

# Economic and legal principles of customs security in the context of international internet trade

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## Abstract

This article is devoted to the substantiation and developers of economic and legal principles of security in the context of international Internet trade. A special solution of international Internet trade as an object of strong security is considered. The economic benefits of participants in international Internet trade have been established, which determine its intensification and the threat of minimal security on their basis. The main international organizations dealing with customs security in the field of international Internet trade are the World Customs Organization (WCO), the World Trade Organization (WTO), and the United Nations Conference on Trade and Development (UNCTAD). The characteristics of the main sources of the international level on dimensional security in the context of conventions and agreements are given. The economic and legal bases of customs security in the context of international Internet trade are systematized and formed.

**Key words:** customs security, customs legislation, customs procedures, Internet, international trade, e-commerce.

## Introduction

With the transformation of market relations and the intensification of globalization, new types of business have begun to develop in the world, one of which is e-commerce. The Internet allows you to work in the virtual market of international trade, which significantly reduces the costs of enterprises, expands markets and opportunities for cooperation with suppliers, but at the same time creates dangers and new problems for its participants.

Evolutionarily, the development of mankind outlined the development of crime. Any discovery was accompanied not only by progress, but also gave a significant impetus to the development of crime. At present, the segment of international Internet trade has created the problem of illegal import of products via the Internet, which has been repeatedly emphasized by bona fide business

entities to the state authorities as a recommendation for action. Thus, according to a recent study, the volume of smuggled supplies over the past 5 years averaged \$ 1.77 trillion per year, and among the leaders in smuggled supplies are home appliances and electronics, which is more than 20% of this figure. According to experts, the volume of illegal imports of some categories of equipment is 50-70% (European Business Association, 2020).

This situation in the field of international Internet trade has intensified the need to develop economic and legal framework for customs security in this area given the current trends to create conditions for liberalization of foreign trade, prevention of smuggling and violation of customs rules, improvement of customs legislation to common world standards; accelerating the flow of goods and passengers

across the customs border, providing the consumer market with quality foreign products

and preventing the import of goods dangerous to human health.

## Material and methods

Issues of customs security, theoretical and methodological foundations of the mechanism of its provision, methods of calculating indicators that help characterize the state of customs security, studied domestic experts in the field of customs Pashko P.V., Berezniuk I.H. (2013), Kalinichenko A.I. (2015), Stelmashchuk A.M. (2011), Pudryk D.V. (2016), Brachuk A.O. (2017), Kaliuta A.B. (2019) and other scientists.

Berezniuk I.H. (2013) explores in its work methods for managing the effectiveness of customs authorities in order to reduce threats to customs security of Ukraine, in particular, develops criteria for assessing the level of customs security and measures to improve the latter. Much attention has been paid to customs security by Pashko P.V. (2013), which in his monograph and a number of other works examines the theoretical, methodological and practical aspects of its provision, indicators that assess the level of security interests, as well as levers of state regulation that should be used to comply with national interests in customs. In addition, the scientist considers the problematic aspects of the introduction of electronic

declaration in the practice of customs authorities in order to ensure customs security.

Kalinichenko A.I. (2015) in his research focuses on the importance of international organizations in the field of customs security and the limitations that the process of globalization imposes on the ability of the customs system to work effectively.

Stelmashchuk A.M. (2011) studies the problem of increasing the role of customs policy in the system of protection of the internal market and explores effective mechanisms to influence the balance of customs policy in the context of integration processes.

Despite the existence of thorough scientific works, which consider the theoretical and methodological principles of customs security, it should be noted that some problematic aspects of customs security need further study.

The purpose of the article – substantiation and development of economic and legal principles of customs security in the context of international Internet trade, taking into account the measures of legislative, administrative, procedural, program and technical levels.

## Results and discussion

The growth of trade through international e-commerce has created enormous opportunities for the world economy, providing new drivers, creating new regimes, creating new consumer trends and new jobs, organizing new sales channels and leading to the emergence of e-commerce. The unprecedented growth of e-commerce has revolutionized the marketing, sales and purchasing of goods, expanded the range, as well as options for shipment, payment and delivery.

The main elements of the e-commerce system in international e-commerce are: special software; database management system; telecommunications and communication; a system that ensures the security of acts of purchase and sale of goods and services; legal

support; virtual banking system; special payment systems; automated warehousing; system of delivery of goods and provision of services; financial institutions (brokerage and other offices); system of taxation and customs tariffs; marketing service, which includes: banner advertising, sales department, design department of Web pages, Web servers, pricing department.

International e-commerce as a system includes: e-business entities (manufacturers, sellers, intermediaries, buyers, consumers), processes (sales of products and services, marketing, settlement operations, etc.) and networks (both internal and global). All components of e-commerce are interconnected through network communication. Since

international e-commerce is a very dynamic phenomenon in terms of development, both for the producer and the consumer, it is important to assess on the one hand the benefits that will bring to e-business, and on the other – the

potential problems that may arise in their interaction. Systematization of economic benefits of participants in international Internet trade is presented in Figure 1.

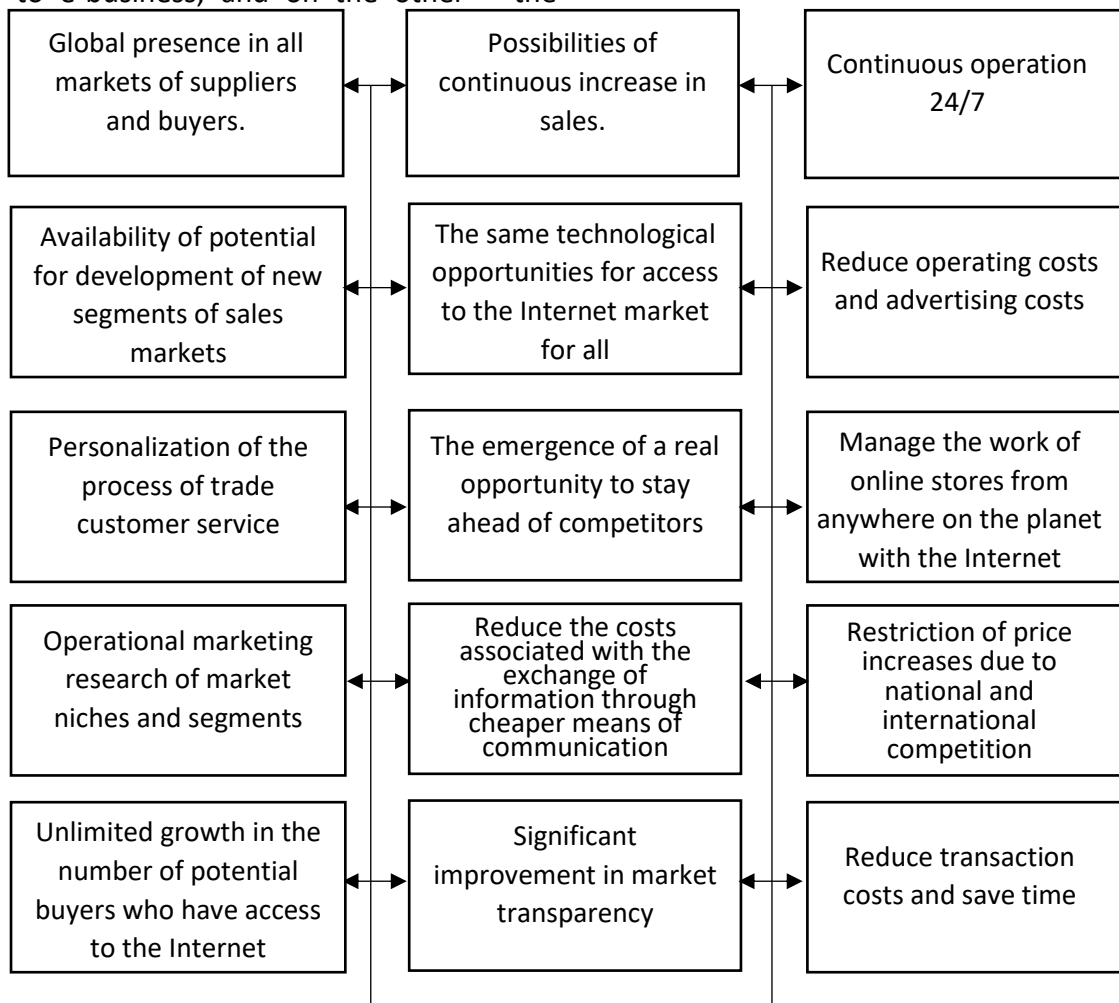


Fig. 1 – Economic benefits of participants in international Internet trade

Resource: author's development

The organization of international e-commerce should be based on the use of traditional legal norms and rules, provide for the development of new specialized institutions and procedures, forming the security of interaction between participants. Under the security of international e-commerce, it is advisable to understand the state of protection of the interests of the subjects of relations that carry out commercial operations (operations) using e-commerce technologies, from threats of material and other losses.

At the same time, international e-commerce, in particular, transactions between a

commercial organization and consumers and the relationship between consumers, pose a number of challenges for both countries and entrepreneurs. In particular, these issues affected the customs security of countries around the world, as it is the guarantee of customs security designed to address the growing problems associated with the growth of goods, works and services, lack of global standards and principles, and increasing risks of border crossing.

Today there is a wide range of doctrinal approaches to the definition of customs security in various sources of research – humanitarian,

legal, economic, but many of them are characterized by a priori insufficient understanding and justification of the main features of customs security and correlation with other forms, mainly national and economic security.

If we analyze the theoretical and methodological developments of scientists, they can be divided into two large groups. The first group of scientists understands customs security as a set (system) of effective economic, legal, political and other measures in the customs sphere. The second group bases the author's definitions of the term "customs security" on the legislative definition of this term, i.e. the understanding of it as a state of protection of customs interests. With regard to the first approach, in our opinion, the proposed definition more characterizes the concept of "customs security". That is why we also support, this approach fully reflects the semantic meaning of the concept of "customs security" (Pudryk D.V., 2016).

Of course, such definitions of scientists have a right to exist, but we consider it inappropriate

to list all the structural elements that characterize customs security, as it complicates the understanding of this term. Without entering into controversy with scientists on the definition of "customs security", we present our own position on this issue, we see the essence of customs security in international Internet trade in the protection of state interests in the customs industry, regardless of any threats.

The main requirements for the customs security system in the field of international Internet trade are: legality, cooperation and interaction, responsibility, comprehensive protection, timeliness of response to threats and their minimization. In modern domestic and foreign literature, the topic of the use of information technology, in particular the Internet, in the management of enterprises is presented quite widely. There are also special projects on the Internet dedicated to e-commerce, in particular [www.business.rin.ru](http://www.business.rin.ru), [www.eCommerce.ru](http://www.eCommerce.ru), etc., which address current issues in this area. In general, the threats to customs security in international e-commerce are presented in Figure 2.

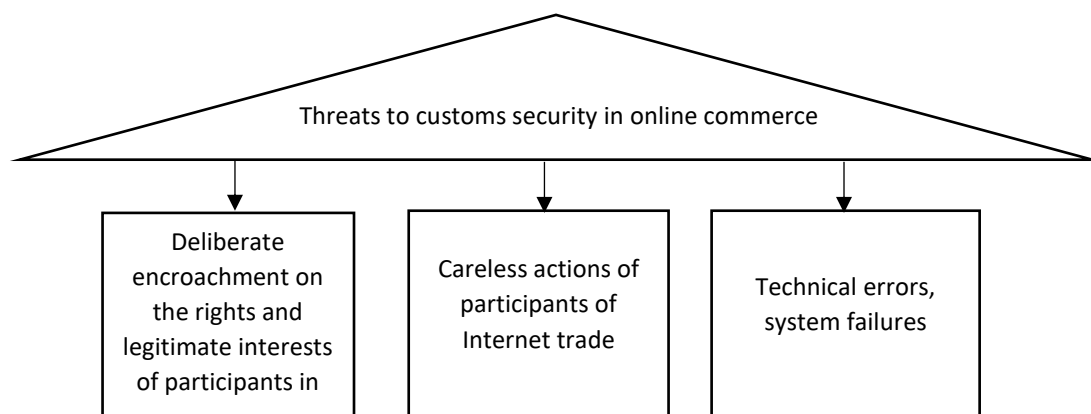


Fig. 2 – Threats to customs security in online commerce

Resource: author's generalizations

Aspects of customs security were first introduced into EU customs legislation following the September 2001 terrorist attacks in the United States. In 2005 WTO adopted the SAFE Standards Framework, which introduced security measures for supply chains, including a requirement for expanded cargo data, a security risk assessment, and a sectoral partnership

program, the so-called Authorized Economic Operator or AEO. To date, 169 WTO members have signed a letter of intent to implement WCO SAFE standards. In the EU, the Community Customs Code and the Regulation on the implementation of the Customs Code were amended in 2005 and 2006, including security aspects (Regulation (EU) 648/2005, 1875/2006).

Following an incident in Yemen in October 2010, in which a cargo containing improvised explosive devices was found on board an aircraft bound for the EU to the United States, the focus of customs security shifted to improving the security of air cargo. From the customs point of view, the aim is to use advanced electronic data for air cargo security purposes in order to identify high-risk cargo before it is loaded on board aircraft. The EU has worked extensively with international partners and stakeholders to pre-load up-to-date cargo information (PLACI). The results of this work are reflected in the provisions of the Union Customs Code and delegated and implementing acts.

The urgency of customs security is underscored by global security concerns caused by recent terrorist incidents. The Punta Cana Resolution, adopted by the WTO Policy Commission in December 2015, calls on customs authorities to strengthen security measures and calls for closer cooperation at the national and international levels and with other authorities.

From a customs security point of view, e-commerce issues are covered by the UCC ENS provisions, which describe the situation where the source data is sent in advance and analyzed before the goods are loaded on board the aircraft before arriving in the EU. At the same time, electronic submission of data for postal consignments should be used to facilitate customs procedures and the collection of import duties. It will be implemented when all the necessary IT systems are available. (European Commission, 2020).

The main trend in the standardization of customs procedures, which takes place in the framework of the World Customs Organization, is to improve the conditions for the development of international trade by accelerating and simplifying customs procedures. However, maintaining an adequate level of security and ensuring compliance with customs legislation remains an important requirement. These two, at first glance, contradictory tasks require the introduction of new forms and methods of customs control, the integration of security elements into the customs procedures themselves. After all, one

of the key results of the simplification of customs procedures is the reduction of time spent on customs clearance of goods, and consequently the need to reduce the volume of customs control measures carried out on specific goods and vehicles. Therefore, customs control should be carried out on the basis of the principle of “less volume – more efficiency”. One of the ways to ensure the implementation of this principle is the implementation of the concept of risk management and, in a broader sense – the concept of protection of customs security (Brachuk A.O., 2017).

Within the framework of the World Trade Organization, the issue of international Internet trade has been considered since the late 1990s, since the adoption of the relevant Declaration of Ministers. In accordance with this declaration, the General Council developed and approved on 25.09.1998 the Work Program on e-commerce. Currently, this is the main document that regulates the work in this area in the WTO, which states that “solely for the purposes of the work program and without prejudice to its results, the term” e-commerce «means the production, distribution, marketing, sale or delivery of goods and services by electronic means». Its purpose is to study all trade aspects related to e-commerce, including the development of infrastructure for its implementation.

The 11th WTO Ministerial Conference, held from 10 to 13 December 2017 in Buenos Aires, Argentina, approved a decision on the e-commerce work program, which provides for:

- 1) continuation of work under the e-commerce work program;
- 2) conducting periodic reviews and reporting by the General Council to the next Ministerial Conference;
- 3) continuation of the existing practice of non-application of duties on electronic data transmission until the next Conference of Ministers.

In addition, 70 WTO members circulated a Joint Statement on e-commerce. In a statement, members agreed to initiate joint research for future WTO negotiations on the trade aspects of e-commerce, given the growing importance of

global e-commerce and the WTO's role in promoting it, based on the principles of openness, transparency and non-discrimination.

Agriculture of Ukraine, 2020). The priority areas of regulatory regulation of international Internet trade under WTO law are presented in Figure 3.

<p style="text-align: center;"><b>Regulatory – legal basis</b></p> <p><b>Increasing the level of transparency</b></p> <p><b>Measures to increase consumer confidence</b></p> <p>Regulatory framework for consumer protection</p> <p>Regulatory framework for the protection of confidentiality</p> <p>Regulatory framework for cyber security</p> <p>Regulation of spam</p> <p><b>Trade facilitation measures</b></p> <p>Open networks / access to and use of the Internet</p> <p>Resolving licensing and permitting issues</p> <p>Solving electronic payment problems</p> <p>Access and use of communication networks</p> <p>WTO reference document on telecommunications</p> <p>Trade aspects of intellectual property rights</p> <p>Recognition of electronic signatures / authentication</p> <p>Solving the problem of e-procurement / e-auctions</p> <p>Technical standards</p>	<p style="text-align: center;"><b>Open markets</b></p> <p><b>Commitment to liberalization</b></p> <p>Services</p> <p>Commitments in the field of e-commerce - important sectors such as telecommunications; computer services; delivery by the first method of delivery; business services; professional services and more</p> <p>Classification, for example, adhering to arrangements for computer and related services</p> <p><b>Cargo</b></p> <p>Elimination of duties, such as ITA Non-application of duties to electronic data transmission</p> <p><b>Measures to ensure openness</b></p> <p>The procedure for ensuring cross-border movement of data flows</p> <p>Localization procedure (local presence - including computer servers, local component)</p> <p>Solving problems of transmission and / or access to source code</p>
<p style="text-align: center;"><b>Legislative initiatives to promote e-commerce</b></p> <p>WTO Agreement on Trade Facilitation / Additional Customs Simplification Measures / Paperless Trade</p> <p>Trade Development Assistance / Technical Assistance</p> <p>Regulatory cooperation between members and their regulatory bodies</p>	
<p style="text-align: center;"><b>Increasing the transparency of the multilateral trading system</b></p> <p>Focus more on e-commerce in trade policy reviews</p> <p>The Director-General's monitoring report on protectionism can focus on the digital economy</p> <p>Exchange of information in the framework of e-commerce issues on the agenda of the standing WTO committees</p>	

Fig. 3 – Priority areas of regulatory regulation of international Internet trade under WTO law

The WMO Framework Standards for Security and Facilitation of World Trade (SAFE Framework) set out a holistic approach to ensuring a balanced mix of security and trade facilitation, formulating four principles and standards for prior notification of cargo risk management, use of contactless inspection equipment, and the concept of “authorized economic operator”, as well as the inclusion of supply chain management issues in a single comprehensive legal instrument.

The main goals and principles of the Framework Standards are: the establishment of standards that increase security and facilitate the functioning of the international supply chain at the global level in order to achieve greater

certainty and predictability; ensuring integrated management of the international supply chain for all modes of transport; strengthening the role, functions and capabilities of customs services in the light of the challenges and opportunities of the 21st century; strengthening cooperation between customs administrations in order to expand their capacity to identify high-risk items; strengthening cooperation between customs structures and the business community; promoting the continuous movement of goods throughout the safe international supply chain.

The EU Customs Code, which entered into force on 1 May 2016, stipulates that the customs authorities are tasked with maintaining an

appropriate balance between customs control and simplification of procedures.

Thus, the legal provision of customs security involves the implementation of effective customs procedures, which should provide, on the one hand, simplification and acceleration of customs control and clearance, and on the other - a reliable level of customs security and interests. In modern conditions of public administration reform in terms of simplification of customs procedures and transition to international standards of customs, we can distinguish the following forms of customs security: customs and tariff, control and economic, organizational and legal, information technology and administrative and political.

The customs tariff direction consists in the legality, correctness and reliability of determining the product code, country of origin, customs value and customs tariff rate for goods moving across the customs border of Ukraine. Control and economic involves the use of such methods as risk management system and customs post-audit.

On the basis of the system of analysis and risk management, the objects of control are determined, which can be checked by the customs authorities for compliance by the declarants with the customs legislation after the release of goods for free circulation. Organizational and legal direction of public administration is to carry out management activities by adopting regulations in the field of foreign trade, accession to relevant international instruments, implementation in national legislation of international norms and standards of customs. Information technology involves the introduction of the latest information and telecommunications systems and technologies and their application in customs.

There are three main areas in which it is necessary to start the movement to further improve the system of international e-

commerce.

First, trade facilitation and security. This direction includes several components: guaranteeing the speed and efficiency of the customs clearance process for the growing volume of transactions; managing the transition from multiple large / bulk deliveries to a large number of low cost and small volume deliveries; management of risks arising from limited knowledge of importers and participants in the e-commerce supply chain (a new class of sellers and buyers / casual senders and buyers of goods); guarantee of data quality (accuracy and adequacy of the received data); defining the legislative role and responsibilities of e-commerce operators to assist governments.

Second, fair and effective collection of duties and taxes should ensure the detection of «minor» crimes or abuses for illegal trade purposes (division of supplies, underestimation, etc.), ensuring compliance with the rules of classification and origin of goods and integrating e-commerce into traditional trade (Kaliuta A.B., 2019).

Third, protecting society from the use of e-commerce by criminals. Implementation of this direction is possible provided the creation of specialized departments (units) that will search the Internet for information useful for the prevention, detection, investigation and prosecution of customs crimes (drug trafficking, counterfeiting and piracy, illegal financial flows, money laundering, etc.). An important step will be to improve international cooperation and ensure the implementation of mutual legal assistance agreements, to facilitate investigations and prosecutions when websites are located outside a particular country. Maximum use of available technologies, especially in data analysis, in other words, digitalization of the public sector.

Economic and legal principles of customs security in the context of international Internet trade are formed in Figure 4.



the study of legal regulation of relations in the electronic business space and forecasting the development of international Internet trade in

the world and at the level of individual countries.

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