. Also, it should be noted that the US companies carry out so-called "selective" foreign policy, changing the price and terms of delivery, depending on the destination country, which is reflected in the use of instruments of export control [6].

In terms of export control all the economic assets (goods) are divided into three groups: products, which are not subject to export control (this group includes all products that are not in the list); military goods, listed in the US Munitions List; dual-use goods, listed in the Commercial Control List. Business entities are responsible for the correct identification of goods (assignment of them to one of the export control regimes). If one of the counterparties does not have expertise in the field of export control, it has to direct a classification request: for military goods - to the Defence Trade Service of the US State Department, for dual-use goods - to the Industry and Security Bureau of the US Department of Commerce.

It should be noted that application of export control regime in the US depends not only on the product, as well as on the destination country. In the US, countries are divided into groups A, B, D, E, depending on the degree of threat assessment. Countries of Group A are allies of the US, countries of

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Group E are countries, for which embargo is applied on all or certain positions. Some products can be exported only to countries of Group A, the other - only to countries of Groups A and B, etc.

In the US trade law there is a concept of "license exception". Licensed exception is a statutory possibility to export without the license, even if certain documents lay obligations to obtain them by business entities. Regulations on licensing exemptions are established in respect of goods within its description in the Commercial Control List. Such exceptions are usually imposed on the small amount delivery (up to a certain amount), supply to certain countries, supplies to natural persons and other cases [2]. The export license must be obtained by exporter, located in the United States. Most applications for obtaining of the license are executed by electronic means. Term of consideration of applications, usually, is not more than 9 days. During this period, the export control authorities independently examine (identify) goods and receive the necessary information from other state bodies (if necessary). In case of violation of export control, financial sanctions are applied to business entities, and in some cases they are brought to criminal responsibility.

The US export control system is estimated by experts as rather difficult (due to the large number of legal rules and exceptions), but the mechanism of administration is rather simple, because it is simple and automated as much as possible.

**Conclusions.** Based on the research, we can identify the main differences between the systems and mechanisms of the state export control in leading countries of the world, primarily in the US and the EU, on the one hand, and the state export control system in Ukraine on the other. In our point of view, there are several important (fundamental) differences:

1. Leading countries (especially the US) have controlled countries lists in addition to control lists ("controlled goods lists"). All the countries are classified into groups, and application of different rules and procedures depends on it during export. The laws and regulations of the EU establish more strict export control requirements, if delivery is made to countries with lower development.

2. Legislation of leading countries provide for the principle of extraterritorial application of economic sanctions.

3. Legislation of leading countries contains relatively elaborated provisions on export control of technology and other intangible assets.

4. Legislation of leading countries contains clear provisions on the economic purpose of export control. It is noted, in particular, that one of the principles of the state policy in the field of export control is to maintain the national competitiveness, market protection, ensuring economic security of the state.

5. The export control systems of leading countries are rather "flexible," because a significant number of procedural matters are regulated by subordinate regulations, which are approved by a more simple procedure than the law. In addition, the US and EU authorities of operational management in the field of the state export control have greater autonomy. Many organizational and economic procedures are performed, using modern computer tools.

These generalizations have to be considered (implemented) in formulation and implementation of the state policy in the field of export control. Implementation of the best experience and building the system and mechanisms of the state export control, which has been tested in leading countries, will solve a number of economic problems, including the following:

- simplification of the state export control procedure, which will reduce the transaction costs of manufacturers and other foreign trade business entities,
- formation of a modern and harmonized with the best international practices organizational and economic mechanism of export control, which will boost export and import activities,
- creation a modern mechanism management of the state export control system on-line through the use of modern computer technology,
- enabling effective interaction of the government of Ukraine with the authorities of other countries, which will increase the economic efficiency of the state export control,
- minimization of the human factor ("red tape") in implementation of economic control over movement of economic assets, which are subject to the state export control,
- strengthening European integration direction of reforms in Ukraine.

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