

## ТРИБУНА МОЛОДОГО ВЧЕНОГО

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### FEATURES OF CUSTOMS CLEARANCE AND CONTROL OF VETERINARY DRUGS MOVING THROUGH THE CUSTOMS BORDERS OF UKRAINE



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*The article is devoted to the disclosure of the features of the implementation of customs control and customs clearance of veterinary drugs transported across the customs border of Ukraine. It was found that when organizing customs control of veterinary drugs, preliminary documentary control of such goods is mandatory. It is revealed that the preliminary documentary control is terminated during the veterinary and sanitary control of veterinary drugs. It is argued that the preliminary documentary control of veterinary drugs begins after the presentation of the cargo of such drugs and documents to the customs authority at the checkpoint across the state border of Ukraine using the 'single window' mechanism in accordance with the requirements of customs legislation. It is disclosed that preliminary documentary control of veterinary drugs is carried out by the customs authorities on the basis of information received from officials of state bodies of veterinary medicine, and documents and information provided by the declarant of veterinary drugs, entered into the single state information web portal 'Single Window for International Trade'. The terms 'customs clearance of veterinary drugs' are proposed to be understood as a set of actions to be performed by persons and customs authorities for veterinary drugs transported across the customs border of Ukraine, as well as an automated customs clearance system in order to comply with the requirements of customs legislation necessary for the release of veterinary drugs into free circulation. It is concluded that veterinary drugs are subject to mandatory written declaration, in their customs declaration the declarant indicates the customs procedure to be applied and the information provided for by law on veterinary drugs, the conditions and methods of their movement across the customs border and the calculation of customs duties in respect of such drugs necessary for the application of this procedures.*

**Key words:** *customs control of veterinary drugs, customs clearance of veterinary drugs, declaration of veterinary drugs, preliminary documentary control of veterinary drugs, legal regulation.*

**Зоріна Оксана. Особливості здійснення митного контролю та митного оформлення ветеринарних препаратів, що переміщуються через митний кордон України**

*Статтю присвячено розкриттю особливостей здійснення митного контролю та митного оформлення ветеринарних препаратів, що переміщуються через митний кордон України. З'ясовано, що при організації митного контролю ветеринарних препаратів обов'язкового проводиться попередній документальний контроль таких товарів. Розкрито, що попередній документальний контроль припиняється під час проведення ветеринарно-санітарного контролю ветеринарних препаратів.*

*Аргументовано, що попередній документальний контроль ветеринарних препаратів розпочинається після пред'явлення митному органу вантажу таких препаратів, і документів на*

них в пункті пропуску через державний кордон України із використанням механізму «єдиного вікна» відповідно до вимог митного законодавства. Розкрито, що попередній документальний контроль ветеринарних препаратів здійснюється митними органами на підставі інформації, отриманої від посадових осіб державних органів ветеринарної медицини, документів та відомостей, наданих декларантом ветеринарних препаратів, які внесені до єдиного державного інформаційного веб-порталу «Єдине вікно для міжнародної торгівлі». Запропоновано терміни «митне оформлення ветеринарних препаратів» розуміти як сукупність дій, що підлягають виконанню особами і митними органами щодо ветеринарних препаратів, що переміщуються через митний кордон України, а також автоматизованою системою митного оформлення з метою дотримання вимог митного законодавства, які необхідні для випуску ветеринарних препаратів у вільний обіг. Зроблено висновок, що ветеринарні препарати підлягають обов'язковому письмовому декларуванню, в їхній митній декларації декларантом зазначається митна процедура, що підлягає застосуванню, та передбачені законодавством відомості про ветеринарні препарати, умови і способи їх переміщення через митний кордон та нарахування митних платежів щодо таких препаратів, необхідних для застосування цієї процедури.

**Ключові слова:** митний контроль ветеринарних препаратів, митне оформлення ветеринарних препаратів, декларування ветеринарних препаратів, попередній документальний контроль ветеринарних препаратів, правове регулювання.

According to Art. 2 and Art. 16 of the Law of Ukraine 'On Veterinary Medicine' and Art. 18 of the Customs Code of Ukraine [1] veterinary drugs and medicines are under the control of veterinary medicine, in respect of which export, import and transit outside the state are carried out with the permission of the chief inspector of veterinary medicine or his deputies. It is also important that the interaction of the state bodies of veterinary medicine with the customs authorities regarding the movement of veterinary drugs during the veterinary and sanitary control of goods imported into the customs territory of Ukraine is carried out using the 'single window' mechanism in accordance with the Customs Code of Ukraine [1]. In the Law of Ukraine 'On Veterinary Medicine', veterinary drugs include veterinary medicinal products, veterinary immunobiological agents, antiseptics, disinfectants, insect-acaricides, deratizacides, diagnosticums used in veterinary medicine and animal husbandry, which are goods (Art. 1) [2].

It is important that in accordance with the provisions item 1 Art. 319 Customs Code of Ukraine goods imported into the customs territory of Ukraine (including for the purpose of transit) may be subject to official control measures. Thus, certain types of veterinary drugs are subject to veterinary and sanitary control, related to official control measures, according to a certain UKTVED code in accordance with item 2 List of goods subject to veterinary

and sanitary control [3]. Measures of official control at checkpoints (checkpoints) across the state border of Ukraine are carried out by customs authorities through preliminary documentary control (item 3 Art. 319 Customs Code of Ukraine). Consequently, in relation to veterinary drugs transported across the customs border of Ukraine during their customs control and registration for official control measures carried out by customs authorities, it is carried out by means of preliminary documentary control.

Preliminary documentary control begins after the presentation of veterinary drugs and documents for such drugs to the customs authority at the checkpoint (control point) across the state border of Ukraine (item 2 Art. 319 Customs Code of Ukraine). Official control measures for veterinary drugs that are moved across the customs border of Ukraine are carried out: (1) at checkpoints (control points) across the state border of Ukraine (in the amount necessary to provide permission to pass them through the customs border of Ukraine for their movement to destinations on the territory of Ukraine or to the point of export (pass) outside the customs territory of Ukraine or their release into the declared customs regime in accordance with the purpose of their importation of such drugs into Ukraine at the checkpoint (control point) across the state border of Ukraine); (2) at destinations on the territory of Ukraine (to the extent necessary to provide permission for the release of veterinary

drugs in the declared customs regime in accordance with the purpose of their import into Ukraine) (item 2 Art. 319 Customs Code of Ukraine).

The customs authorities coordinate the work of the relevant authorized bodies in carrying out official control measures (in my study, these are the relevant officials of the state veterinary medicine bodies), at checkpoints (control points) across the state border of Ukraine and in customs control zones on the customs territory of Ukraine. The mode of operation of state veterinary medicine bodies that carry out activities for veterinary and sanitary control of veterinary drugs at checkpoints (control points) across the state border of Ukraine and in customs control zones on the customs territory of Ukraine must be coordinated with the mode of operation of the relevant subdivision of the customs authority (item 11 Art. 319 Customs Code of Ukraine). Thus, in accordance with the order of the Chief State Inspector of Veterinary Medicine of Ukraine from 27.12.1999 № 49 "On Approval of the Procedure for Passing Cargoes Controlled by the State Veterinary Medicine Service Across the State Border of Ukraine", clearance of cargoes, controlled services and state veterinary medicine at a checkpoint on the state border is possible if: (1) the original veterinary certificate; (2) the certificate of the country of origin, (3) when fulfilling veterinary requirements for the import into Ukraine of consignments of veterinary drugs [4]. For the export of veterinary drugs to the CIS countries, a veterinary certificate is provided for customs clearance. For the export of veterinary drugs, the customs authority for customs clearance of veterinary drugs exported outside the state is provided with international veterinary certificates (item 10). Transit through the territory of Ukraine is carried out on the basis of the epizootic state of the exporting countries in the presence of veterinary certificates of the state veterinary service of the exporting country (item 11) [4].

For the import of veterinary drugs into the customs territory of Ukraine, one of the documents requires an international veterinary certificate. In particular, there are two conditions, the first one is in

the case when from the countries with which the central state veterinary services of Ukraine have agreed on the forms of veterinary certificates, their import is allowed only if the indicated veterinary certificates are available. Otherwise, the import of veterinary drugs from countries with which there are no agreed forms of veterinary certificates is carried out in accordance with the veterinary requirements for the import into Ukraine of goods controlled by the state veterinary medicine service. It is important to note that it is prohibited to import veterinary drugs through third countries in the order of re-export, including the CIS countries [4]. In case of verification (original veterinary certificate, sanitary certificate of the country of origin or veterinary requirements for the import of consignments of veterinary drugs), the specialist of the state veterinary control point at the state border and transport puts: (1) stamp 'Unloading and customs clearance under the border state control'; (2) numbered stamp; (3) signature and date and sends the vehicle with the cargo to the customs office of destination, where the cargo of veterinary drugs is processed in the presence of a certificate in the form F-2, issued by specialists of the structural units of the regional services of the state veterinary control at the state border – sanitary examination in the state laboratory veterinary medicine at the place of receipt of the cargo [4]. Sampling for the analysis of veterinary drugs in state laboratories of veterinary medicine is carried out by specialists of regional services of state veterinary control at the state border and transport with the participation of representatives of state veterinary medicine, customs and the owner of veterinary drugs, about which an appropriate act is drawn up (item 7) [4]. Therefore, sampling for the analysis of veterinary drugs to obtain the conclusion of the state veterinary and sanitary examination of such drugs is carried out with the obligatory presence of a customs representative of the State Customs Service. In addition, after completing the above procedures, a vehicle with veterinary drugs can move across the territory of Ukraine to the customs office of destination of the State Customs Service of Ukraine, where the customs clearance of veterinary drugs is carried out.

In addition to documents and information about veterinary drugs that are entered by the veterinary medicine authorities into the single state information web portal 'Single Window for International Trade', regarding the movement of veterinary drugs in accordance with the requirements of the Customs Code and other laws of Ukraine. Also, certain documents and information are entered by the declarant (an authorized person) into the unified state information web portal 'Single Window for International Trade', which are necessary for carrying out measures for the veterinary and sanitary control of such drugs before or simultaneously with the submission of a customs declaration for the purpose of releasing goods into chosen customs regime. After the completion of veterinary and sanitary control measures for veterinary drugs at their point of destination on the territory of Ukraine, the official of the state veterinary medicine bodies who carried them out is obliged to immediately enter information about the decision taken into the single state information web portal 'Single Window for International Trade' (item 8 Art. 319 Customs Code of Ukraine).

Art. 246–256 Customs Code of Ukraine directly determine the procedural issues of customs clearance of veterinary drugs, which begins after the submission of a customs declaration to the customs authority. In accordance with Art. 258 Customs Code of Ukraine a customs declaration filled in in the usual manner means a customs declaration containing the amount of information (data) sufficient to complete the customs clearance of goods, commercial vehicles in the declared customs regime. According to the current Customs Code of Ukraine, there are: (a) customs declaration, completed in the usual manner (Art. 258); (b) preliminary customs declaration (Art. 259); (c) temporary and periodic customs declarations (Art. 260); (d) additional declaration (Art. 261). Consequently, in the customs declaration for veterinary drugs during their customs clearance by a person (declarant), the customs procedure to be applied for veterinary drugs and the information provided for by law on veterinary drugs, the conditions and methods of their movement across the customs border

of Ukraine and on the calculation of customs payments for veterinary drugs medications required for this procedure.

Customs clearance is the completion of customs formalities required for the release of goods, commercial vehicles (part 23 Art. 4 Customs Code of Ukraine); and the term 'customs formalities' is a set of actions to be performed by the relevant persons and customs authorities, as well as by an automated customs clearance system in order to comply with the requirements of Ukrainian legislation on customs business (part 23 Art. 4 Customs Code of Ukraine) [1]. The term 'customs clearance of veterinary drugs' is not specified at the legislative level. In the legal doctrine, in the general sense, 'customs clearance' is the performance by officials of the customs authorities of actions aimed at ensuring compliance with the current legislation in the field of customs activity by subjects of customs relations and securing the results of customs control of goods and vehicles transported across the customs border of Ukraine and have legal importance for the continued use of these goods and vehicles [5, c. 170]. Regarding the industry understanding of the term, for example, "customs clearance of medicines" Shevchuk O. M. proposes it as the implementation by officials of the customs authorities of a set of actions aimed at ensuring the procedure for the movement of medicines across the customs border of Ukraine with the consolidation of the results of their customs control [6, c. 209]. Given the above, customs clearance of veterinary drugs is a set of actions to be performed by persons and customs authorities for veterinary drugs, as well as an automated customs clearance system in order to comply with the requirements of customs legislation necessary for the release of veterinary drugs for free circulation.

According to the provisions part 4 Art. 82 Law of Ukraine 'On Veterinary Medicine' it is prohibited to import into the territory of Ukraine veterinary drugs that are not registered in Ukraine (except for certain cases). According to Art. 72 Law of Ukraine 'On Veterinary Medicine' under the title 'Import of veterinary drugs for special purposes', veterinary drugs that are not registered are allowed to be

imported into the territory of Ukraine solely for the purpose of: (a) state registration in Ukraine; (b) exhibiting at exhibitions, fairs and conferences; (d) scientific research. If veterinary drugs are imported for purposes not registered with the above purpose, they are imported only in quantities necessary to achieve these purposes, and their circulation in Ukraine is prohibited. (part 2 Art. 72 Law of Ukraine 'On Veterinary Medicine'). The circulation of veterinary drugs not registered in Ukraine is prohibited. In exceptional cases, when treating non-productive animals, a veterinarian may use medicinal products in the absence of registered similar veterinary drugs. (part 2 Art. 63) [2]. In addition, veterinary drugs originating from the Russian Federation, as the aggressor country, in this case are also prohibited from being imported into the customs territory of Ukraine in accordance with the resolution of the Cabinet of Ministers of Ukraine 30.12.2015 № 1147 'On the prohibition of import into the customs territory of Ukraine of goods originating in the Russian Federation', according to the List. Consequently, when imported into the customs territory, veterinary drugs are subject to mandatory declaration by both individuals and legal entities.

Declaration is carried out by applying in the prescribed form (written, oral, by performing actions) accurate information about the goods, the purpose of their movement across the customs border of Ukraine, as well as information necessary for their customs control and customs clearance. When using the written form, the declaration can be used as (1) electronic documents and (2) documents on paper or their electronic (scanned) copies, certified by the electronic digital signature of the declarant or a person authorized by him (part 1 Art. 257 Customs Code of Ukraine) [1]. The declarant for veterinary drugs for customs clearance in the 'import' mode can be a legal entity and customs brokers authorized by it, according to Art. 416 Customs Code of Ukraine. In part 1 Art. 416 Customs Code of Ukraine customs brokers is an enterprise that provides services for declaring goods, commercial vehicles that move across the customs border of Ukraine. It is worth noting that part 2 Art. 257 Customs Code of Ukraine it is noted that

electronic declaration is carried out using an electronic customs declaration certified by an electronic digital signature, and other electronic documents or their details in cases established by law, as well as electronic (scanned) copies of paper documents certified by an electronic digital signature of the declarant or a person authorized by him [1]. Therefore, veterinary drugs imported into the customs territory of Ukraine in accordance with the requirements Art. 72 Law of Ukraine 'On Veterinary Medicine' від 25.06.1992 № 2498-XII on the need for state registration of such drugs, and item 3 Art. 374 Customs Code of Ukraine are subject to mandatory written declaration and may be used as such (1) electronic documents and (2) documents on paper or their electronic (scanned) copies, certified by the electronic digital signature of the declarant or a person authorized by him. Veterinary drugs are not allowed for import by citizens.

The deadlines for the declaration of veterinary drugs are established in the provisions Art. 263 Customs Code of Ukraine. The customs declaration is submitted to the customs office of the customs authorities, which carries out customs clearance of veterinary drugs, within 10 working days from the date of delivery of these veterinary drugs to the specified authority. Together with the customs declaration, an invoice or other document is submitted to the customs of the State Customs Service of Ukraine, which determines the cost of veterinary drugs, and in cases established by Customs Code of Ukraine, – declaration of customs value. It will be recalled that information about the documents identified part 3 Art. 335 Customs Code of Ukraine, are indicated by the declarant or a person authorized by him in the prescribed manner in the customs declaration. At the request of the customs office of the State Customs Service of Ukraine, the declarant or a person authorized by him shall be obliged to provide the originals of such documents or duly certified copies of them, if the legislation does not provide for the submission of originals. Submission of documents and information required for customs control, depending on the type of transport used to transport veterinary drugs, is regulated, in particular, part 1 Art. 335 Customs Code of Ukraine [1].

Part 1 Art. 69 Customs Code of Ukraine it is determined that goods, when they are declared, are subject to classification, that is, for veterinary drugs, codes are determined in accordance with the classification groups specified in the UKT FEA. In particular, according to Section IV (group 23) Law of Ukraine 'On Customs Tariff of Ukraine' under the code 2309 products used for animal feeding are indicated under heading 2309 – 'products used for animal feeding'. Position under code 3004 belongs to the group of UKT FEA 30 'Pharmaceutical products'. In 3004 UKT FEA also includes veterinary drugs. Also, it is necessary to give a heading for veterinary drugs subject to veterinary and sanitary control, they are classified according to the product code from UKT FEA, namely: (1) 2935 00 – sulfonamides used in veterinary medicine and animal husbandry; 2936 – provitamins and vitamins used in veterinary medicine and animal husbandry, natural or obtained as a result of synthesis (including natural concentrates), their derivatives used primarily as vitamins, mixtures of these substances, including those dissolved or undissolved in any solvent; 2937 – hormones, prostaglandins, thromboxanes and leukotrienes used in veterinary medicine and animal husbandry, natural or synthesized; their derivatives and structural analogues, including those with modified chain polypeptides, which are used primarily as hormones; 2941 – antibiotics used in veterinary medicine and animal husbandry [3] and other.

Customs authorities control the correct classification of goods submitted for customs clearance in accordance with the UKT FEA (part 2 Art. 69 Customs Code of Ukraine). Control of the correct classification of goods is a verification of the correctness of the description of the goods and the corresponding code in the customs declaration to the requirements of the Basic Rules for the Interpretation of UKT FEA during the procedures for its customs control and customs clearance [7]. In practice, subjects of foreign economic activity have problems with customs authorities regarding the correctness of determining the UKT FEA code for imported veterinary drugs. For example, the case of determining the product code of a legal

entity to the Kharkiv customs, as customs officials had doubts about the correctness of the declarant's indication of the UKT FEA code, namely: "Veterinary medicinal product packaged for retail, not in aerosol packaging: BIT E+Se 10% – solution for oral use in p / e vials of 1 l-600 packs., series 140330, active substances: 1 ml of the drug contains: vitamin E – 100 mg, sodium selenite – 360 mcg, does not contain penicillins or their derivatives, antibiotics, alkaloids or their derivatives, hormones or other compounds of heading 2937, iodine or iodine compounds [8]. Thus, the correct definition of the code of veterinary drugs in accordance with UKT FEA is important for their customs clearance, both for the subjects of foreign economic activity and for the customs authorities that ensure the maintenance of such a classification, making decisions on the coding of veterinary drugs, determine the procedure and forms of such decisions. Customs control and customs clearance of veterinary drugs transported across the customs border of Ukraine are completed only after the implementation of the types of control established by the laws of Ukraine for each product specified in part 1 Art. 319 Customs Code of Ukraine.

Conclusion. Customs clearance of veterinary drugs is a set of actions to be performed by persons and customs authorities for veterinary drugs, as well as an automated customs clearance system in order to comply with the requirements of customs legislation necessary for the release of veterinary drugs for free circulation. During customs control and clearance of veterinary drugs transported across the customs border of Ukraine, they are carried out by customs authorities and carried out through preliminary documentary control in relation to such drugs, using the 'single window' mechanism.

Veterinary drugs when imported into the customs territory of Ukraine in accordance with the requirements Art. 72 Law of Ukraine 'On Veterinary Medicine' from 25.06.1992 № 2498-XII on the need for state registration of such drugs, and item 3 Art. 374 Customs Code of Ukraine subject to mandatory written declaration. In the customs declaration for veterinary drugs during their customs clearance

by a person (declarant), the customs procedure to be applied for veterinary drugs and the information provided for by law on veterinary drugs, the conditions and methods of their movement across the customs border of Ukraine and the calculation of customs payments for veterinary drugs, necessary to apply this procedure. The customs

declaration is submitted to the customs office of the customs authorities, which carries out customs clearance of veterinary drugs, within 10 working days from the date of delivery of these drugs to the specified authority. The customs authorities control the correctness of the classification of veterinary drugs submitted for their customs clearance.

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