

## **Law of the Republic of Kazakhstan as of July 20, 1995 № 2368 “On Customs Matters in the Republic of Kazakhstan”**

*(The Customs Code of Republic of Kazakhstan)*

*The status as of January 1, 2001*

*with all amendments and supplements of December 21, 1995 № 2703; January 26, 1996 № 2824; November 22, 1996 № 47-I; June 9, 1997 № 116-I; June 30, 1997 № 139-I; December 8, 1997 № 200-I; April 15, 1998 № 217-I; December 22, 1998 № 327-I; July 16, 1999 № 426- I; March 29, 2000 № 42- II; May 5, 2000 № 48- II; July 5, 2000 № 75- II; November 13, 2000 № 98- II.*

### **Section I. GENERAL PROVISIONS**

#### **Chapter 1. CUSTOMS MATTERS IN THE REPUBLIC OF KAZAKHSTAN**

##### ***Article 1. Customs Matters in the Republic of Kazakhstan***

Customs matters in the Republic of Kazakhstan shall create the procedure and conditions for goods and transport vehicles to cross the customs border of the Republic of Kazakhstan, customs payments and taxes to be collected, for customs clearance, customs control and other means of carrying out customs policies, and also the organizational and legal principles of the activities of the Customs Bodies of the Republic of Kazakhstan.

##### ***Article 2. The Customs Policy of the Republic of Kazakhstan***

In the Republic of Kazakhstan a single customs policy shall be implemented which is a component of the domestic and foreign policy of the Republic of Kazakhstan.

The customs policy shall be conferred to the authority of the central bodies of the state power.

The following shall be the objectives of the customs policy of the Republic of Kazakhstan:

protection of the Kazakhstan market;

protection of Kazakhstan producers and consumers;

stimulation of the development of the economy;

assistance in conducting the structural transformation in the economy;

encouragement of competition and resistance to monopolies;

stimulation of export and encouragement of import-substituting production;

attraction of foreign investments;

solution of tasks of trade policies;

any other objectives to be determined by the central bodies of the state power of the Republic of Kazakhstan pursuant to this Law and other legislative acts of the Republic of Kazakhstan.

##### ***Article 3. Customs Territory and Customs Frontier of the Republic of Kazakhstan***

Dry land area of the Republic of Kazakhstan, territorial waters, internal waters and aerial space over them shall constitute the customs territory of the Republic of Kazakhstan. The customs territory of the Republic of Kazakhstan shall also include the following items, located in the exclusive maritime economic zone of the Republic of Kazakhstan and over which the Republic of Kazakhstan has exclusive jurisdiction with respect to the customs matters: artificial islands, units, buildings, and any other facilities.

Free customs zones and free warehouses can be located on the territory of the Republic of Kazakhstan. The territory of free customs zones and free warehouses shall be considered as outward customs territory of the Republic of Kazakhstan, except the cases which are to be determined by the present Law and other legislation of the Republic of Kazakhstan on customs matters.

The perimeter-limited free customs zones and free warehouses can be located on the customs territory of the Republic of Kazakhstan. The limits of the customs territory of the Republic of Kazakhstan and perimeters of free customs zones and free warehouses shall form the customs borders.

##### ***Article 4. Customs Matters and International Economic Integration***

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In the interest of development and strengthening of the international economic integration the Republic of Kazakhstan shall create, in co-operation with other states, customs unions, free trade zones; it shall also enter into customs-related treaties in compliance with the provisions of international law.

#### ***Article 5. Customs Legislation***

The customs matters in the Republic of Kazakhstan shall be governed by this Law, other legal acts of the Republic of Kazakhstan and by normative legal acts on customs matters.

Provisions of other legislative acts of the Republic of Kazakhstan related to customs matters must not contradict the provisions of this Law and shall be applied in the customs matters after the changes and amendments are made to this Law.

If an international treaty ratified by the Republic of Kazakhstan sets forth other rules which are different from those provided by the customs legislation of the Republic of Kazakhstan, the rules stipulated by the indicated treaty shall be applied.

#### ***Article 6. Duration of the customs legislation***

With the exception of those cases stipulated by this Law and other legislative acts of the Republic of Kazakhstan, normative legal acts of the Republic of Kazakhstan, which are valid on the day a Customs Declaration and documents required for customs purposes are accepted by the Customs Body of the Republic of Kazakhstan, shall be applied in customs matters.

The customs legislation effective on the following dates shall be applied to conveyance of goods and transport vehicles through the customs border of the Republic of Kazakhstan with violations of the requirements set forth in this Law:

the date of actual conveyance of goods and transport vehicles through the customs border of the Republic of Kazakhstan;

the date of identification of a customs violation, if it is not possible to determine the date of actual conveyance.

### **Chapter 2. ORGANIZATION OF THE CUSTOMS MATTERS**

#### ***Article 7. Guidance for the Customs Matters***

The Government of the Republic of Kazakhstan and the authorized state body on customs matters shall carry out general guidance of the customs matters in the Republic of Kazakhstan.

The central Customs Body of the Republic of Kazakhstan shall carry out direct guidance of the customs matters in the Republic of Kazakhstan.

The central Customs Body of the Republic of Kazakhstan shall be a legal entity and shall operate within its authority.

The Government of the Republic of Kazakhstan shall approve the regulation on the central Customs Body of the Republic of Kazakhstan.

The head of the central Customs Body of the Republic of Kazakhstan shall be appointed by the Government of the Republic of Kazakhstan upon the suggestion of the authorized state body on customs matters.

#### ***Article 8. Customs Bodies of the Republic of Kazakhstan***

The Customs Bodies of the Republic of Kazakhstan, being law enforcement bodies, shall constitute a single system consisting of:

the central Customs Body of the Republic of Kazakhstan;

customs departments;

customs houses;

customs posts.

Creation, reorganization and liquidation of the customs departments and customs houses shall be performed by the decision of the Government of the Republic of Kazakhstan and shall operate on the basis of Regulations approved by the Government of the Republic of Kazakhstan.

Customs posts shall be created, restructured or liquidated by the decision of the state authorized body on customs matters upon suggestion of the central Customs Body of the Republic of Kazakhstan and shall operate on the basis of regulations approved by the state authorized body on customs matters of the Republic of Kazakhstan.

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#### **Article 9. Organizations Facilitating Customs Operations**

Upon the suggestion of the central Customs Body of the Republic of Kazakhstan the authorized state body on customs matters shall put forward a proposal to the Government of the Republic of Kazakhstan to create organizations that will assist in solution of the tasks of the Customs Bodies of the Republic of Kazakhstan, as well as the scientific and research institutions, professional training institutions and customs laboratories.

The property of the Customs Bodies of the Republic of Kazakhstan, customs laboratories, scientific and research institutions and training institutions subordinate to the central Customs Body of the Republic of Kazakhstan shall be state owned.

When privatizing the state ownership objects, including the organizations stated in part one of this article, the property used solely for the customs purposes shall be separated and transferred to the balance of the Customs Bodies of the Republic of Kazakhstan, following the procedure determined by the legislative acts and acts of the Government of the Republic of Kazakhstan.

#### **Article 10. Normative Legal Acts on Customs Matters**

The central Customs Body of the Republic of Kazakhstan within its competence shall issue normative legal acts on customs matters as approved by the state authorized body on customs matters.

Such acts shall be subject to the state registration and publication pursuant to the legislation of the Republic of Kazakhstan.

#### **Article 11. The Principal Tasks of the Customs Bodies of the Republic of Kazakhstan**

The following shall be the principal tasks of the Customs Bodies of the Republic of Kazakhstan:

- 1) participation in the development and implementation of the customs policy of the Republic of Kazakhstan;
- 2) ensuring compliance with the customs legislation and other legislation of the Republic of Kazakhstan, the control over enforcement of which must be carried out by the Customs Bodies of the Republic of Kazakhstan and protection of the legal rights and interests of citizens and organizations when carrying out the customs matters;
- 3) ensuring, within the bounds of their authority, the economic security and economic interests of the Republic of Kazakhstan;
- 4) applying the means of customs regulation of trade and economic relations;
- 5) levying of customs payments and taxes;
- 6) participation in the development of measures of non-tariff regulation with respect to goods which are transferred through the customs border of the Republic of Kazakhstan;
- 7) ensuring compliance with the permission-based procedure when transferring goods and transport vehicles through the customs border of the Republic of Kazakhstan;
- 8) combating smuggling and crime in the sphere of the customs matters, violations of the customs rules and tax legislation relating to the goods transferred through the customs border of the Republic of Kazakhstan; prevention of illegal trafficking through the customs border of the Republic of Kazakhstan of narcotic substances, and psychotropic compounds, arms, items of artistic, historic and archeological heritage of the people of the Republic of Kazakhstan and foreign countries, items of intellectual property, species of fauna and flora which are in the danger of extinction, their parts and derivatives, and other goods; and rendering assistance in the struggle against the international terrorism and prevention of illegal interference at the airports of the Republic of Kazakhstan in the activities of the international civil aviation;
- 9) exercising and improving customs supervision and customs clearance, creating conditions which assist in expediting the circulation of goods through the customs border of the Republic of Kazakhstan;
- 10) maintaining the customs statistics of foreign trade and special-purpose customs statistics of the Republic of Kazakhstan;
- 11) maintaining the Commodity Nomenclature of Foreign Economic Activity;
- 12) assisting in the development of foreign economic relations of the Republic of Kazakhstan, and also of activities within the framework of such relations, organizations and citizens;
- 13) assisting in the exercise of measures to ensure national security, morals of the population, protection of life and health of people, protection of the natural environment, fauna and flora, protection of the interests of the Republic's consumers of imported goods;

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- 14) exercising supervision of export of strategic and other materials that are vitally important to the interests of the Republic of Kazakhstan;
- 15) exercising currency supervision within the bounds of their authority;
- 16) ensuring the execution of international obligations of the Republic of Kazakhstan as much as they concern the customs matters; participating in drafting international treaties of the Republic of Kazakhstan relating to the customs matters; collaborating with the customs and other appropriately authorized bodies of foreign states, international organizations which engage in issues of the customs matters;
- 17) carrying out of scientific research work and advisory in the area of the customs matters; training, re-training and enhancing the qualifications of specialists in that area for state bodies and organizations;
- 18) presenting information concerning customs issues to bodies of the state power, organizations and citizens in accordance with the procedure established by legislation;
- 19) participation in implementing a single financial and economic policy, developing the material, technical and social base of the Customs Bodies.

***Article 12. The Identification Flag and the Identification Sign of the Customs- Bodies of the Republic of Kazakhstan***

The Customs Bodies of the Republic of Kazakhstan and marine and river vessels that are at their disposal shall have the identification flag and identification sign.

Automobile transport vehicles and aircrafts that are at the disposal of the Customs Bodies of the Republic of Kazakhstan shall have the identification sign.

The Government of the Republic of Kazakhstan shall approve the description and procedure for using the identification flag and identification sign.

***Article 13. Interaction of the Customs Bodies of the Republic of Kazakhstan with other State Bodies, Organizations and Citizens***

For the purpose of executing the tasks of the customs matters, the Customs Bodies of the Republic of Kazakhstan shall interact with other state bodies, organizations and citizens.

State bodies and their officials shall be obliged to render assistance to the Customs Bodies of the Republic of Kazakhstan in exercising the functions delegated to them.

Pursuant to the legislative acts of the Republic of Kazakhstan the Customs Bodies of the Republic of Kazakhstan under its supervision shall allow other state bodies and organizations to perform certain acts conferred to the competence of the Customs Bodies.

State bodies not authorized to perform general administration of the customs matters shall not have a right to make decisions conferred to the competence of the Customs Bodies of the Republic of Kazakhstan, perform or change functions without appropriate permission, to delegate additional tasks, or in any other way interfere in the activity of the Customs Bodies described by the provisions of this Law and other acts of the Republic of Kazakhstan.

***Article 14. Providing of Service and Auxiliary Premises, Equipment and Means of Communications to the Customs Bodies of the Republic of Kazakhstan***

Organizations and citizens, which are interested in having customs clearance being carried out directly in their location or premises, rather than in the location of Customs Bodies of the Republic of Kazakhstan, shall provide these bodies with the required service or auxiliary premises, equipment and communication facilities for free-of-charge use for implementation of such clearance.

***Article 15. Providing of Land to Customs Bodies of the Republic of Kazakhstan***

Land for the customs purposes shall be granted for use in accordance with legislation of the Republic of Kazakhstan.

***Article 16. Treatment of Information Submitted to the Customs Bodies of the Republic of Kazakhstan by Governmental Bodies, Organizations and Citizens for Customs Purposes***

Information, submitted to the Customs Bodies of the Republic of Kazakhstan by governmental bodies, organizations and citizens in accordance with the customs legislation of the Republic of Kazakhstan, shall be used solely for customs purposes.

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Information, which constitutes state, commercial, banking or any other secret protected by law, as well as confidential information, shall not be disclosed, used by officials of the Customs Bodies of the Republic of Kazakhstan for personal purposes, transferred to third parties and any other governmental bodies, unless otherwise directly provided by the legal acts of the Republic of Kazakhstan.

***Article 17. Cooperation of the Customs Bodies of the Republic of Kazakhstan with Customs Bodies of Foreign States and International Organizations***

In discharging their functions, the Customs Bodies of the Republic of Kazakhstan shall cooperate with the Customs Bodies and other authorized bodies of foreign states and international organizations.

***Article 18. The Main Concepts Employed in This Law\****

*\*Paragraphs 10, 11, 14 and 16 of the article 18 of the Law of the Republic of Kazakhstan of July 16, 1999 № 426-I are deleted.*

The concepts employed in this Law shall have the following meanings:

- 1) "declarant" - means a person who declares, presents and submits goods and transport vehicles on his own behalf;
- 2) "person" - means a domestic and a foreign legal entity, an individual entrepreneur, physical persons, except for the cases where it is otherwise stipulated by the provisions of this Law;
- 3) "a domestic person " - means a legal entity created in accordance with legislation of the Republic of Kazakhstan, and also its affiliates and representatives which are located in the Republic of Kazakhstan, an individual entrepreneur registered in the Republic of Kazakhstan in accordance with the legislation of the Republic of Kazakhstan, physical persons who have permanent residence in the Republic of Kazakhstan;
- 4) "a foreign person " - means a person that is not indicated in paragraph 3 of this Article;
- 5) "an entity which transfers goods" - means an entity which is the owner of the goods, their buyer, possessor, or a person in other capacity sufficient under the legislation of the Republic of Kazakhstan to perform on his own behalf the acts which are stipulated in this Law;
- 6) "non-tariff regulatory measures" - means measures applied by the Government of the Republic of Kazakhstan that include the state monopoly on import and/or export of certain goods, quantitative restrictions on exports and/or imports of goods;
- 7) "tax" - means taxes the payment whereof is stipulated in tax legislation of the Republic of Kazakhstan and levying whereof is delegated to the Customs Bodies of the Republic of Kazakhstan;
- 8) "carrier" - is a person that actually transfers goods or is responsible for the use of a transport vehicle;
- 9) "transference through the customs border of the Republic of Kazakhstan" - means the performance of acts associated with import to the customs territory of the Republic of Kazakhstan or export from that territory of goods and transport vehicles by any method including transfer by international post, use of pipeline transport and electric transmission lines. The following shall be considered as indicated acts:
  - when importing goods and transport vehicles to the customs territory of the Republic of Kazakhstan, including importation from the territory of a free customs zone and free warehouse to the remaining part of the customs territory of the Republic of Kazakhstan, - it is the actual crossing of the customs border of the Republic of Kazakhstan;
  - in any other cases - it is performance of operations directly aimed at the implementation of the intention to export goods and transport vehicles beyond the boundaries of the customs territory of the Republic of Kazakhstan, or to the territory of free customs zones or to free warehouses, in particular - it is submission of the Customs Declaration;
- 9-1) subject of leasing – property that is to be determined pursuant to the legislation of the Republic of Kazakhstan on leasing and imported to the Republic of Kazakhstan in accordance with the leasing treaty;
- 12) "customs control " - means the set of measures undertaken by the Customs Bodies of the Republic of Kazakhstan for the purposes of ensuring compliance with the legislation of the Republic of Kazakhstan concerning the customs matters and international treaties of the

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- Republic of Kazakhstan, the supervision of the execution whereof is delegated to the Customs Bodies of the Republic of Kazakhstan;
- 13) "customs clearance" - means performance of operations for the purposes of transfer of goods and transport vehicles under certain customs regimes and termination of that regime in accordance with requirements and provisions of this Law;
  - 15) "customs regime" - means a set of provisions established by this Law which determine the status of goods and transport vehicles transferred through the customs border of the Republic of Kazakhstan for customs purposes;
  - 17) "customs value of goods" - means the value of goods conveyed through the customs border of the Republic of Kazakhstan, which is determined in accordance with this Law and used for the following purposes:
    - taxation of goods with customs payments and taxes;
    - customs statistics;
    - application of any other measures of the state regulation of foreign economic policies of the Republic of Kazakhstan;
  - 18) "goods" - means any movable items of the material world including currency, currency assets, electric, heat and any other types of energy and transport vehicles, except for the transport vehicles indicated in paragraph 21 of this Article;
  - 19) "domestic goods" - means goods which originate in the Republic of Kazakhstan or goods released for free circulation in the territory of the Republic of Kazakhstan;
  - 20) "foreign goods" - means goods which are not indicated in paragraph 19 of this Article;
  - 21) "a transport vehicle" - means any vehicle used for international conveyance of passengers and goods including containers and any other transport equipment;
  - 22) "customs escort " - means accompaniment of goods, transport vehicles and documents relating to them by the official persons of the Customs Bodies of the Republic of Kazakhstan;
  - 23) "conditional release" - means release of goods and transport vehicles subject to the obligation to comply with established restrictions, requirements, or terms;
  - 24) "establishment of a warehouse" (of any type) - means a type of activity under certain customs regimes, performance whereof does not require any separate formation of a new legal entity;
  - 25) "authorized state body on customs matters" - a state body authorized by the Government of the Republic of Kazakhstan that administers general guidance of customs matters within the rights delegated to it;
  - 26) "central Customs Body" - a body that administers direct guidance of customs matters in the Republic of Kazakhstan pursuant to this Law.

## **Section II. TRANSFER OF GOODS AND TRANSPORT VEHICLES THROUGH THE CUSTOMS BORDER OF THE REPUBLIC OF KAZAKHSTAN**

### **Chapter 3. FUNDAMENTAL PRINCIPLES OF TRANSFER OF GOODS AND TRANSPORT VEHICLES**

#### ***Article 19. The Right to Import to the Republic of Kazakhstan and Export from the Republic of Kazakhstan Goods and Transport Vehicles***

Any persons on equal basis shall have the right to import to the Republic of Kazakhstan and export from the Republic of Kazakhstan goods and transport vehicles including cases where they carry out foreign economic operations following the procedure stipulated in this Law.

Nobody shall be deprived of the right or restricted in the right to import to the Republic of Kazakhstan and export from the Republic of Kazakhstan goods and transport vehicles, except for the cases, provided herein.

#### ***Article 20. Prohibition of Importation to the Republic of Kazakhstan and Exportation from the Republic of Kazakhstan of Goods and Transport Vehicles***

Legislative acts of the Republic of Kazakhstan, acts of the President and Government of the Republic of Kazakhstan, international treaties of the Republic of Kazakhstan may prohibit importation to

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the Republic of Kazakhstan and exportation therefrom of certain goods and transport vehicles owing to the interests of the state security, moral and ethical reasons, protection of life and health of people, protection of the environment, animals and plants, objects of art, historic and archeological heritage of the people of the Republic of Kazakhstan and foreign countries, protection of the ownership right, including ownership of intellectual property, protection of the interests of imported goods' consumers, and based on any other vitally important interests of the Republic of Kazakhstan.

Goods and transport vehicles, whose exportation or importation is prohibited shall be subject to immediate return either outside of the Republic of Kazakhstan, or to the territory of the Republic of Kazakhstan, unless legislative acts of the Republic of Kazakhstan or international treaties of the Republic of Kazakhstan provide for confiscation of these goods and transport vehicles.

The entity, which transfers the goods or the carrier shall return the goods and transport vehicles at its own expense. If immediate return is impossible or in the case of failure to return them, goods and transport vehicles shall be transferred for custody to temporary warehouses, whose owners are the Customs Bodies of the Republic of Kazakhstan. The entity, which transfers the goods or the carrier, shall pay storage costs.

The maximum period of storage in temporary warehouses for goods and transport vehicles, whose importation and exportation are prohibited, shall be three days.

Upon expiry of the indicated storage period, such goods and transport vehicles must be declared for a different customs regime. In the case of a failure to declare goods and transport vehicles for the different customs regime, they shall be converted to the State Revenue in accordance with the procedure and conditions provided in the legislation of the Republic of Kazakhstan.

#### ***Article 21. Restrictions on Importation to the Republic of Kazakhstan and Exportation from the Republic of Kazakhstan of Goods and Transport Vehicles***

Legislative acts of the Republic of Kazakhstan, the acts of the President and Government of the Republic of Kazakhstan, international treaties of the Republic of Kazakhstan can establish restrictions on importation to the Republic of Kazakhstan and exportation therefrom of goods and transport vehicles. When such restrictions have been established, the Customs Bodies of the Republic of Kazakhstan shall release the goods and transport vehicles to which these restrictions apply only on condition that requirements provided in legislation of the Republic of Kazakhstan have been complied with.

Acts, which establish restrictions indicated in the first part of this Article, shall be subject to publishing not less than thirty days prior to their enforcement.

Customs Bodies of the Republic of Kazakhstan shall not reimburse any expenses incurred by an entity, which transfers goods, or by a carrier as a result of restrictions.

#### ***Article 22. Procedure for Transfer of Goods and Transport Vehicles Through the Customs Border of the Republic of Kazakhstan***

Transfer of goods and transport vehicles through the customs border of the Republic of Kazakhstan shall be carried out in accordance with their customs regime following the procedure stipulated herein.

##### ***Article 22-1. Types of Customs Regime***

For the purpose of applying the customs legislation the following customs regimes shall be established:

- 1) release of goods in free circulation;
- 2) re-importation of goods;
- 3) transit of goods;
- 4) customs warehouse;
- 5) duty free shop;
- 6) processing of goods on the customs territory;
- 7) processing of goods under the customs control;
- 8) temporary importation and temporary exportation of goods;
- 9) free customs zone;
- 10) free warehouse;
- 11) processing of good outside of the customs territory;

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- 12) exportation of goods;
- 13) re-exportation of goods;
- 14) destruction of goods;
- 15) rejection of goods in favor of the state.

***Article 23. Selection and Alteration of the Customs Regime of Goods and Transport Vehicles***

A person shall have the right at any time to select any customs regime or change it for a different one, irrespective of nature, quantity, country of origin, arrival or purpose of goods and transport vehicles, unless otherwise stipulated in the this Law.

***Article 24. Customs Clearance and Customs Control***

Goods and transport vehicles shall be subject to customs clearance and customs control pursuant to the procedure and conditions set forth in this Law.

***Article 25. Place and Time of Transfer of Goods and Transport Vehicles Through the Customs Border of the Republic of Kazakhstan***

Transfer of goods and transport vehicles through the customs border of the Republic of Kazakhstan shall be allowed in the places identified by the Customs Bodies of the Republic of Kazakhstan and within their official hours as stated in the legislation of the Republic of Kazakhstan. Goods and transport vehicles may cross customs border of the Republic of Kazakhstan in the other places and outside of official hours of the Customs Bodies of the Republic of Kazakhstan only with the consent of the Customs Body of the Republic of Kazakhstan.

***Article 26. Use and Disposal of Goods and Transport Vehicles Transferred Through the Customs Border of the Republic or Kazakhstan***

The use and disposal of goods and transport vehicles transferred through the customs border of the Republic of Kazakhstan shall be carried out in accordance with their customs regimes and this Law.

***Article 27. Use and (or) Disposal of Conditionally Released Goods and Transport Vehicles for Which Customs Concessions is Granted with Respect to Customs Duties and Taxes***

Goods and transport vehicles in respect of which tax and customs duty benefits are granted under the condition of compliance with the statutory restrictions, requirements or conditions, are released conditionally and can be used only for purposes in connection with which such benefits are granted. Use of such goods and transport vehicles for other purposes as well as disposal of such goods for such purposes shall be allowed only if appropriate customs payments and taxes are paid with notification of the Customs Bodies and fulfillment of other requirements set forth in this Law.

The responsibility for compliance with the requirements provided by this article shall be borne by the person to whom during customs clearance the conditionally released goods and transport vehicles are given for use and (or) at disposal. The declarant shall bear consolidated responsibility with the person who is given the conditionally released goods and transport vehicles for use and (or) at disposal.

### **Section III . CUSTOMS REGIMES OF GOODS**

#### **Chapter 4. RELEASE OF GOODS FOR FREE CIRCULATION**

***Article 28. Purpose of the Regime of Release of Goods for Free Circulation***

Customs regime of goods released for free circulation is intended to allow imported goods to remain permanently or to be consumed within the customs territory of the Republic of Kazakhstan.

***Article 29. Requirements for Releasing of Goods for Free Circulation***

Release of goods for free circulation shall be performed on condition of:  
payment of customs duties and taxes stipulated in this Law;  
compliance with the measures of non-tariff regulation and requirements in a sphere of currency control;

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compliance with any other requirements provided by this Law, other legislative acts of the Republic of Kazakhstan;  
completion of customs processing.

## **Chapter 5. RE-IMPORTATION OF GOODS**

### ***Article 30. Purpose of the Regime of Re-importation of Goods***

Re-importation of goods is the customs regime under which domestic goods, exported from the customs territory of the Republic of Kazakhstan in accordance with the customs regime of exportation, are imported back within the terms, stipulated in Article 31 hereof, without levying customs duties and taxes, and without application of measures of non-tariff regulation to these goods.

### ***Article 31. Requirements to Re-importation of Goods***

It shall be allowed to place goods under re-importation customs regime:  
which have been exported from the territory of the Republic of Kazakhstan according to the customs regime of exportation;  
which have been imported into the customs territory of the Republic of Kazakhstan within three years after their exportation;  
which are in the same state as at the time of exportation, except for changes resulted from natural wear or diminution in normal conditions of transportation and storage, in cases of damage or other deterioration of goods caused by an accident or acts of force majeure, and also other operations with such goods to keep them undamaged, small repair, which do not increase the cost of goods as determined at the moment of exportation. Natural wear or diminution of goods under normal conditions of transportation and storage shall be estimated according to the standards related to such goods. The fact of change as a result of accident or act of force major shall be proved by documents signed by consular bodies of the Republic of Kazakhstan abroad.

The date of exportation shall be the date of acceptance of Customs Declaration.

### ***Article 32. Refund of Export Customs Duties and Other Amounts***

In re-importation of goods, the Customs Body of the Republic of Kazakhstan shall refund customs duties, paid earlier, to the person who re-imported the goods within three years following the date of exportation of the goods.

In re-importation of goods, the person who transfers the goods shall repay the amounts received as payment or resulted from the other privileges granted in exportation of goods.

In addition to such amounts, interest shall be levied on them in accordance with the official refinancing rate of National Bank of the Republic of Kazakhstan.

Amounts and interest thereon, stipulated in the second and third parts of this Article, shall be paid to the Customs Body of the Republic of Kazakhstan in accordance with the procedure set for the customs payments.

## **Chapter 6. TRANSIT OF GOODS**

### ***Article 33. Purpose of the Customs Regime of Transit of Goods***

The customs regime of goods' transit is intended to allow the goods to be transferred under the customs control, through the customs territory of the Republic of Kazakhstan and through the territory of a foreign state without levying customs duties and taxes and without applying measures of non-tariff regulation.

### ***Article 34. Requirements to Transit of Goods***

Goods, which are conveyed in transit through the customs territory of the Republic of Kazakhstan must:

remain in an unchanged condition, except for changes consequential to natural wear or loss under normal conditions of transportation and storage, and not used for matters purposes;

be transported by the routes and directions of transit, if such are established by the Government of the Republic of Kazakhstan;

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be delivered to the Customs Body of destination within deadlines established by the Customs Body of departure in accordance with usual deadlines for delivery on the basis of the capacity of the transport vehicle, the planned route, and any other conditions of transportation, but not longer than the maximum period determined on the basis of two thousand kilometers per one month.

Goods that are prohibited from import into the Republic of Kazakhstan or from export from the Republic of Kazakhstan shall not be allowed to be placed under customs regime of transit.

***Article 35. Permission for Transit of Goods***

Transit of goods shall be carried out under permission of the Customs Body of the Republic of Kazakhstan.

Goods, in respect of which the legislation of the Republic of Kazakhstan provides for application of non-tariff regulatory measures and/or collection of customs duties and/or taxes for their release in free circulation within the customs territory of the Republic of Kazakhstan, shall be allowed for transit, provided that:

compliance with the requirements for proper equipping of transport vehicle established by the central Customs Body of the Republic of Kazakhstan;

a warranty of payment of customs duties and taxes in the form of a bank guarantee or deposition of the due amounts with the Customs Body of the Republic of Kazakhstan are secured;

customs escort of goods.

Each subsequent measure of the enumerated shall be applied if compliance with the transit requirements cannot be observed by implementing the preceding measure. A carrier has a choice of using customs escort.

The Customs Bodies of the Republic of Kazakhstan shall not reimburse the expenses on transport vehicle equipment, which a carrier incurs.

The Government of the Republic of Kazakhstan shall provide the list of goods, which can be transited only under condition of giving securities of payment of customs duties and taxes.

***Article 36. Documents for Goods Subject to Submission to Destination Customs Body***

Documents for goods subject to submission to the destination Customs Body shall be delivered following the same procedure as the goods to which they relate.

***Article 37. Measures To Be Taken In Case of Accident or Force Majeure***

In case of an accident or force majeure, goods may be unloaded. In this case, the carrier shall be required to:

take any measure necessary to ensure safety of goods and prevention from any unauthorized use thereof,

inform without delay the nearest Customs Body of the Republic of Kazakhstan about circumstances of the case, location of the goods and transport vehicles,

ensure conveyance of the goods to the nearest Customs Body of the Republic of Kazakhstan or conveyance of officials from the Customs Body of the Republic of Kazakhstan to location of the goods.

The Customs Bodies of the Republic of Kazakhstan shall not reimburse to the carrier expenses incurred as a result of taking measures stipulated in this Article.

***Article 38. Responsibility of the Carrier***

Transit of goods shall be responsibility of the carrier.

If goods are transferred without permission of the Customs Body of the Republic of Kazakhstan or in cases of loss of the goods, failure to notify about such loss or failure to deliver goods to the destination Customs Body, carrier shall pay customs duties and taxes, which would have been payable, respectively in case of release for free circulation or exportation, unless the goods were destroyed, irretrievably lost as a result of an accident or force majeure, or possession of the goods was lost as a result of actions by authorities or officials of the foreign state, which actions are illegal under legislation of the Republic of Kazakhstan provided that relevant documents have been submitted.

**Chapter 7. CUSTOMS WAREHOUSE**

***Article 39. Purpose of the Customs Warehouse Regime***

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Regime of the customs warehouse is intended to permit storage of imported goods under customs control without levying of customs duties, taxes and without application of measures of non-tariff regulation for the period of storage, and to permit storage under customs control of the goods to be exported without application of customs duties, measures of non-tariff regulation prior to their actual export.

***Article 40. Customs Warehouses and Their Types***

Any specially identified and designed premises or location intended to store goods in accordance with the customs warehouse regime shall be deemed a customs warehouse.

Customs warehouse may be of open type, that is available for use by any persons, and of the closed type, that is intended to store goods of certain persons.

The customs warehouses of closed type can be established if there are reasons to deem that the establishment of open-type warehouse is inappropriate.

***Article 41. Owners of Customs Warehouses***

Customs Bodies of the Republic of Kazakhstan or domestic persons can be owners of customs warehouses. Customs warehouses, which are under the authority of the Customs Bodies of the Republic of Kazakhstan, shall be open-type warehouses.

***Article 42. Licenses to Establish a Customs Warehouse***

A customs warehouse can be established after obtaining the license from the central Customs Body of the Republic of Kazakhstan. Such a license shall not be required if the customs warehouse is established by the Customs Bodies of the Republic of Kazakhstan.

Relations related to licensing shall be regulated by the Legislation on licensing.

The duration of a license to establish a customs warehouse can be suspended by the central Customs Body of the Republic of Kazakhstan.

Revocation of a license shall be effective from the date the licensee receives a notice on such revocation.

Suspension of a license shall be effective from the date the decision to suspend is made.

In suspending the duration of a license, foreign goods may be placed in a concerned warehouse with payment of customs duties, taxes and application of measures of non-tariff regulation, and no relief on customs duties and no refund of paid customs duties in respect of warehoused domestic goods shall be effected.

The Customs Body shall ensure periodic publication of information on establishment and operating customs warehouses.

***Article 43. Obligations of Owners of Customs Warehouses***

Owner of a customs warehouse shall be obligated to:

comply with the requirements established by the central Customs Body of the Republic of Kazakhstan in respect of premises or location intended for the establishment of a customs warehouse;

to ensure that the stored goods are not taken out from the customs warehouse other than under customs control,

not to hamper implementation of the customs control;

to comply with the terms of license for establishment of the customs warehouse and to meet the requirements of the Customs Bodies of the Republic of Kazakhstan, including making sure that officials of the Customs Bodies of the Republic of Kazakhstan have access to the goods, which are stored in the customs warehouse, providing these officials free of charge with premises, equipment and means of communication at the customs warehouse for implementation of customs control and customs clearance;

to keep accounts and provide reports on the goods stored and their turnover to the Customs Bodies of the Republic of Kazakhstan in accordance with the procedure established by the central Customs Body of the Republic of Kazakhstan.

***Article 44. Responsibility for Payment of Customs Duties and Taxes With Respect to the Goods Cleared Through a Customs Warehouse***

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Responsibility for payment of customs duties and taxes with respect to the goods cleared through the customs warehouse shall rest with the declarant. The person placing the goods for storage in the warehouse shall bear consolidated liability with the declarant.

In cases where the requirements stipulated in Article 43 of this Law are not observed, responsibility for payment of customs duties and taxes shall rest with the owner of the customs warehouse.

***Article 45. Goods Subject to Storage in the Customs Warehouse***

Any goods other than those, the list of which is identified by the Government of the Republic of Kazakhstan, can be placed to the customs warehouse.

Goods that may cause the damage to the other goods or that require special conditions of storage must be placed to the customs warehouses, designed in accordance with conditions of storage of such goods.

***Article 46. The Period of Storage of Goods In the Customs Warehouse***

Goods can be stored in a customs warehouse for three years, except for those cases where such period is limited in respect of certain categories of goods and persons that do not comply with the requirements of the Customs Legislation, under the procedure established by the central Customs Body of the Republic of Kazakhstan.

Upon expiry of a set period of storage in the customs warehouse, the goods must be declared for a different customs regime or placed to a temporary storage owned by the Customs Body of the Republic of Kazakhstan.

If goods are moved from one warehouse to another under the same customs regime, the storage period shall start from the date of their initial placement into the customs warehouse.

***Article 47. Operations Performed On the Goods Stored in Customs Warehouse***

Following are the operations which may be performed on the goods placed to the customs warehouse:

operations intended to ensure safety of these goods,

operations intended to prepare the goods for sale and transportation; splitting of batches, formation of consignments, sorting out, packaging, re-packing, marking, loading, unloading, re-loading and other similar operations.

The central Customs Body of the Republic of Kazakhstan shall identify the list and procedure for the performance of the operations listed in this Article.

***Article 48. Exemption of Goods, Placed Under the Customs Warehouse Regime and Intended for Exportation in Accordance With the Customs Regime of Exportation, From Customs Duties or Refund of Amounts Paid***

When customs warehouse regime is applied to the goods intended for exportation in accordance with the customs regime of exportation, such goods shall be exempt from customs duties, or the amounts paid shall be refunded, provided that such exemption or refund are stipulated for actual export of goods. Where goods are exempt from customs duties or paid amounts are refunded the goods must be withdrawn not later than three months following the date of their placement under the customs warehouse regime.

Goods shall be actually exported outside of the customs territory of the Republic of Kazakhstan or declared under a different customs regime no later than the established deadline.

***Article 49. Special Features of Legal Regulation of Activities of the Customs Warehouses***

The Government of the Republic of Kazakhstan may determine special features of activities of the customs warehouses, which are not stipulated in this Law.

**Chapter 8. DUTY FREE SHOP**

***Article 50. Purpose of the Duty Free Shop Regime***

The customs regime of duty free shops is intended to allow for retail sales of goods imported into the customs territory of the Republic of Kazakhstan under the customs control within the customs territory of the Republic of Kazakhstan without levying customs duties, taxes and without application of

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non-tariff regulatory measures provided that such goods are exported from the customs territory of the Republic of Kazakhstan.

Such sale of goods is effectuated under customs control in the customs territory of the Republic of Kazakhstan at airports, ports and border crossing passages open for international traffic, as well as on boards of aircraft and marine vessels on international routes.

***Article 51. License to Establish Duty-Free Shop***

A duty-free shop may be established by a domestic person in places designated therefor by the Customs Bodies of the Republic of Kazakhstan after its owner receives a license from the central Customs Body of the Republic of Kazakhstan.

Relations related to licensing shall be regulated by the Legislation on licensing.

The central Customs Body of the Republic of Kazakhstan may suspend the duration of a license to establish a duty-free shop.

Revocation of a license shall be effective from the moment the licensee is notified on such revocation.

Suspension of a license shall be effective from the date the decision to suspend is made.

***Article 51-1. Goods Subject to Placement at Duty-Free Shops***

Any goods may be placed at duty-free shops with the exception of those goods that are on the list of goods determined by the Government of the Republic of Kazakhstan.

***Article 52. Customs Requirements to Duty Free Shop Owners***

The owner of a duty free shop shall be required to:

comply with the requirements established by the central Customs Body of the Republic of Kazakhstan on equipping premises intended for establishment of a duty free shop;

eliminate the possibility of receipts to duty free shop, sales or withdrawal of goods otherwise than under the customs control;

comply with the terms of the license for establishment of a duty free shop;

keep accounts and provide reports on incoming and sold goods to the Customs Bodies of the Republic of Kazakhstan in accordance with the procedure determined by the central Customs Body of the Republic of Kazakhstan.

***Article 53. Responsibility For Payment of Customs Duties and Taxes on Goods Sold Through Duty Free Shop***

The responsibility for payment of customs duties and taxes shall rest with the owner of the duty free shop.

**Chapter 9. PROCESSING OF GOODS WITHIN THE CUSTOMS TERRITORY OF THE REPUBLIC OF KAZAKHSTAN**

***Article 54. Purpose of the Regime of Processing of Goods within the Customs Territory of the Republic of Kazakhstan***

The customs regime of processing of goods within the customs territory is intended to allow the foreign goods to be processed within the customs territory of the Republic of Kazakhstan without applying measures of non-tariff regulation and with refund of import customs duties and taxes, provided that products of the processing are exported outside of the customs territory of the Republic of Kazakhstan.

***Article 55. Operations on Processing of Goods***

Operations on processing of goods shall include:

processing of goods itself, whereby foreign goods lose specific characteristics but the imported goods nevertheless may be identified in the products of processing, given that such identification is a binding condition of processing;

manufacture (processing) of other goods including installation, assembly and adapting, where the imported goods preserve their main characteristics,

repair of goods, including their restoration;

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use of certain goods intended to facilitate the production of processed products with their partial or total consumption in the course of processing. This operation shall be effectuated along with one of those set forth in sub-paragraphs 2 - 4 of this article.

***Article 56. Requirements to Application of Processing Regime of Goods In the Customs Territory***

The customs regime of processing of the goods in the customs territory of the Republic of Kazakhstan shall not be applied in the following cases:

goods are not allowed for processing regime according to the list determined by the Government of the Republic of Kazakhstan;

imported goods can not be identified in the products of processing, except for the cases where the production process is continuous or is based on a unique technology without which such goods cannot be processed in order to produce similar goods in the territory of the Republic of Kazakhstan. The list of such technological processes shall be established by the authorized state body pursuant to the statutory procedure;

the person who effectuates processing of such imported goods:

- 1) has not been complied with the procedure of processing of goods that have been earlier imported in breach of the established procedure;
- 2) has earlier violated (two or more times) the indicated procedure;
- 3) has committed violations of the customs rules with resultant indicators of contraband, which is proven pursuant to the procedure established by the legislation of the Republic of Kazakhstan.

For processing of goods in the customs territory, the following is required:

an obligation submitted by a domestic entity to fulfill processing conditions issued according to a procedure established by the central Customs Body of the Republic of Kazakhstan;

at discretion of declarant either payment of import customs duties and taxes, or ensuring payment in the way of guarantee issued by authorized bank, or placing due sums on the deposit of the Customs Body of the Republic of Kazakhstan;

fulfillment of other requirements provided in the this Law of the Republic of Kazakhstan.

Domestic goods may be used when carrying out the operations of re-processing of foreign goods. Use of domestic goods in respect of which non-tariff regulatory measures and/or customs duties are applied shall be allowed under permission of the authorized state body.

***Article 57. Period of Processing of Goods Within the Customs Territory***

The term of processing of goods within the customs territory of the Republic of Kazakhstan shall be set up by the declarant pursuant to the procedure established by the central Customs Body of the Republic of Kazakhstan.

The aforesaid term shall not exceed two years from the date of conveying of the goods across the customs border of the Republic of Kazakhstan.

The term of processing of the goods in the customs territory of the Republic of Kazakhstan within two years from the date they are conveyed through the customs border can be extended by the declarant with an appropriate notice sent to the Customs Body to justify the need for such an extension.

Any extension of the term of processing over two years shall be effectuated pursuant to the procedure determined by the central Customs Body in coordination with the authorized state body.

The authorized state body shall establish the terms of processing of certain goods, the list of which is to be determined by the Government of the Republic of Kazakhstan.

***Article 58. Amount of Output of Products of Processing for Customs Purposes***

Output of processed products shall be estimated by the declarant on the basis of acting technical documentation of the enterprise, which processes the imported goods and on processing conditions.

The authorized state body shall establish mandatory output amount of processed products resultant from re-processing of certain goods, the list of which is determined by the Government of the Republic of Kazakhstan.

***Article 59. Refund of Import Customs Duties and Taxes***

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Paid customs duties and taxes or due amounts placed on a deposit of Customs Body of the Republic of Kazakhstan shall be reimbursed, or guarantee of authorized bank shall become void on the assumption of:

observance of the provisions of the present Law;  
export of goods or processed products not later than two years from the date of transfer of the goods through the customs border of the Republic of Kazakhstan;  
confirmation of the actual export of the imported goods or processed products outside of the Republic of Kazakhstan.

Interest shall not be accrued on the reimbursed amounts.

While releasing the imported goods or processed products for free circulation in the customs territory of the Republic of Kazakhstan, customs duties and taxes shall be paid, if they have not been paid at the moment of importation of the goods for processing. In addition, interests shall be accrued on the above amounts at the official refinancing rate of the National Bank of the Republic of Kazakhstan announced on the day of payment of customs duties and taxes. The stated interests shall be charged for the period the goods have been rested under the customs processing regime including the date of payment of import customs duties and taxes.

***Article 60. Exemption of Products of Processing of Foreign Goods from Export Customs Duties And From Application of Measures of Non-Tariff Regulation***

Products of processing of foreign goods shall be exempt from export customs duties. Measures of non-tariff regulation shall not be applied to them.

**Chapter 10. PROCESSING OF GOODS UNDER THE CUSTOMS. CONTROL**

***Article 61. Purpose of the Regime of Goods Processing Under the Customs Control***

Processing of goods under the customs supervision is a customs regime under which foreign goods are used in accordance with the procedure, established herein, within the customs territory of the Republic of Kazakhstan without levying customs duties and taxes, and without application of measures of non-tariff regulation, for the purpose of their processing under the customs control until subsequent release for free circulation or placement of the products of processing under the other customs regime.

***Article 62. Requirements for Application of the Customs Regime of Processing of Goods Under the Customs Control***

Processing of goods under the customs control must not be used to avoid application of measures of non-tariff regulation and rules of determination of goods origin.

The customs regime of goods processing under the customs control shall not be allowed if:

goods are prohibited for placing under the processing regime pursuant to the list established by the Government of the Republic of Kazakhstan;

goods for processing are imported to the Republic of Kazakhstan by the entity that does not carry out processing itself;

processing period exceeds six months;

processing operations do not correspond to the technology used by the enterprise, which is supposed to re-process;

the entity which carries out processing of goods:

- 1) cannot meet requirements of the customs legislation, including requirements on ensuring impossibility of withdrawal of goods and processed products otherwise than under customs control, arrangement of conditions for implementation of the customs control, ensuring access by the Customs Bodies to the goods, accounting of the goods and conducting operations with them, and also reporting;
- 2) has not completed the process of re-processing of goods that have been earlier imported with violations of the statutory procedure;
- 3) has violated the statutory procedure several times (two and more times);
- 4) has violated the customs rules by way of fraudulent operations, which is proven pursuant to the procedure established by the Legislation of the Republic of Kazakhstan.

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For the goods to be processed one shall submit the commitments in respect of processing conditions formalized according to the procedure established by the central Customs Body of the Republic of Kazakhstan.

***Article 63. Provisions Which Govern Processing of Goods Under the Customs Control***

Processing of goods under the customs control shall be governed by the provisions of Articles 55, 58 and 63-1 hereof.

***Article 63-1. Application of Customs Duties and Taxes***

The processed products of foreign goods shall be exempted from the export customs duties. Measures of non-tariff regulation shall not be applied to the above products.

While releasing the foreign goods or their processed products for free circulation in the customs territory of the Republic of Kazakhstan customs duties and taxes with accrued penalties shall be paid in the amount of 1.5 times of the official refinancing rate of the National Bank of the Republic of Kazakhstan announced on the day of payment of these amounts. The stated penalty shall be imposed for the period the goods have been kept under the customs processing regime including the day of payment of export customs duties and taxes.

**Chapter 11. TEMPORARY IMPORTATION AND TEMPORARY EXPORTATION OF GOODS**

***Article 64. Purpose of the Regime of Temporary Importation And Temporary Exportation of Goods***

Customs regime of temporary importation and temporary exportation of goods is intended to allow the goods to be used both within the customs territory of the Republic of Kazakhstan or outside thereof with full or partial exemption from customs duties and taxes and without application of measures of non-tariff regulation

***Article 65. Requirements for Temporary Importation and Temporary Exportation of Goods***

Goods temporarily imported and temporarily exported shall be subject to return in an unchanged state, except for changes resulted from natural wear or diminution in normal conditions of transportation, storage and utilization.

Categories of goods that may not be exported or imported temporarily shall be determined by the Government of the Republic of Kazakhstan.

Temporary importation and temporary exportation of goods is allowed on the assumption of:

- 1) submission of an obligation to export (import) such goods;
- 2) ensuring of identification of goods;
- 3) payment of customs duties and taxes pursuant to Article 68 of this Law;
- 4) disuse of temporary imported or temporary exported goods for matters purposes. The requirement set forth by this paragraph shall not relate to goods imported or exported temporary with full exemption from customs duties and taxes, as well as to equipment.

The Governments of the Republic of Kazakhstan shall approve the list of leasing objects in respect of which the customs regime of temporary importation and temporary exportation is applied.

***Article 66 (Deleted by the Law of the Republic of Kazakhstan of July 16, 1999 # 426)***

***Article 67. Periods of Temporary Exportation And Temporary Importation of Goods***

Period of temporary exportation and temporary importation of goods shall be set by the entity that temporarily exported or imported such goods, and shall be approved by the Customs Body of the Republic of Kazakhstan based on the purpose and other circumstances of such exportation and importation, but can not exceed two years from the date of importation or exportation, respectively.

The central Customs Body of the Republic of Kazakhstan may set shorter or longer maximum periods for certain categories of goods.

Changes of the above periods shall be made by the Customs Bodies of the Republic of Kazakhstan in accordance with the procedure determined by the central Customs Body of the Republic of Kazakhstan.

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No fee shall be charged for customs clearance of goods imported or exported temporarily when the duration of such import or export is extended.

For the objects of leasing included into the list approved by the Government of the Republic of Kazakhstan the periods of temporary importation and temporary exportation shall be established in accordance with the provisions of leasing treaty without application of restrictions provided in this article. The periods of temporary importation and temporary exportation for the stated leasing objects shall be changed by the Customs Bodies of the Republic of Kazakhstan upon a request of an entity, which temporarily imported or exported the object of leasing, on the basis of submitted changes, which were introduced into the leasing treaty.

***Article 68. Exemption from Customs Duties And Taxes On Temporarily Imported or Temporarily Exported Goods***

The Government of the Republic of Kazakhstan shall approve the list of temporarily imported and temporarily exported goods that are entirely exempted from taxes and customs duties. The objects of leasing included into the list approved by the Government of the Republic of Kazakhstan and temporarily imported or temporarily exported are entirely exempted from customs duties and taxes.

Goods, which are not on the stated list, shall be partially exempted from customs duties and taxes. In this case, three percent of the amount, which would have been payable if the goods had been released for free circulation or exported, shall be paid for each complete and incomplete month.

The total amount of customs duties and taxes, levied in temporary importation or temporary exportation with partial exemption, shall not exceed the amount of customs duties and taxes, which would have been payable as of the time of importation or exportation, if the goods had been released for free circulation or exported.

In the case if stated amounts become equal, the goods shall be deemed released for free circulation or exported, provided that measures of non-tariff regulation are not applied with respect to these goods.

***Article 69. Operations on Goods Upon Expiry of Set Periods for Temporary Importation (Exportation)***

Prior to expiry of set periods, unreturned temporarily imported (exported) goods must be declared for a different customs regime or placed to temporary warehouses, whose owners are the Customs Bodies of the Republic of Kazakhstan.

***Article 70. A Failure to Return Temporarily Exported And Imported Goods***

A failure to return the temporarily imported or temporarily exported goods within the established deadline shall be permitted only in those cases when the fact of destruction or irrevocable loss of the goods due to accident, or acts of force majeure, or conversion as a consequence of the unlawful acts of the bodies or officials of the State, where the goods were located, is confirmed: for temporary exportation - by consular institutions of the Republic of Kazakhstan abroad, for temporary importation - by the authorized state bodies.

**Chapter 12. FREE CUSTOMS ZONE AND FREE WAREHOUSE**

***Article 71. Purpose of the Customs Regimes of Free Customs Zones And Free Warehouses***

The customs regimes of free customs zones and free warehouses shall mean the customs regimes under which foreign goods are placed and used within the relevant territorial borders or premises (locations) without levying of customs duties and taxes and without application of measures of non-tariff regulation; domestic goods shall be placed and used on the terms applicable to export in accordance with the customs regime of exportation following the procedure provided in this Law.

***Article 72. Creation of Free Customs Zone***

Free customs zone as a territory, on which the customs regime of free customs zone is applied, shall be created by the decision of the Government of the Republic of Kazakhstan, which has been passed upon a joint proposal from the state authorized body of the Republic of Kazakhstan on customs matters and local representative and executive bodies of the Republic of Kazakhstan.

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The Government of the Republic of Kazakhstan shall be entitled to invalidate decision to create free customs zone, if its operation does not comply with the requirements of this Law. In case of invalidation of the above decision the free customs zone must be liquidated within six months.

The procedure for considering applications for establishment of free customs zones, passing and invalidation of decisions to create free customs zone shall be defined by the Government of the Republic of Kazakhstan.

***Article 73. Establishment And Liquidation of a Free Warehouse***

Free warehouses can be established after the license from the central Customs Body of the Republic of Kazakhstan is received.

Relations related to licensing shall be regulated by the Legislation on licensing.

A license to establish a free warehouse can be suspended by the central Customs Body of the Republic of Kazakhstan.

Revocation of a license shall be effective from the date the licensee is notified.

Suspension of a license shall be effective from the date the decision to suspend is made.

Upon a suspension of the license the foreign goods shall be placed in a warehouse with payment of customs duties and taxes and application of measures of non-tariff regulation, and customs duty exemption or refund of customs duties in respect of placed domestic goods shall not be carried out.

The Customs Body shall ensure periodic publication of information on established and operating free warehouses.

***Article 73-1. Goods Subject to Placement Under the Free Customs Zone Regime and at the Free Warehouse***

Goods that are destined for processing and equipment shall be allowed for placing in free customs zones.

Goods destined for processing (except, spirits) and equipment shall be allowed for placing at free warehouses.

Goods destined for processing (except, spirits) shall be allowed to be placed under the regime of free customs zone within a special economic zone pursuant to the criteria of sufficient re-processing of goods, as well as equipment.

The Government of the Republic of Kazakhstan may determine a list of goods that are not allowed to be placed in free customs zones.

***Article 74. Operations Involving Goods placed under the customs regimes of free customs zones and free warehouses***

The following operations shall be allowed in free customs zones and free warehouses:

on ensuring the safety of such goods;

on preparation of goods for sale and transporting: splitting up of consignments, forming of shipments, sorting, packing, re-packing, marking, loading, unloading, re-loading and other suchlike operations;

operations on processing.

The list of allowed operations shall be determined by the central Customs Body of the Republic of Kazakhstan.

For the purposes of ensuring compliance with the legislation of the Republic of Kazakhstan and performing the customs supervision, the Government of the Republic of Kazakhstan shall have the right to establish certain prohibitions and restrictions with regard to operations involving goods in free customs zones and at free warehouses, based on the nature of the goods, and to establish additional requirements for construction of buildings, structures and installations in free customs zones.

The Customs Bodies of the Republic of Kazakhstan may prohibit certain entities from the performance of operations involving goods in free customs zones and free warehouses, or deny such entities the access to the territory of free customs zones and free warehouses, if these entities do not comply with the requirements of the customs legislation of the Republic of Kazakhstan.

The central Customs Body of the Republic of Kazakhstan shall have a right to restrict or prohibit import or placement of certain categories of goods at free warehouses.

***Article 75. Periods for Which Goods Remain in Free Customs Zones and Free Warehouses***

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The goods may remain in free customs zones and free warehouses without limitation of time periods.

***Article 76. Measures Intended to Ensure Compliance With Customs Legislation of the Republic of Kazakhstan In Free Customs Zones And Free Warehouses***

The Customs Bodies of the Republic of Kazakhstan shall enforce control over goods kept in free customs zones and at free warehouses.

The customs clearance of goods imported in free customs zones and placed at free warehouses as well as exported from such territories shall be effectuated pursuant to the procedure determined by the central Customs Body of the Republic of Kazakhstan.

***Article 77. Accounting For the Goods Located In Free Customs Zones And Free Warehouses***

Persons, which carry out matters activities in free customs zones, as well as owners of free warehouses, shall keep accounts of imported, exported, stored, manufactured, processed, purchased and sold goods, and provide the Customs Bodies of the Republic of Kazakhstan with reports on these goods in accordance with the procedure determined by the central Customs Body of the Republic of Kazakhstan. Any modifications that take place with respect to the goods within the territory of free customs zones and free warehouses must be reflected in the accounting documents.

***Article 78. Additional Requirements to Owners of Free Warehouses***

Only domestic persons can be the owners of free warehouses.

The owner of a free warehouse shall be required:

to comply with the requirements applied to premises or locations intended for the establishment of free warehouse set forth by the central Customs Body of the Republic of Kazakhstan.

to ensure that the goods stored in the warehouse can not be withdrawn otherwise than under customs control,

not to hamper implementation of the customs control;

to comply with the terms of the license for establishment of the free warehouse and meet requirements of the Customs Bodies of the Republic of Kazakhstan, including making sure that officials of the Customs Bodies of the Republic of Kazakhstan have access to the goods which are stored in the free warehouse, providing these officials free of charge with premises, equipment and means of communication at the free warehouse for implementation of customs control and customs clearance.

***Article 79. Levying of Customs Duties, Taxes And Application of Sanctions of Non-tariff Regulation***

When importing foreign goods to the territory of free customs zones and when foreign and domestic goods are placed at free warehouses, customs duties and taxes shall not be levied and measures of non-tariff regulation shall not be applied. When importing foreign goods from the territory of free customs zones and free warehouses to the remaining part of the customs territory of the Republic of Kazakhstan, customs duties and taxes shall be levied and non-tariff regulatory measures shall be applied depending upon conditions of declared customs regime.

When importing domestic goods to free customs zones from remaining part of the customs territory of the Republic of Kazakhstan and when exporting them from the territory of free customs zones to remaining part of the customs territory of the Republic of Kazakhstan, customs duties and taxes shall not be levied and measures of non-tariff regulation shall not be applied.

When exporting goods from free customs zones and free warehouses outside of the Republic of Kazakhstan, customs duties shall not be levied and measures of non-tariff regulation shall not be applied to goods:

of foreign origin;

produced on the territory of free customs zones and at free warehouses;

processed within the territory of free customs zones and at free warehouses.

The origin of goods from the territory of free customs zones and free warehouses shall be confirmed by the certificate of origin. Where certificate is not available, goods shall be regarded as:

for the purposes of levying export customs duties and application of measures of non-tariff regulation as domestic goods - when exported outside of the Republic of Kazakhstan;

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for the purposes of levying import customs duties and taxes and application of measures of non-tariff regulation as foreign goods - when imported to remaining part of the customs territory of the Republic of Kazakhstan.

***Article 80. Exemption of Goods Destined for Export Pursuant to Export Customs Regime from Customs Duties or Refund of Paid Amounts***

When importing goods destined for export outside of the Republic of Kazakhstan pursuant to the export customs regime into free customs zones or their placement at free warehouses, such goods shall be exempt from customs duties, or all paid amounts shall be refunded if such an exemption or refund is provided in actual export of goods.

The actual export of such goods must be effectuated no later than six months from the date the paid customs duties are refunded or the exemption therefrom is granted.

Goods shall be actually exported from the customs territory of the Republic of Kazakhstan or declared under a different customs regime no later than the established deadline.

***Article 81. Responsibility For Payment of Customs Duties And Taxes***

Responsibility for payment of customs duties and taxes shall rest with the person that imported goods to the territory of the free customs zone or placed them to the free warehouse.

***Article 82. Regulatory Specifics of Operations of Free Warehouses***

The Government of the Republic of Kazakhstan shall determine regulatory specifics of the operations of free warehouses that are not envisaged in Chapter 12 of this Law.

**Chapter 13. PROCESSING OF GOODS OUTSIDE OF THE CUSTOMS TERRITORY**

***Article 83. Purpose of the Regime of Processing of Goods Outside of the Customs Territory***

The customs regime of processing of goods outside of the customs territory is intended to export and use domestic goods outside the customs territory of the Republic of Kazakhstan for the purposes of their processing and subsequent release of the products of processing for free circulation within the customs territory of the Republic of Kazakhstan with complete or partial exemption from customs duties and taxes, and without application of measures of non-tariff regulation.

***Article 84. Operations Associated With Processing of Goods Outside of the Customs Territory***

In processing of goods outside of the customs territory, operations, stipulated in the first part of Article 55 hereof, may be performed.

The Government of the Republic of Kazakhstan may set forth restrictions in respect of certain operations related to processing of goods outside of the customs territory of the Republic of Kazakhstan.

***Article 85. Requirement for Application of Customs Regime of Processing of Goods Outside of the Customs Territory***

The customs regime of processing of goods outside of the customs territory may not be used in the following cases:

for goods that were previously released in free circulation with exempt from customs duties or taxes with obligation to comply with the established restrictions, requirements and conditions - until the expiration of the duration of such restrictions;

if export of goods provides the basis to claim:

1) the return of import customs duties or taxes,

2) receipt of payments upon exportation;

if goods are exported for processing under purchase contract;

if it is impossible to determine whether the processed goods are produced from the exported goods, except for the cases of repair of goods, where replacement of the processed products is allowed

if the processing of goods outside of the customs territory causes a serious injury to the processing industries of the Republic of Kazakhstan. This provision shall apply to cases determined by the Government of the Republic of Kazakhstan;

if the person who effectuates (places the goods under the customs regime of processing outside of the customs territory of the Republic of Kazakhstan) such processing of goods:

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- 1) has not completed such processing of earlier imported and/or exported goods in breach of the statutory procedure for such regime;
- 2) has earlier committed violations (two or more times) of this statutory procedure;
- 3) has committed violations of the customs rules with resultant indicators of contraband, which is proved pursuant to the procedure established by the legislation of the Republic of Kazakhstan.

For processing of goods outside of the customs territory, the following is required:  
the submission by a domestic entity of obligation on processing conditions issued according to the procedure established by the central Customs Body of the Republic of Kazakhstan;  
the declarant at his discretion can pay export customs duties, or ensure payment in the way of guarantees issued by authorized banks, or in the way of depositing the due amounts with the Customs Body of the Republic of Kazakhstan;  
compliance with other requirements set forth in this Law.

***Article 86. (Deleted by the Law of the Republic of Kazakhstan of July 16, 1999 # 426)***

***Article 87. Period of Processing of Goods Outside of the Customs Territory***

The term of processing of goods outside of the customs territory of the Republic of Kazakhstan shall be defined by the declarant following the procedure established by the central Customs Body of the Republic of Kazakhstan.

This term can not exceed two years from the date the goods are carried through the customs border of the Republic of Kazakhstan.

The declarant can extend the term of processing of goods outside of the customs territory of the Republic of Kazakhstan within two years from the date of transference, with appropriate notification sent to the Customs Body, which shall contain a justification for such an extension.

Any extension of the term of processing for over two years shall be effected pursuant to the procedure established by the central Customs Body as agreed with the authorized state body.

The authorized state body shall determine the term of processing of certain goods that are included on the list compiled by the Government of the Republic of Kazakhstan.

***Article 88. Output of processed products For Customs Purposes***

The declarant shall define the quantity of the output of processed products.

In respect of certain goods that are in the list determined by the Government of the Republic of Kazakhstan, the required quantity of the output of processed products, resulting from operations associated with processing of the goods, shall be determined by the state authorized body.

***Article 89. Reimbursement of Export Customs Duties***

The refund of the paid export customs duties, or refund of the placed on a deposit of the Customs Body of the Republic of Kazakhstan due amounts shall be effected, or the guarantee of authorized bank shall be terminated, when products of processing are released for free circulation within the customs territory of the Republic of Kazakhstan, under the condition of compliance with the provisions of this Law. No interests shall accrue on the refunded amounts.

If processed products are not returned to the customs territory of the Republic of Kazakhstan, the export customs duties shall be paid, if such have not been paid upon exportation of such goods for processing according to the procedure established by the central Customs Body of the Republic of Kazakhstan. In addition, interests accrued on the said amount at the official refinancing rate of the National Bank on the date of payment of the export customs duties shall be collected.

The aforementioned interests shall be accrued for the period the goods are under the customs processing regime, including the date of payment of export customs duties.

***Article 90. Exemption of Products of Processing From Import Customs Duties***

Full or partial exemption of products of processing from import customs duties shall be granted in the case such products are declared for free circulation by the person that obtained permission for processing of goods outside of the customs territory, or by its customs agent.

Full exemption from import customs duties and taxes shall be granted, if the Customs Body of the Republic of Kazakhstan ascertains that purpose of processing is to repair exported goods free of charge

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by virtue of provisions of legislation or agreement, unless the deficiency was accounted for in the initial release for free circulation.

Partial exemption from import customs duties and taxes shall be granted in case of chargeable repair of exported goods and when the other processing operations are being carried out. The amount of the customs duty and taxes shall be determined based on the rates applicable to products of processing, multiplied by the cost of repair or processing.

***Article 91. Substitution of Products of Processing With Foreign Goods***

Substitution of products of processing with foreign goods shall not be allowed except for the cases when processing aims at repairing goods. The procedure for replacing processed products in the course of goods' repair shall be determined by the central Customs Body of the Republic of Kazakhstan.

***Article 92. Failure to Return Goods Exported For Processing or of Products of Processing Because of Their Destruction, Loss, Shortfall, or Unlawful Acts of Bodies or Officials of a Foreign State***

Failure to return the exported for re-processing goods within the established deadlines shall be possible only in the case if consular institutions of the Republic of Kazakhstan abroad confirm the fact of destruction or irretrievable loss of the goods or products of processing due to an accident or act of force-majeure, or shortage from natural deterioration or diminution as a result of normal conditions of transportation and storage, or conversion as a result of acts of bodies or officials of a foreign state, which pursuant to the legislation of the Republic of Kazakhstan are recognized unlawful, and also in the case if the customs regime of goods' processing outside of the customs territory is changed to the export regime.

***Article 93. Customs Regime Alterations Specifics for processing of Goods Outside of the Customs Territory***

When changing the customs regime of processing of goods outside of the customs territory to the export regime, the customs duties and taxes, as well as measures of non-tariff regulation shall apply to products of processing or to goods, if such goods are not reprocessed. The central Customs Body of the Republic of Kazakhstan shall determine the terms and procedure for customs clearance of such changes.

**Chapter 14. EXPORTATION OF GOODS**

***Article 94. Purpose of the Regime of Exportation of Goods***

The customs regime of exportation of goods is intended to allow for the possibility of exporting goods outside of the customs territory of the Republic of Kazakhstan so that they can be permanently located or consumed outside of this territory.

***Article 95. Requirements for Exportation of Goods***

Exportation of goods shall be carried out under the condition of payment of export customs duties and other customs payments, compliance with measures of non-tariff regulation, compliance with the requirements in the area of currency control and other requirements stipulated herein and in the other legal acts of the Republic of Kazakhstan.

***Article 96. Release For Exportation***

Goods released for exportation shall be actually exported outside of the customs territory of the Republic of Kazakhstan. At that, they shall be in the same state as they were as of the date of acceptance of the Customs Declaration, except for the changes due to natural wear or diminution in normal conditions of transportation and storage.

The person that transfers the goods shall be responsible for the actual exportation of goods released for exportation outside of the customs territory of the Republic of Kazakhstan.

In the case of passing of property on the goods within the customs territory of the Republic of Kazakhstan, the responsibility for actual exportation of such goods outside of the customs territory of the Republic of Kazakhstan shall rest with the carrier - a domestic person. In case of involvement of carrier - foreign person, exportation of goods will be allowed only if the payment of taxes subject to payment upon exportation of goods outside of the customs territory of the Republic of Kazakhstan is ensured, or under customs escort of such goods.

## **Chapter 15. RE-EXPORTATION OF GOODS**

### ***Article 97. Purpose of the Regime of Re-Exportation of Goods***

The customs regime of re-exportation of goods is intended to allow foreign goods to be re-exported from the customs territory of the Republic of Kazakhstan without levying or with refund of import customs duties, taxes and without application of measures of non-tariff regulation in accordance with the provisions of this Law and legislation of the Republic of Kazakhstan.

### ***Article 98. Terms of Re-Exportation of Goods***

In importation to the customs territory of the Republic of Kazakhstan import customs duties and taxes shall not be levied, and measures of non-tariff regulation shall not be applied, provided that the goods are declared to the Customs Body of the Republic of Kazakhstan as destined directly and solely for re-export. Actual re-exportation of such goods must be carried out not later than two months following the date of acceptance of the Customs Declaration. When actual re-exportation of goods has not been carried out within the established deadlines or when the goods are released for free circulation in the customs territory of the Republic of Kazakhstan the customs duties and taxes and penalties in the amount of 1.5 times of the official refinancing rate of the National Bank of the Republic of Kazakhstan established on the day of payment shall be paid. The aforementioned penalty shall accrue for the period the goods are under the re-exportation regime, including the day of payment.

Import customs duties and taxes paid according to part one of this Article, except for those paid when the goods are released for free circulation in the customs territory shall be reimbursed after confirmation of the actual exportation of the goods outside of the customs territory of the Republic of Kazakhstan in the following cases:

when exported, re-exported goods are in the same state as they were at the time of importation, except for changes due to natural wear or diminution under normal conditions of transportation and storage;

re-exportation of goods occurs within two years following the date of importation;

re-exported goods have not been used to gain profits.

In exportation of re-exported goods export customs duties shall not be levied and measures of non-tariff regulation, effective as of the time of exportation, shall not be applied.

### ***Article 99. Authorization For Re-Export of Goods***

Re-export of goods shall be allowed in the cases which are determined by the legislation of the Republic of Kazakhstan or international treaties of the Republic of Kazakhstan and be carried out according to the procedure established by the central Customs Body of the Republic of Kazakhstan.

Re-exportation of excisable goods shall be carried out if payment of import customs duties and taxes is ensured by guarantees of authorized bank or by deposited payment receivable to the Customs Body of the Republic of Kazakhstan or customs escort. The ensured payment of import customs duties and taxes shall be reimbursed after the actual exportation of goods outside of the customs territory of the Republic of Kazakhstan is confirmed.

## **Chapter 16. DESTRUCTION OF GOODS**

### ***Article 100. Purpose of the Regime of Destruction of Goods***

The customs regime of destruction of goods means that the goods shall be destroyed under customs supervision, including putting the goods into a condition not suitable for any use, without levying of customs duties, taxes and without applying of measures of non-tariff regulation.

The following goods shall not be destroyed:

goods which can be used as articles or materials, except for certain goods pursuant to the decision of the Government of the Republic of Kazakhstan;

goods in the artistic, historical and archaeological domain of the Republic of Kazakhstan and foreign states;

types of extinct animals and plants, their parts and derivatives, except for the cases when such destruction is required in order to prevent epidemics and epizootic;

goods and transport vehicles accepted by the Customs Bodies as pledge, - until the termination of such pledge relations;

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goods and transport vehicles withdrawn in cases of crimes or violations of customs rules;  
arrested goods and transport vehicles;  
goods and transport vehicles which are to be confiscated according to a court decision.

Goods may be destroyed if resolution on the possibility of such destruction issued by the authorized body.

***Article 101. Costs for Destruction of Goods***

Destruction of goods must not entail any costs for the Customs Bodies of the Republic of Kazakhstan.

***Article 102. Waste Which Appear As a Result of Destruction of Goods***

Waste which appear as a result of destruction of goods, where possible to use it further, must be either declared by the person that declared the regime of destruction for the relevant customs regime as foreign goods, which are under customs control, or used within the territory of the Republic of Kazakhstan as domestic goods in the cases stipulated in legal acts on customs matters.

**Chapter 17. REJECTION OF GOODS IN FAVOR OF THE STATE**

***Article 103. Purpose of the Regime of Goods Rejection In Favor of the State***

Rejection of goods in favor of the State is the customs regime under which a person rejects the goods in favor of the State without levying of customs duties, taxes and without application of measures of non-tariff regulation.

***Article 104. Permission For Rejection of Goods***

Rejection of goods in favor of the State shall be carried out in accordance with the procedure, determined by the central Customs Body.

The Government of the Republic of Kazakhstan shall determine the list of goods that are not allowed to be placed under the customs regime of rejection in favor of the state.

A person that chooses to use the customs regime of rejection in favor of the state does not have a right to change this regime for any other regime after completion of the customs clearance.

***Article 105. Costs With Respect to Rejection of Goods***

Rejection of goods in favor of the State in accordance with the provisions of this Chapter must not entail any costs for the Customs Bodies of the Republic or Kazakhstan.

**SECTION IV. SPECIAL AND ADDITIONAL PROVISIONS**

**Chapter 18. TRANSFER OF TRANSPORT VEHICLES AND CERTAIN KINDS OF GOODS THROUGH THE CUSTOMS BORDER OF THE REPUBLIC OF KAZAKHSTAN**

***Article 106. Transfer of Transport Vehicles***

Transfer of transport vehicles through the customs border of the Republic of Kazakhstan shall be carried out in accordance with the customs regimes applicable to transport vehicles.

Transport vehicles which cross the customs border of Republic of Kazakhstan and transport vehicles which are transferred through the customs border of the Republic of Kazakhstan as goods, shall stop in the places identified by the Customs Bodies of the Republic of Kazakhstan. If this requirement is not complied with, the Customs Bodies of the Republic of Kazakhstan shall have the right to exercise coercive stoppage of transport vehicles.

Duration of parking of transport vehicles, mentioned in the second part of this Article, shall be determined by the Customs Body of the Republic of Kazakhstan in cooperation with the carrier within the limits of time, required for implementation of the customs control and customs clearance.

Departure of transport vehicles, mentioned in the second part of this Article, from the places of parking shall be carried out with the permission of the Customs Body of the Republic of Kazakhstan.

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Carrier shall agree upon the time and place of crossing the customs border of the Republic of Kazakhstan by transport vehicles with the relevant Customs Body of the Republic of Kazakhstan.

***Article 107. Transfer of Currency of the Republic of Kazakhstan, Securities in the Currency of the Republic of Kazakhstan, Foreign Currency and Other Currency Assets***

Transfer through the customs border of the Republic of Kazakhstan of currency of the Republic of Kazakhstan, securities in the currency of the Republic of Kazakhstan, foreign currency and other currency assets, shall be carried out in accordance with the currency legislation of the Republic of Kazakhstan.

***Article 108. Transfer of Goods by Physical Persons***

physical persons can transfer the goods within the limits established by the Government of the Republic of Kazakhstan through the customs borders of the Republic of Kazakhstan in a preferential privileged procedure.

The preferential procedure determined by the Government of the Republic of Kazakhstan may include full or partial exemption from customs duties, establishment of uniform rates of customs duties and non-application of measures of non-tariff regulation.

Physical persons who are not registered as individual entrepreneurs according to the legislation of the Republic of Kazakhstan may not import to the customs territory of the Republic of Kazakhstan or export from such customs territory goods exceeding the limits established in part one of the present Article under the regimes of re-importation, customs warehouse, duty free shop, processing in the customs territory, processing under the customs control, free customs zone, free warehouse, processing outside of the customs territory, re-exportation, destruction.

## **SECTION V. CUSTOMS PAYMENTS**

### **Chapter 19. FUNDAMENTAL PROVISIONS**

***Article 109. Customs Payments And Taxes\****

*\*subparagraphs 2, 3, 4, 5, 11 and 13 of the part one of the article 109 are deleted by the Law of the RK # 426-I*

When transferring goods through the customs borders of the Republic of Kazakhstan and in any other cases which are established by this Law, the following customs payments shall be made:

- 1) customs duty;
- 6) levy for licensing by the Customs Body of the Republic of Kazakhstan;
- 7) levy for issuing of qualification certificate of the specialist of customs processing;
- 8) customs levy for customs processing;
- 9) customs levy for storage of goods;
- 10) customs levy for customs' accompanying of goods;
- 12) a fee for making a preliminary decision.

The application of VAT and excises to imported goods shall be performed by the Customs Bodies in accordance with the procedure and condition set forth by legal act of the Republic of Kazakhstan.

The Customs Bodies of the Republic of Kazakhstan shall levy antidumping, safeguard and countervailing duties according to the procedure and terms determined by the legislation of the Republic of Kazakhstan.

***Article 110. Customs Duties***

Goods transferred through the customs border of the Republic of Kazakhstan shall be subject to customs duties in accordance with the Customs Tariff of the Republic of Kazakhstan.

Customs Tariff of the Republic of Kazakhstan is a code of rates of customs duties applicable to the goods imported to the customs territory of the Republic of Kazakhstan and exported from this territory, which rates are systematized and grouped in accordance with the Goods Nomenclature of foreign economic activities of the Republic of Kazakhstan. The Goods Nomenclature of foreign economic activities of the Republic of Kazakhstan is based on the Harmonized System of Codification and

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Description of Goods, which is maintained by the World Customs Organization for the use by the member states of this international organization.

Rates of customs duties shall be uniform and not subject to change with respect to persons who transfer goods through the customs border of the Republic of Kazakhstan, types of transactions and other considerations, except for the cases stipulated in Articles 149 and 150 of this Law.

With respect to the goods, which originate from the countries trading and political relations wherewith do not envisage the Most Favored Nation regime, or whose country of origin is not identified, the rates of import customs duties determined under present Law shall be doubled, except for the cases where Republic of Kazakhstan grants tariff concessions (preferences) under relevant provisions of present Law.

Rates of the customs duties on imported and exported goods shall be determined by the Government of the Republic of Kazakhstan and become effective 30 days after their official publication.

***Article 111. (Deleted by the Law of the RK of July 16, 1999 # 426)***

***Article 112. Types of Rates of Customs Payments***

The rates of customs payments shall fall into the following types:

ad valorem payments calculated as percentage of the customs value of taxable goods;

specific payments calculated in the fixed amount per unit of taxable goods,

combined payments which combine both above-mentioned types of customs payments.

***Articles 113-117 are deleted by the Law of the RK of July 16, 1999 # 426-I***

***Article 118. Customs Levies For Customs Processing***

Customs duties shall be imposed in accordance with the procedure and in amounts to be determined by the Government of the Republic of Kazakhstan for customs processing of goods, including transport vehicles, which are transferred through the customs boundary of the Republic of Kazakhstan as goods, and goods, which are transferred in accordance with Article 108 of this Law in unaccompanied baggage, international mail, and cargo.

The Government of the Republic of Kazakhstan shall establish the amount of customs duties to be collected for customs clearance of goods and transport vehicles that are conveyed as goods outside the areas designated therefor and out of the regular office hours of the Customs Bodies of the Republic of Kazakhstan.

***Article 119. Fees For Storage of Goods***

Customs fees for storage of goods in customs warehouses and temporary stores, whose owners are the Customs Bodies of the Republic of Kazakhstan shall be charged in the amounts determined by the Government of the Republic of Kazakhstan.

Fees shall be levied for storage of goods in customs warehouses and temporary storage warehouses, which are owned by domestic persons in the amounts, agreed with the authorized state body on customs matters.

***Article 120. Customs Fees For Customs Escort of Goods***

Customs fees for customs escort of goods shall be charged in the amounts determined by the Government of the Republic of Kazakhstan.

**Chapter 20. CALCULATION AND PAYMENT OF CUSTOMS PAYMENTS**

***Article 121. The Basis For the Calculation of the Customs Payments***

The basis for calculation of customs payments, except for the customs payments for which specific rates are used in accordance with Article 112 of this Law, shall be the customs value of goods and transport vehicles, which are transferred as goods.

***Article 122. The System For Determining the Customs Value***

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The customs value of goods which are exported beyond the boundaries of the customs territory of the Republic of Kazakhstan shall be determined on the basis of the price of goods indicated in the invoice, and the following actual expenditures if they are not included in the invoice:

1) expenditures relating to the delivery of goods to the airport, port or any other place of exportation of goods from the customs territory of the Republic of Kazakhstan;

cost of transportation;

expenditures associated with loading, unloading, re-loading, and handling of goods;

amount of insurance,

2) expenditures borne by the seller:

commission and brokerage fees;

cost of containers or other durable tare, if, according to the Commodity Nomenclature of the Foreign Economic Activity, they are classified as a single whole with goods being valued;

cost of packing, including cost of packaging materials and labor associated with packing.

The customs value of the goods which are imported into the customs territory of the Republic of Kazakhstan shall be based on the general principles of customs valuation under the general principles of the General Agreement on Tariffs-and Trade (GATT).

The procedure for application of the system for customs valuation of goods, which are imported to the customs territory of the Republic of Kazakhstan, shall be established by the central Customs Body of the Republic of Kazakhstan on the basis of provisions of this Law.

#### ***Article 123. Declaration of the Customs Value of Goods***

The customs value shall be stated (declared) by a declarant to the Customs Body of the Republic of Kazakhstan when transferring goods through the customs boundary of the Republic of Kazakhstan.

The central Customs Body of the Republic of Kazakhstan in accordance with this Law and legislation of the Republic of Kazakhstan shall establish the procedure and conditions for declaring the customs value of goods, which are transferred through the customs boundary, as well as the form of the declaration.

The customs value of goods imported to the customs territory of the Republic of Kazakhstan shall be determined by the declarant in accordance with the methods of determining the customs value, which are established in this Law.

The supervision of the accuracy of determining the customs value shall be carried out by the Customs Body of the Republic of Kazakhstan which carries out the processing of goods including with the use of independent experts opinion on the consistence of the price of goods with their quality and quantity.

#### ***Article 124. Treatment of Information Concerning Customs Value of Goods As Confidential***

Information furnished by declarant in declaring the customs value of goods, which qualifies as constituting commercial secret or which is confidential, shall be used by the Customs Body solely for customs purposes and may not be transferred to third parties, including the other government authorities, without special permission of the declarant, except for the cases stipulated in this Law and legislation of the Republic of Kazakhstan.

#### ***Article 125. The Rights And Obligations of a Declarant in Respect of Customs Value***

A declarant shall have the following rights:

to prove the reliability of information submitted to establish the customs value, where the Customs Body has doubts about its reliability;

when a necessity arises to verify a customs value declared to receive the declared goods on condition of providing a payment of customs duties and taxes in the form of guarantee of an authorized bank or deposition of due amounts on the account of the Customs Body of the Republic of Kazakhstan as determined pursuant to the customs valuation of the goods, effected by the Customs Body of the Republic of Kazakhstan. When it is necessary to verify the declared customs value of goods that are not subject to customs payments and taxes, to receive the declared goods, provided that a commitment is made to submit necessary documents within the time limit established by the Customs Body;

in the case of a disagreement with the decision of the Customs Body of the Republic of Kazakhstan in relation to determining the customs value of goods, to challenge that decision in accordance with the procedure established by Articles 388 - 395 of this Law.

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A declarant shall be obliged as follows:

to declare the customs value and to present information relating to its determination, based on reliable, quantifiable and documentary confirmed information;

where it is necessary to confirm the declared customs value in accordance with the requirements of the Customs Body of the Republic of Kazakhstan, to present to the latter the information which is required for such confirmation;

to make any additional expenditures which arise in relation to verification of the customs value declared by the declarant or presenting to the Customs Body of the Republic of Kazakhstan any additional information. In that respect, the extension of the period of customs processing of goods caused by conducting a customs valuation may not be used by a declarant to obtain actual deferment of payment of customs duties and taxes.

***Article 126. The Rights And Obligations of the Customs Body in Determining the Customs Value***

The Customs Body of the Republic of Kazakhstan, which carries out customs processing of goods shall have the following rights:

to make decisions concerning the correctness of the customs value of goods as stated by the declarant;

where information, which confirms the accuracy of determining the customs value stated by a declarant does not exist, or where there are reasons to believe that information presented by a declarant is not reliable or sufficient, to assess independently the customs value of declared goods by consecutive application of the methods for determining the customs value that are established in this Law on the basis of the information, which is available to it (including price information relating to identical or similar goods) with adjustments made in accordance with this Law.

The Customs Body of the Republic of Kazakhstan pursuant to the written request of a declarant shall be obliged to present a written explanation of the reasons for which the customs value stated by the declarant may not be accepted by the Customs Body as the basis for assessment of customs duties and taxes, and the methodology of calculating of the customs value of imported goods.

***Article 127. The Methods For Determining the Customs Value***

Customs value of goods imported to the customs territory of the Republic of Kazakhstan shall be determined by applying the following methods:

- on transaction value of imported goods;
- on transaction value of identical goods;
- on transaction value of similar goods;
- the deductive method;
- the computed method;
- the provisional method.

The method of determining the customs value of goods by using the transaction value of imported goods shall be the principal method.

In the case where the principal method cannot be used, each of the listed methods shall be applied consecutively. In that respect, each subsequent method shall apply where the customs value may not be determined by way of using the preceding method. Upon written request of a declarant, the order of application of the deductive method and computed method shall be reversed.

***Article 128. The Method of Determining the Customs Value on the Basis of the Transaction Value of Imported Goods***

The customs value of goods imported to the customs territory of the Republic of Kazakhstan shall be the price actually paid or payable when sold for export to the Republic of Kazakhstan.

When determining the transaction value of goods, only the following expenditures shall be added to the price actually paid or payable for the goods, if they have not already been included:

1) expenditures associated with delivery of goods to the airport, port or other place of import of goods to the customs territory of the Republic of Kazakhstan:

- cost of transport of the goods;
- costs associated with loading, unloading, reloading and temporary storage of the goods;
- cost of insurance;

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The costs indicated in this paragraph may be excluded from the transaction value, provided that such costs are incurred after the importation of goods into the customs territory of the Republic of Kazakhstan and the amount subject to exclusion is documented.

2) expenditures incurred by the buyer:

commission and brokerage fees, except buying commissions;

cost of containers or any other durable tare, provided that they are classified with the goods under valuation under the Commodity Nomenclature for Foreign Economic Activity;

cost of packing including the costs of packing materials and labor associated with packing;

3) the appropriate part of the value of the following goods and services which were directly or indirectly supplied to the seller by the buyer free of charge or at a reduced cost, for the use in relation to manufacture or export sale of the goods under valuation:

raw materials, materials, components, semi-products and any other components which are a constituent part of the goods under valuation;

tools, dies, moulds and other similar items used in the production of the goods under valuation;

materials consumed in the manufacture of the goods under valuation (lubricants, fuel and any other);

engineering, development, artwork, design work, and plans and sketches made outside of the territory of the Republic of Kazakhstan and which are directly required for the manufacture of the goods under valuation;

4) licensing fees or other payments for the use of items of intellectual property which the buyer must pay directly or indirectly as a condition for sale of the goods under valuation;

5) the size of the share in direct or indirect income of the seller from any subsequent resales, transfer or use of the goods under valuation.

When importing different types of goods as a single delivery, expenditures to be incorporated into the customs value of each type of imported good and calculated for the whole delivery of goods shall be proportional to the value which is taken as the basis for calculating corresponding expenditures.

The price of a transaction actually paid or payable may not include costs which are not listed in this Article.

Method associated with transaction value of imported goods shall not be used for determining the customs value of goods where:

1) there are restrictions in respect of the buyer's right in disposition or use of the goods under value, except for the following:

restrictions established by legislative acts of the Republic of Kazakhstan;

restriction of the geographic region in which the goods may be re-sold;

restrictions which do not substantially affect the value of the goods;

2) the sale or the price is subject to observance of conditions for which a value is not possible to calculate;

3) information used by the declarant in declaration of the customs value is not documentarily confirmed or is not quantitatively determinable and reliable;

4) participants of the transaction are related entities and the transaction value is not acceptable as a basis for customs value according to the requirements of the present Article. In that respect, related entities shall be understood to be entities which meet one of the following criteria:

one of the participants of the transaction or official or director to one of the participants is at the same time an official or director to another transaction participant;

participants of the transaction are co-owners of an enterprise;

participants of the transaction are connected by labor relations;

any person directly or indirectly owns or control 5 or more per cent of: Voting outstanding shares, or Shares in the chartered capital of both of the transaction participants;

both participants of the transaction are under direct or indirect control by a third entity;

participants of the transaction together directly or indirectly control a third entity;

one of the participants of the transaction is under direct or indirect control of the other participant of the transaction;

participants of the transaction or their official persons are close relatives.

The fact that the transaction participants are related shall not be a sufficient ground to consider a transaction value as unacceptable. In this case the circumstances accompanying the transaction shall be

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analyzed, and the transaction value shall be recognized as acceptable for valuation, provided the relationship does not affect the price.

If the Customs Body has grounds to consider that the relationship of the participants does affect the price of the goods, then the declarant shall be provided with notification (in writing, if so requested by the importer). In this case the declarant shall be given an opportunity to submit additional evidence of the fact that the relationship of the transaction participants does not affect the price of good.

On the initiative of the declarant the transaction value can be used as a basis, provided the declarant demonstrates that the transaction value closely approximates one of the following values occurring approximately at the same time:

a) transaction value in sales of identical or similar goods between unrelated parties for export to Kazakhstan;

b) customs value of identical or similar goods determined by the deductive method;

c) customs value of identical or similar goods determined by the computed method;

When the declarant demonstrates the price for comparison, an appropriate adjustment shall be made with consideration of differences in:

1) commercial level (wholesale or retail),

2) quantity

3) elements (expenditures) listed in part 2 of this Article,

4) as well as other expenses of a seller incurred in a transaction between unrelated parties, if such expenses are not borne by the seller.

Value of identical or similar goods used for comparison shall not be used instead of a transaction value in the aforementioned case.

#### ***Article 129. The Method of Determining the Customs Value on the Basis of Transaction Value Involving Identical Goods***

When using the valuation method, which is based on the price of a transaction involving identical goods as a basis for determining a customs value of goods, the price of the transaction involving identical goods shall be adopted, subject to compliance with the provisions indicated in this Article.

In that respect, identical goods shall be understood to be goods which are identical to the goods under valuation in every respect including the following features:

physical features;

quality and reputation in the market;

the country of origin;

When using the customs valuation method on the basis of this Article:

1) goods shall not be considered to be identical with those being valued if they were not produced in the same country as goods being valued;

2) goods produced not by the producer of the goods being valued, but by some other person, shall be taken into account only where there are no identical goods produced by the same producer of goods being valued;

3) goods shall not be considered as identical if their development, engineering, artwork, design, sketches and drawings:

were provided by the buyer free of charge or at a reduced cost to be used in connection with production and sale for export to the Republic of Kazakhstan

the cost of which is not included to the customs value of goods being valued on the basis of section 5, paragraph 3, part 2 of Article 128, as they were implemented in the Republic of Kazakhstan

Insignificant differences in appearance shall not be a basis to refuse to recognize the goods as identical, provided in general such goods meet the requirements of this Article.

The value of a transaction involving identical goods shall be adopted as the basis for determining the customs value, provided those goods are:

1) sold for export to the territory of the Republic of Kazakhstan;

2) exported not earlier than ninety days prior or not later than 90 days after exportation of the goods under valuation;

3) imported approximately in the same quantity and at the same commercial level (wholesale, retail).

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Where no such sale is found, sales of identical goods imported in other quantity or at other commercial levels shall be used, and their value shall be adjusted accordingly in consideration of such differences.

If the value of expenses specified in clause 1) of part 2 of Article 128 of the present Law for identical goods significantly differs from the value of such expenses for goods being valued due to the difference in distance and types of transport vehicles, the customs value, which is determined on the basis of the price of a transaction involving identical goods, must be adjusted appropriately.

Adjustments specified in this Article must be carried out on the basis of reliable and documentarily supported information.

If more than one transaction value of identical goods is determined when using this method, then the lowest of the values shall be applied to determine the customs value of the imported goods.

### ***Article 130. Method of Determination of Customs Value on Transaction Value of Similar Goods***

When using the transaction value of similar goods as the basis for determining the customs value of goods, the transaction value of goods, both similar and being valued, shall be adopted subject to provisions indicated in this Article.

In that respect, similar goods shall be understood goods which, although not identical in every respect, have similar features and consist of similar components, which allows them to fulfill the same functions as the goods being valued and to be commercially inter-changeable.

When determining the similarity of goods, the following features thereof shall be taken into account:

quality, availability of a certain trade mark and reputation in the market.

the country of origin;

The provision of the fourth through seventh parts of Article 129 of this Law shall apply when using the method of determining the customs value on the basis of the transaction value of similar goods.

When using the present method of customs valuation:

- 1) goods shall not be deemed to be similar to those being valued, if they are not manufactured in the same country as the goods being valued;
- 2) goods which are manufactured by a manufacturer other than the manufacturer of the goods being valued, shall be considered only in the case where there are not similar goods manufactured by the manufacturer of the goods being valued;
- 3) goods shall not be considered as similar if their development, engineering, artwork, design, sketches and drawings

were provided by the buyer free of charge or at a reduced cost to be used in connection with production and sale for export to the Republic of Kazakhstan

the cost of which is not included in the customs value of goods being valued on the basis of paragraph 5, subpoint 3, part 2 of Article 128, as they were implemented in the Republic of Kazakhstan

### ***Article 131. The Method of Determination of Customs Value on the basis of Deduction of Value***

Determining customs value of goods by the method of valuation based on the deductive method shall be carried out in case where the goods being valued, identical or similar goods are to be sold without any changes of their initial condition.

When using the deductive method as a basis for determining the customs value of goods the unit price shall be applied, at which the identical, similar or being valued goods are sold in the largest consignments to a party, which is not related to the seller.

Sales shall take place at the same time as the importation of the goods being valued, but if no such sales occur at such time - then at the earliest date after importation of the goods being valued but not later than 90 days.

The following shall be deducted from the unit price of goods:

- 1) commission fees usually paid or agreed to be paid, or additions usually made for profit and general expenses in connection with the sale of imported goods of the same class or kind in the Republic of Kazakhstan;
- 2) amounts of import duties, taxes, levies and any other payments, which are subject to payment in the Republic of Kazakhstan in relation to import or sale of the goods;

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- 3) usual costs paid in the Republic of Kazakhstan for transportation, insurance, loading and unloading operations fulfilled on the territory of the Republic of Kazakhstan.

Goods of the same class or kind shall mean goods, which fall within the group or class of goods produced by a certain industry, and include the notion of identical or similar goods but not limited to it.

If there are no sales of the goods under valuation or identical or similar goods in the condition as imported, upon the request of the declarant the unit price of goods, which underwent reprocessing can be used with deduction of added value and in compliance with the provisions of the second and the fourth parts of this Article.

***Article 132. The Method of Determining the Customs Value on the Basis of Adding Costs***

When using the method of valuation by adding costs as the basis for determining the customs value of goods, one shall use the price of goods calculated by way of adding as follows:

- 1) cost of materials and expenditures incurred by the manufacturer in relation to manufacture of the goods under valuation,
- 2) amounts of profit and general expenses ordinary included in the price when selling goods of the same class or type as goods being valued, produced in the exporting country when exported to the Republic of Kazakhstan;
- 3) cost of expenses listed in clause 1 of part 2, Article 128 of this Law.

***Article 133. The Provisional method of Determining the Customs Value***

The customs value on the basis of the provisional method shall be determined by using the methods described in Articles 128-132 of this Law according to the procedure determined by the central Customs Body of the Republic of Kazakhstan and in compliance with international principles of customs evaluation of goods.

When using the provisional method in order to determine customs value the price information available at the Customs Bodies of the Republic of Kazakhstan shall be used.

The following may not be used as the basis for determining customs value of goods by the provisional method:

- 1) the price of the goods in the domestic market of the country of exportation;
- 2) the price of the goods which are supplied from the country of its export to third countries;
- 3) the price of the goods in the domestic market of the Republic of Kazakhstan in relation to goods of Kazakhstan origin;
- 4) arbitrarily established or not confirmed reliably values of goods.
- 5) value of identical or similar goods, determined on the basis of production costs not provided by Article 132 of the present Law;
- 6) minimum customs value.

When determining the customs value by the provisional method the system providing the application of the higher alternative values may not be used as a basis.

***Article 134. Payers of Customs Payments And Taxes***

A person who conveys goods shall be the customs duty payer.

Taxpayers shall be persons determined by the Tax Legislation of the Republic of Kazakhstan.

***Article 135. The Deadlines For Payment of Customs Payments and Taxes***

Customs payments and taxes shall be paid on or prior to the day of acceptance of the Customs Declaration.

When goods are transferred through the customs boundary of the Republic of Kazakhstan in accordance with Article 108 of this Law, customs payments and taxes shall be paid simultaneously with the acceptance of the Customs Declaration by the Customs Body.

If a Customs Declaration was not submitted within the established deadlines, then the periods of the payment of customs payments and taxes shall be measured from the date of expiry of the period for submission of the Customs Declaration.

***Article 136. The Procedure For Payment of Customs Payments And Taxes***

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Customs payments and taxes shall be paid into the state budget pursuant to the procedure determined by the state-authorized body on customs matters in conjunction with the Ministry of Finance of the Republic of Kazakhstan.

Payment of customs duties and taxes may be effected by the payer or by a third person as charged by the payer.

***Article 137. Deferral And Installment Payment of Customs Duties And Taxes***

The Customs Bodies of the Republic of Kazakhstan shall allow deferred payment or payment by installments of customs duties on imported raw materials and materials destined for industrial processing in accordance with the procedure determined by the state authorized body on customs matters of the Republic of Kazakhstan.

Neither deferral, nor installment payments of customs duties shall exceed three months following the date of acceptance of the Customs Declaration.

When a Customs Body grants deferral or allows installment payment of customs duties, interests shall be levied in accordance with the official refinancing rate set by the National Bank of the Republic of Kazakhstan on the day of payment of customs duties.

Such payment shall be secured in accordance with the procedure stipulated in Article 138 of this Law.

Deferral of payment of taxes shall be granted in accordance with the tax legislation of the Republic of Kazakhstan.

***Article 138. Securing Payment of Customs Duties And Taxes***

Payment of customs duties and taxes may be secured by pledge of goods and transport vehicles, guarantee of the authorized bank or by depositing the due amounts on the bank account of the Customs Body of the Republic of Kazakhstan.

In collateral, the pledged goods and transport vehicles shall remain with the pledger, unless otherwise decided by the Customs Body of the Republic of Kazakhstan.

The pledger shall not have the right to dispose of pledged items without the consent of the Customs Body of the Republic of Kazakhstan.

Registration of collateral and collecting of default using pledged items shall be carried out in accordance with the collateral legislation of the Republic of Kazakhstan.

The procedure to use guarantees of the authorized bank shall be established by the central Customs Body of the Republic of Kazakhstan.

In case of non-compliance with the terms of such guarantee, the Customs Body shall have the right not to accept guarantees issued by such banks as a security of payment of customs duties and taxes.

Amounts of customs duties and taxes, which would have been payable if the goods had been released for free circulation or exported in accordance with the customs regime of exportation, shall be deposited.

No interests shall accrue on deposited amounts for the period of custody.

The procedures for depositing due amounts and their refund shall be determined by the state authorized body on customs matters in agreement with the Ministry of Finance of the Republic of Kazakhstan.

***Article 139. Currency in Which Customs Duties And Taxes Are Paid***

Customs duties and taxes shall be paid both in the currency of the Republic of Kazakhstan and in foreign currencies, whose exchange rates are quoted by the National Bank of the Republic of Kazakhstan. Except for the cases where such payment may be made only in a foreign currency.

Conversion of a foreign currency into the currency of the Republic of Kazakhstan shall be carried out in accordance with the exchange rate of the National Bank of the Republic of Kazakhstan, which is effective as of the date of acceptance of the Customs Declaration.

***Article 140. Collection of Customs Payments And Measures of Responsibility***

The Customs Body of the Republic of Kazakhstan shall collect outstanding customs payments accumulated due to lapse of the time limits from the accounts of the payers indisputably.

The late payment charge shall be levied at a rate of 1.5 folded of the official refinancing rate of the National Bank established on the day of payment of arrears.

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Customs duties, penalties and fines additionally accrued shall be paid by the payer or may be contested within five banking days from the date the payer is notified pursuant to the procedure set forth in Articles 388-395 of this Law. If such a decision is not contested by the payer pursuant to the statutory procedure, such additionally accrued customs duties, fines and penalties shall be recovered by the Customs Body from the accounts of the payer indisputably.

Such arrears on customs payments, accrued late payment charge and penalties shall be paid according to the priorities established by the tax legislation of the Republic of Kazakhstan for recovering tax debts.

If a payer has no monetary resources, the collection shall be imposed in accordance with the legislation of the Republic of Kazakhstan against the property of the taxpayer upon his consent. The consent in respect to this part means the buyer's non-appeal against the decision of the Customs Body on imposing collection upon his property within 5 banking days from the date of notification on such decision according to the procedure established by Articles 388-395 of this Law.

In the case of evasion from payment of customs payments, a decision that is mandatory for all banks and organizations performing certain bank operations to suspend expenditure transactions from the accounts of the payer until the moment of actual payment. The responsibility in accordance with Article 296 of this Law shall be envisaged for a failure to implement such a decision.

In case of the absence of monetary funds on the buyer's account to assure payment of due customs duties and penalties, a decision to limit disposal of the payer's property shall be made.

The recovery of outstanding customs payments and penalties from the payer's accounts, the adoption of a decision to suspend any expenditures from the payer's accounts as well as the adoption of a decision to limit the payer's disposal of the property shall be effectuated pursuant to the procedure established by the Government of the Republic of Kazakhstan.

Neither deferrals nor installment plans shall be granted to persons that evade payment of customs payments and taxes.

## **Chapter 21. IDENTIFICATION OF THE COUNTRY OF ORIGIN OF GOODS**

### ***Article 141. Identifying the Country of Origin of Goods***

The country of origin of goods shall be identified for the purpose of implementing tariff and non-tariff measures of regulating import of goods to the customs territory of the Republic of Kazakhstan and export of goods from that territory. The procedure for identifying the country of origin of goods shall be established by the central Customs Body of the Republic of Kazakhstan on the basis of provisions of this Law.

The country of origin of goods shall be deemed to be the country in which the goods are wholly manufactured or subjected to processing sufficient to comply with the criteria established by this Law.

In that respect, the country of origin of goods may be understood to be a group of countries, a customs unions of countries, a region or part of a country, if there is a need to make such distinctions for the purposes of identifying the origin of goods.

The following goods shall be deemed to be entirely manufactured in a given country:

- 1) useful minerals extracted in its territory or in its territorial waters or on its continental shelf from the sea bottom subsurface, provided the country has exclusive rights to develop that subsurface,
- 2) vegetable produce grown or collected in its territory,
- 3) live animals born and grown in it,
- 4) production obtained in that country from animal breeding in it,
- 5) products of hunting, fishing and sea-trade produced in it,
- 6) production of sea trade, obtained or manufactured in the world ocean by vessels of that country or vessels leased (chartered) by it,
- 7) secondary raw materials and waste which are a result of production or any other operations which are performed in that country,
- 7-1) used articles resultant from production and other operations, carried out in a given country, and collected in its territory which may subsequently be used only as secondary materials;
- 8) production obtained in cosmos in space-crafts which belong to that country or leased by it,
- 9) goods manufactured in that country exclusively out of production indicated in sub-paragraphs from 1 to 8 of this Article.

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#### **Article 142. Criteria of Sufficient Processing of Goods**

If two or more countries are involved in the production of goods, the origin of the goods shall be identified in accordance with the criteria of sufficient processing.

Criteria of sufficient processing of goods in the given country shall be:

- 1) change of the commodity position (classification code) of goods in the Nomenclature at the level of any of the first four digits, which occurred as a result of processing of the goods,
- 2) performance of industrial or technological operations sufficient or insufficient for considering the goods originating from that country where these operations took place;

in this respect, the following shall not be deemed complying with the criterion of sufficient processing:

operations relating to ensuring safety of goods during storage or transportation,  
operations associated with preparation of goods for sale and transportation (breaking up of consignments, formation of shipments, sorting out, re-packing),  
simple assembly operations,

mixing of goods (components) without attachment to resulting products of features which substantially differentiate them from original constituents,

3) rule of ad valorem share means change of value of the goods where the percentage of the value reaches the fixed share of the price of supplied goods.

The criteria of sufficient processing of goods envisaged in sub-paragraphs 2) and 3) of this Article in respect of specific goods shall be established by the Government of the Republic of Kazakhstan.

In case where origin of goods is not stipulated specifically with respect to specific goods or countries, the general rule shall apply under which the goods shall be deemed to have undergone sufficient processing, if position of the goods in Nomenclature has changed at the level of any of the first four digits.

#### **Article 143. Identification of the Country of Origin of the Goods Supplied In Consignments**

Disassembled or unassembled Goods, supplied in several shipments, if due to production or transportation requirements their shipment in one single batch is impossible, and in cases where shipment of goods is broken up into several batches mistakenly, must at the discretion of the declarant be regarded as the uniform goods for the purposes of identifying the country of its origin. Prerequisite for the application of this rule shall be:

preliminary notification to the Customs Body of the republic of Kazakhstan on breaking up of unassembled or disassembled goods into several shipments with indication of the reasons for such break-up, detailed specifications on each shipment with indication of codes of the goods under the Nomenclature, value and country of origin of the goods which constitute each shipment;

documentary evidence of the mistaken break-up of the shipment into several parts,

delivery of all shipments from one country by one supplier,

importation of all shipments through the same customs house (customs office),

delivery of all batches of the goods within the period which does not exceed six months following the date of acceptance of the Customs Declaration or expiry of the period of its lodgment with respect to the first batch.

#### **Article 144. Confirmation of Origin of Goods**

The documentary confirmation of origin of goods shall be the certificate of origin or any other documents presented in the procedure set by the central Customs Body of the Republic of Kazakhstan.

When exporting goods from the customs territory of the Republic of Kazakhstan, the origin of the goods issued by the authorized body in those cases where it is confirmed in the relevant contracts, or is stipulated in international obligations of the Republic of Kazakhstan.

The certificate of origin of goods shall be presented when importing goods to the customs territory of the Republic of Kazakhstan only in the following cases:

- 1) when granting preferences on customs tariff with regard to goods transferred through the customs border of the Republic of Kazakhstan;
- 2) in cases where the Customs Body of the Republic of Kazakhstan has valid reasons to believe that goods originate in countries, the importation from which is regulated by restrictive measures of non-tariff regulation;

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- 3) where it is stipulated in the international treaties to which the Republic of Kazakhstan is a party, and also by the legislation of the Republic of Kazakhstan in the area of the protection of the natural environment, public health, protection of the rights of Kazakhstani consumers, public order, national security and any other vitally significant interests of the Republic of Kazakhstan.

In other cases, a documentary confirmation of origin of goods shall not be required.

***Article 145. Certificate of Origin of Goods***

Certificates on origin of goods must unequivocally attest that the indicated goods originate from a certain country and it must contain the following:

- 1) a written application of the consignor that the goods comply with the relevant criteria of origin;
- 2) a written assurance of the authorized body of the country of export, which issued the certificate that the information presented in the certificate is true.

A certificate of origin of goods shall be presented together with the Customs Declaration and the other documents, which are presented in the course of the customs processing. When a certificate is lost, its officially notarized copy by the body, which issued the certificate shall be acceptable.

In the event when doubts arise in respect of the authenticity of a certificate or of the information contained therein including information concerning the country of origin of goods, the Customs Body of the Republic of Kazakhstan may appeal to the bodies which issued the certificate or to the authorized bodies of the country which is indicated as the country of origin of the goods, with the request to communicate additional or specifying information.

Goods shall not be deemed to originate from a certain country until a duly formulated certificate of origin or requested information is presented.

***Article 146. Bases For Denial of the Admission of Goods Due to the Origin of Goods***

The Customs Body of the Republic of Kazakhstan may deny admission of the goods through the customs border of the Republic of Kazakhstan only if there are sufficient reasons to believe the goods originating from the country whose goods are not subject to such admission in accordance with the international treaties to which the Republic of Kazakhstan is a party, or with the legislation of the Republic of Kazakhstan. The above reasons shall be given to the declarant in the written form.

Non-submission of a certificate appropriately processed or data on the origin of goods shall not be the basis for not releasing the goods through the customs border of the Republic of Kazakhstan.

***Article 147. Additional Provisions Relating to Identifying the Country of Origin of Goods***

A preferential regime may apply (be re-established) to goods, provided appropriate certificate is obtained concerning their origin not later than one year following the date of performing their customs processing.

When identifying the country of origin of goods, the origin of the energy, machines, equipment and tools, which are used for their manufacture, shall not be considered.

The country of origin of the following shall be deemed the same as the country of origin of admitted goods:

- spare parts and tools intended to be used with imported goods, provided they are imported and sold together with the goods and are for the purpose and in appropriate quantity for equipping such goods;
- packaging materials and containers that the goods are packed in, if they are classified under the same commodity position as the goods.

Special considerations in identifying the country of origin of goods which are imported to the customs territory of the Republic of Kazakhstan from third countries, and also those imported from the territory of free customs zones and free warehouses which are located on the territory of the Republic of Kazakhstan shall, be established by the central Customs Body of the Republic of Kazakhstan.

**Chapter 22. TARIFF CONCESSIONS AND TARIFF PREFERENCES**

***Article 148. Concessions On Customs Payments***

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Concessions on customs payment with respect to goods shall be granted in accordance with the procedure for the introduction of amendments and additions to this Law, and they may not be for individual goods, except for the cases stipulated in Articles 149 and 150 of this Law.

Granting of concessions on customs payments by other legislative acts of the Republic of Kazakhstan shall be prohibited.

In this sense, concessions on customs payments shall mean the concessions with respect to goods, transferred through the customs border of the Republic of Kazakhstan, in the form of exemption from customs payments and reduction of customs duties rates.

***Article 149. Exemption From Imposition of Customs Payments***

The following shall be exempt from imposition of customs duties:

- 1) transport vehicles which perform regular international conveyance of cargo, baggage and passengers, and also items of material and technical supplies and inventories, fuel, foodstuffs and any other items which are required for their maintenance en route, in the places of transit stops, or items purchased abroad due to liquidation of accidents (break-down) of those in accordance with the limits established by the Government of the Republic of Kazakhstan;
- 2) items of material and technical supplies and inventories, fuel, food and any other assets which are exported outside of the territory of the Republic of Kazakhstan to provide for production activities or Kazakhstani or vessels leased (chartered) by Kazakhstani enterprises and organizations, which engage in sea trade within the limits established by the Government of the Republic of Kazakhstan and also production or their trade which is imported to the territory of the Republic or Kazakhstan,
- 3) national currency and also securities in accordance with the legislation of the Republic of Kazakhstan;
- 4) deleted
- 5) goods except for the excisable which are imported into the customs territory of the Republic of Kazakhstan or exported from that territory as humanitarian aid in accordance with the procedure determined by the Government of the Republic of Kazakhstan;
- 6) goods except for the excisable which are imported into the customs territory of the Republic of Kazakhstan or exported from that territory as free-of-charge aid or for charity purposes including rendering of technical assistance under agreements with governments, states, and international organizations;
- 7) goods which are exempt from the customs duties in accordance with the legislation on foreign investments of the Republic of Kazakhstan,
- 8) deleted;
- 9) goods which are imported for own needs by the National Bank of the Republic of Kazakhstan;
- 10) goods which are transferred through the customs boundary of the Republic of Kazakhstan within the framework of the customs regimes which envisage exemption from imposition of customs payments;
- 11) goods which are transferred through the customs territory of the Republic of Kazakhstan by physical persons, within regulations of duty-free conveyance determined by the Government of the Republic of Kazakhstan;
- 12) goods, except for excise goods purchased with the funds of the state external loans;
- 13) deleted;
- 14) lottery of foreign states imported for distribution in the territory of the Republic of Kazakhstan;
- 15) Goods imported to the customs territory of the Republic of Kazakhstan for the own needs of subsurface users (without further sale) under the contracts of performing oil operations signed between the Government of the Republic of Kazakhstan or the Authorized Body as determined by the Government of the Republic of Kazakhstan and domestic or foreign subsurface users;
- 16) Goods imported for the official use by foreign diplomatic and the like representatives and also for the personal use by diplomatic, administrative and technical staff of the representatives including members of their families staying with them and exempted according to international treaties of the Republic of Kazakhstan;

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- 17) goods purchased at the expense of grants, rendered in relation to the States, governments of the States, as well as international organizations, which to be determined pursuant to the tax legislation;
- 18) goods in accordance with the list determined by the Government of the Republic of Kazakhstan, which are imported to the customs territory of the Republic of Kazakhstan or exported from this territory within the frames of peacemaking or other manoeuvres, conducted for fulfillment of international obligations of the Republic of Kazakhstan, in the interests of collective security ensuring;

Import of equipment, raw materials and materials (except for alcohol, alcohol and tobacco products, as well as import of goods intended for distribution without processing) required for the implementation of an investment project can be exempt from customs duties, in part or in full, according to the contract between the Agency of the Republic of Kazakhstan on Investments and the investor.

Goods listed in points 1), 3), 5), 6), 9), 12), 17), 18) of this article shall exempt from the customs processing fee.

#### ***Article 150. Tariff Preferences***

In implementing of trading and political relations of the Republic of Kazakhstan with foreign states, preferences may be allowed with regard to the rates of the Customs tariff of the Republic of Kazakhstan in the form of exemption from duties, reduction of duty rates, or determination of quotas on preferential import (export) with respect to the following goods:

goods which originate from the states that form with the Republic of Kazakhstan customs union or a free trade zone or from the states that are in preparation for creation of such a union (zone);

goods originating from developing states which enjoy the national system of preferences, that is subject to revision by the Government of the Republic of Kazakhstan not less than once within five years;

goods, which circulate in the frontier, trade.

Tariff preferences shall be granted solely by a decision of the Government of the Republic of Kazakhstan.

#### ***Article 151. Refund of Paid Customs Duties and Taxes Paid***

If the amount of paid customs payments and taxes exceeds the accrued amount, the Customs Body of the Republic of Kazakhstan shall do the following:

- 1) with the consent of a payer it shall account the exceeding amount (balance) towards future obligatory payments;
- 2) upon written application of a payer it shall reimburse the difference within 20 days from the day the application has been submitted.

The paid taxes shall be refunded pursuant to the tax legislation of the Republic of Kazakhstan.

The customs duties and taxes paid according to the requirements of the customs regimes envisaged by this Law shall be refunded on later than the following banking day after the Customs Body of the Republic of Kazakhstan receives a written application from the buyer and copies of the documents, in accordance with which the amounts of the aforementioned payments are accrued and deposited.

No interests shall be paid on the refunded customs payments and taxes.

The central Customs Body of the Republic of Kazakhstan in agreement with the state authorized body and the Ministry of Finance of the Republic of Kazakhstan shall determine the procedure to refund paid customs payments and taxes deposited as a guarantee of payments of taxes.

As ruled by court, the payer shall have all unreasonably collected amounts from him/her/it refunded within three days with a penalty accrued in the amount of 1.5 of the official refinancing rate of the National Bank of the Republic of Kazakhstan as on the date of payment of such amounts are recovered by the Customs Body of the Republic of Kazakhstan.

#### ***Article 151-1. Statute of Limitations***

The statute of limitations in respect of claims of the Customs Bodies of the Republic of Kazakhstan for payment of reviewed amounts of customs duties or collection of outstanding amounts of customs duties as well as claims of payers for refunds of excessively paid customs duties and payments shall be five years.

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**Article 152. Control Over Payment of Customs Payments and Taxes**

Control over accuracy of calculation and timely fashion of payment to the Budget of customs payments and taxes, levying whereof is the responsibility of the Customs Bodies, shall be carried out by the Customs Bodies of the Republic of Kazakhstan.

**SECTION VI. CUSTOMS CLEARANCE**

**Chapter 23. GENERAL PREVISIONS**

**Article 153. Procedure For Performance of Customs Clearance**

The customs clearance shall be carried out in accordance with the procedure determined by this Law, acts of the Government of the Republic of Kazakhstan and legal acts on customs matters.

**Article 154. Place And Time For Performance of Customs Clearance**

Customs clearance shall be carried out in the places, zones of activity during official hours of the Customs Body of the Republic of Kazakhstan, which are determined in accordance with the procedure to be defined by the central Customs Body of the Republic of Kazakhstan.

With the consent of the Customs Body of the Republic of Kazakhstan, at the request of the involved person and at its expense, the customs clearance may be carried out in any other places and outside of official hours of the Customs Body of the Republic of Kazakhstan.

Central Customs Body of the Republic of Kazakhstan shall have the right to state that customs clearance of certain categories of goods and transport vehicles can be carried out only at certain Customs Bodies of the Republic of Kazakhstan.

**Article 155. Presence of Authorized Persons And Their Representatives at Customs Clearance**

Persons, who have authority with respect to goods and transport vehicles, and their representatives shall have the right to be present at the customs clearance.

At the request of the Customs Body of the Republic of Kazakhstan, persons mentioned in the first part of this Article and their representatives shall be required to be present at the customs clearance and provide assistance to officials of the Customs Bodies of the Republic of Kazakhstan in its performance.

**Article 156. Language In Which Customs Clearance Shall Be Carried Out**

Customs clearance, including filling out of documents for customs purposes, shall be carried out in the Kazakh or Russian language.

**Article 157. Customs Clearance And Control by Other Government Authorities**

In cases stipulated in legislation of the Republic of Kazakhstan, customs clearance may be completed only after performance of the veterinary, phyto-sanitary, ecological and other types of state control with respect to goods and transport vehicles, transferred through the customs border of the Republic of Kazakhstan.

**Article 158. Use And Disposal of Goods And Transport Vehicles With Respect Where to Customs Clearance Is Not Completed**

Nobody shall have the right to use and dispose of the goods and transport vehicles with respect where to customs clearance has not been completed, except for the cases stipulated by present Law and legal acts on customs matters.

**Article 159. (Deleted by the Law of the RK of July 16, 1999 # 426)**

**Article 160. Simplified Procedure For Customs Clearance**

In cases of urgent supplies (goods required in cases of Acts of God, accidents, catastrophes, live animals, perishable goods, radioactive materials, messages and materials for the purposes of the mass media), the customs clearance shall be carried out following the simplified procedure.

The simplified procedure for customs clearance of urgent supplies and cases of its application shall be identified by the central Customs Body of the Republic of Kazakhstan.

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***Article 161. Cargo And Other Operations With Respect to Goods and Transport Vehicles Required For Customs Clearance***

At the request of the Customs Body of the Republic of Kazakhstan, the person, which transfers goods, carrier, owner of warehouse and other person, which has the authority with respect to goods and transport vehicles, shall be required to perform transportation, weighing or other measurement of quantity, loading, unloading, reloading, improvement of packaging, unpacking, packing, or re-packaging of goods and transport vehicles, which are subject to customs clearance, and also opening of premises, containers or other places where such goods and transport vehicles may be located.

In other cases, where the customs clearance with respect to given goods and transport vehicles is not completed, the operations, indicated in the first part of this Article, may be carried out only with the permission of the Customs Body of the Republic of Kazakhstan.

Cargo and other operations with respect to goods and transport vehicles must not entail any additional costs by the Customs Body of the Republic of Kazakhstan.

***Article 162. Testing And Sampling of Goods For the Purposes of Customs Clearance***

For the purposes of customs clearance, the Customs Bodies of the Republic of Kazakhstan shall have the right to take samples and make tests of goods and perform their examination (expert examination), including those, performed jointly with the customs laboratories.

With the permission of the Customs Body of the Republic of Kazakhstan, tests and samples of goods under customs control may be taken by persons which have the authority with respect to goods, their representatives and other state control bodies for the purposes of exercising this control.

Tests and samples shall be taken in minimum amounts, sufficient to ensure the possibility of examination of these samples and tests.

With respect to testing and sampling of goods, which are under customs control, statement shall be prepared in accordance with the form determined by the central Customs Body of the Republic of Kazakhstan.

Persons, which have authorities with respect to goods, and their representatives shall have the right to be present at sampling and testing of the goods by officials of the Customs Bodies of the Republic of Kazakhstan and other state control bodies. Officials of the Customs Bodies of the Republic of Kazakhstan shall be present at testing and sampling of goods by the other state control bodies and by persons, which have authority with respect to the goods, and by their representatives. Said persons and their representatives shall be required to provide assistance to the officials of the Customs Bodies of the Republic of Kazakhstan when they take tests and samples of goods, including performance at their own expense cargo and other operations, required to take samples and tests.

In absence of the persons, having authority with respect to the goods, and their representatives, tests and samples of goods may be taken by the Customs Bodies of the Republic of Kazakhstan provided that such persons have not shown up upon expiry of ten days following submission of goods and in circumstances which brook no delay. In cases of such testing and sampling of the goods, witnesses shall be present.

Persons, who have the authority with respect to goods and their representatives, shall have the right to review results of performed examination of samples and test of their goods.

The Customs Bodies of the Republic of Kazakhstan must be notified of the results of performed examination of samples and tests of goods, taken by the other state control bodies.

The Customs Bodies of the Republic of Kazakhstan shall not reimburse any expenses incurred by the person as a result of taking samples and tests of goods. Expenses, associated with examination of tests and samples of goods, incurred by the Customs Bodies of the Republic of Kazakhstan and customs laboratories, shall not be reimbursed by the person, except for the cases where such examination is performed on the initiative of said person.

The procedure for taking tests and samples of goods, period and procedure of their examination and disposal thereof shall be determined by the central Customs Body of the Republic of Kazakhstan.

**Chapter 24. PRELIMINARY OPERATIONS**

***Article 163. Principal Purpose of Preliminary Operations***

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Any actions, which relate to the customs matters, preceding the principal customs clearance and placement of goods and transport vehicles under certain customs regime, shall be referred to as the preliminary operations.

Preliminary operations are intended to facilitate and accelerate performance of principal customs clearance of goods and transport vehicles and their placement under certain customs regime.

In preliminary operations, the Customs Bodies of the Republic of Kazakhstan shall perform identification of goods and transport vehicles for customs purposes and preliminary customs documentation, aimed at prevention of importation to the Republic of Kazakhstan and exportation from the Republic of Kazakhstan of goods and transport vehicles, which are prohibited from such importation.

***Article 164. Notification to the Customs Bodies of the Republic of Kazakhstan On Transfer Through the Customs Border of the Republic of Kazakhstan or On the Intention to Export Goods and Transport Vehicles Outside of the Customs Territory of the Republic of Kazakhstan***

In importation of goods and transport vehicles to the customs territory of the Republic of Kazakhstan, and in importation of goods and transport vehicles from the territory of free customs zones and free warehouses to the remaining customs territory of the Republic of Kazakhstan, the carrier shall notify the Customs Body of the Republic of Kazakhstan of transfer through the customs border of the Republic of Kazakhstan.

In exportation of goods and transport vehicles outside of customs territory of the Republic of Kazakhstan, the person which transfers goods and transport vehicles shall notify the Customs Bodies of the Republic of Kazakhstan on its intention to export these goods and transport vehicles. The Customs Body of the Republic of Kazakhstan shall register such notification and identify time and place at which the goods and transport vehicles must arrive to go through further customs clearance. When the person, who transfers goods, does not provide said notification, such obligation shall be assigned to the carrier.

The provisions of this Article shall not apply to marine and river vessels and aircraft, which cross the customs territory of the Republic of Kazakhstan without landing at the port or airport, located within the territory of the Republic of Kazakhstan.

***Article 165. Delivery of Goods, Transport Vehicles and Documents Relating Thereto To the Place Determined by the Customs Body of the Republic of Kazakhstan***

Upon submitting of the notification indicated in Article 164 of this Law, the carrier shall be obliged to deliver the goods, transport vehicles and documents relating thereto without any changes in their packaging and conditions except for the changes consequential to the natural wear or loss under normal conditions of transportation and storage without using for matters purposes and in accordance with the established routes to the place indicated by the Customs Body of the Republic of Kazakhstan and stay there after arrival.

Deliveries of goods, transport vehicles and documents relating thereto must be carried out within deadlines established by the Customs Body of the Republic of Kazakhstan in accordance with the usual periods of delivery on the basis of capacities of the transport vehicle, the determined route and any other conditions of transportation but not longer than the maximum term to be determined on the basis of two thousand kilometers per one month.

In the event that the Customs Body of the Republic of Kazakhstan has reasons to believe that the carrier or the carrier's transport vehicle may not guarantee compliance with the provisions of this Law, the Customs Body of the Republic of Kazakhstan shall have the right to determine that conveyance of goods and documents relating thereto may be carried out only under the condition of due equipment of the transport vehicle, customs convoy, in accordance with the procedure defined by this Law and legal acts on customs matters.

Expenditures incurred by the carrier in relation to due equipment of the transport vehicle shall not be reimbursed by the Customs Bodies of the Republic of Kazakhstan.

In cases where the indicated vehicles may not be used, the conveyance of goods and documents therewith shall be allowed subject to security of payment of customs duties and taxes, including amounts due placed on the deposit determined by the Customs Body of the Republic of Kazakhstan.

***Article 166. Measures Taken due to an Accident or Act of Force Majeure***

If in the delivery of goods, transport vehicles and documents relating thereto, a carrier fails to fulfill the obligations stipulated in Article 165 of this Law due to an accident or acts of force-majeure, the

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carrier shall be obliged to adopt every measure to ensure the safety and prevent any unauthorized use of goods and transport vehicles, and immediately report to the nearest Customs Body of the Republic of Kazakhstan the circumstances of the case, and the place or location of the goods and transport vehicles. The Customs Body of the Republic of Kazakhstan shall determine the measures that must be adopted in that case to ensure the customs supervision.

The Customs Bodies of the Republic of Kazakhstan shall not reimburse a carrier for any costs incurred in relation to adopting measures stipulated in this Article.

The provisions of this Article shall apply also in the cases where marine, river and aircraft indicated in the third part of Article 164 of this Law make a forced stop or landing in the territory of the Republic of Kazakhstan.

#### ***Article 167. Presentation of Goods and Transport Vehicles in the Place of Delivery***

Goods and transport shall be presented in the place of delivery and documents relating thereto shall be handed to the Customs Body of the Republic of Kazakhstan. Such presentation shall take the form of notification on arrival of goods and transport vehicles not later than 24 hours following their arrival.

With the permission of a Customs Body of the Republic of Kazakhstan, after presentation of the goods, persons, which have authority with respect to the goods, and their representatives may take samples and tests of the goods for the purposes of customs clearance.

Abandonment of transport vehicle and goods without supervision, change of the parking place, unloading and re-loading of goods, change of initial location of the goods, disembarkment of the passengers, unpacking, packing and re-packing of goods, modification, removal or destruction of identification signs, shall be allowed only with the permission of the Customs Body of the Republic of Kazakhstan.

Violation of the provisions of third part of this Article shall not entail the responsibility for the carrier only in the event he proves that there was a real threat to the health and lives of passengers and the crew of the transport vehicle, threat of destruction, irretrievable loss or substantial damage to goods and transport vehicle. The carrier shall promptly notify the Customs Body of the Republic of Kazakhstan on circumstances, which caused violation of mentioned provisions.

The Customs Body of the Republic of Kazakhstan shall have the right to require at any time immediate performance of actions stipulated in the third part of this Article or their performance within the period determined by this body.

The Customs Bodies of the Republic of Kazakhstan shall not reimburse any additional expenses incurred by the carrier as a consequence of actions or circumstances stipulated by the provisions of this Article.

#### ***Article 168. Brief Declaration***

Prior to placement of goods and transport vehicles under certain customs regime, the Brief Declaration may be applied.

The pro-forma for Brief Declaration and list of data to be included therein shall be prescribed by the central Customs Body of the Republic of Kazakhstan.

With the permission of the Customs Body of the Republic of Kazakhstan, transportation, commercial and the other documents may be used as the Brief Declaration including those prepared in foreign languages which are known by the officials of the Customs Body of the Republic of Kazakhstan, provided those documents contain information which conforms with the brief declaration.

Brief declaration shall be lodged by the carrier simultaneously with submission of goods and transport vehicles or, with the permission of the Customs Body of the Republic of Kazakhstan, not later than the next matters day after submission of goods and transport vehicles.

The brief declaration shall not be lodged, if the goods have been placed under certain customs regime within prescribed period of time.

In absence of the representative, specifically authorized by the carrier to lodge the brief declaration, the commander, captain, driver or the other physical person, who is in control of the transport vehicle, shall be deemed such representative for the customs purposes.

#### ***Article 169. Responsibility Before the Customs Bodies of the Republic of Kazakhstan in Preliminary Operations***

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Prior to placement of the goods and transport vehicles under certain customs regime, full responsibility for these goods and transport vehicles before the Customs Bodies of Republic of Kazakhstan, including payment of customs duties and taxes, shall rest with the carrier, except for the case provided in part two of Article 164 of this Law, i.e. placing goods in a warehouse for temporary storage and also other cases stipulated in this Law.

## **Chapter 25. TEMPORARY STORAGE**

### ***Article 170. Temporary Storage***

Goods and transport vehicles shall be in temporary storage under the customs control from the time goods and transport vehicles were submitted to the Customs Body of the Republic of Kazakhstan, until they are released, or until they are allowed for the appropriate person's disposal, in accordance with the selected customs regime.

### ***Article 171. Temporary Storage Places***

Temporary storage of goods and transport vehicles shall be carried out in specially designated and designed premises, in open-air areas, transport vehicles or other places (temporary storage facilities, customs warehouses, free warehouses) in areas under customs control. Subject to the destination of goods and the period for their customs clearance, the state authorized body on customs matters shall establish a procedure to select places and establish a procedure to temporarily store goods and transport vehicles.

Temporary stores - warehouses of special destination for temporary storage of goods and vehicles may be established by the Customs Bodies of the Republic of Kazakhstan or domestic persons.

The Central Customs Body of the Republic of Kazakhstan may set binding requirements with respect to layouts, design, equipment and location of temporary storage warehouses.

### ***Article 172. Licenses to Establish a Warehouses for Temporary Storage***

Warehouses for temporary storage may be established upon receipt of a license from the Customs Bodies of the Republic of Kazakhstan. The indicated license shall not be required where a warehouse for temporary storage is established by a Customs Body of the Republic of Kazakhstan.

Relations related to licensing shall be regulated by the legislation on licensing.

The duration of a license to establish a temporary storage warehouse may be suspended by the central Customs Body of the Republic of Kazakhstan.

Revocation of a license shall take effect from the moment the licensee is notified about such revocation.

Suspension of a license shall take effect from the date a decision to suspend is made.

When the duration of a license is suspended, placement of foreign goods at warehouses shall be effected with payment of customs duties, taxes and application of non-tariff regulatory measures.

The Customs Body shall ensure periodic publication of information on establishments and operating temporary storage warehouses.

### ***Article 173. Types of Temporary Stores***

Temporary stores may be of open type, that is available for use by any persons, and of closed type, that is meant for storage of goods of certain persons.

Temporary stores, established by the Customs Bodies of the Republic of Kazakhstan, shall be open-type ones.

Temporary stores of closed type may be established only if there are sufficient reasons to consider establishment of the open-type store appropriate.

### ***Article 174. Goods Which May Be Placed To Temporary Store***

Any goods may be placed in the temporary store. Goods, which may bring damage to the other goods or require special storage conditions, must be placed into stores specially designed for that purpose.

### ***Article 175. Documents Required for Placement of Goods and Transport Vehicles in Temporary Store***

When goods and transport vehicles are placed into temporary store, documents, sufficient for the identification of goods and transport vehicles, must be provided to the Customs Bodies of the Republic of Kazakhstan.

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***Article 176. Obligations of Owner of Temporary Storage Warehouse***

The owner of a temporary storage warehouse shall be obligated:

to equip the storage in due fashion, as required to ensure the customs control, and to install certified equipment to weigh goods placed for temporary storage;

to ensure that goods and transport vehicles in temporary storage could not be withdrawn otherwise than under the customs control;

not to hamper implementation of the customs control;

to keep accounts and provide Customs Body of the Republic of Kazakhstan with the reports on the received, stored and released goods from the warehouse for temporary storage and transport vehicles, in accordance with the procedure determined by the central Customs Body of the Republic of Kazakhstan;

to prevent from accessibility by third parties to stored goods and transport vehicles;

where necessary, to equip the store with two locks, one of which would be under the control of the Customs Body of the Republic of Kazakhstan;

to comply with terms of the license for the establishment of temporary store and meet the requirements of the Customs Bodies of the Republic of Kazakhstan, including making sure that officials of the Customs Bodies of the Republic of Kazakhstan have access to the stored goods and transport vehicles at any time at their request, providing these officials free of charge with premises, equipment and means of communication at the temporary store for performance of customs control and customs clearance.

***Article 176-1. Requirements to Temporary Storage Premises***

The requirements to other premises of temporary storage shall be established by the central Customs Body of the Republic of Kazakhstan.

If the temporary storage premises in question is part of the customs or free warehouse, the part (section) of such a warehouse used for temporary storing of goods and transport vehicles must be isolated and, in cases determined by the central Customs Body of the Republic of Kazakhstan, shall have separate drive-in ways.

***Article 177. Additional Rights of Customs Bodies of the Republic of Kazakhstan With Respect to Temporary Storage Warehouses***

The central Customs Body of the Republic of Kazakhstan in agreement with the state authorized body on customs matters shall identify the list of goods, which can be stored only in temporary storage warehouses, whose owners are the Customs Bodies of the Republic of Kazakhstan.

***Article 178. Responsibility for Payment of Customs Duties and Taxes With Respect to the Goods Stored in Temporary Store***

Except for the case, stipulated in the second part of this Article, responsibility before the Customs Bodies of the Republic of Kazakhstan for payment of customs duties and taxes with respect to the goods and transport vehicles, stored in the temporary store, shall rest with the owner of such store.

When Customs Body of the Republic of Kazakhstan is the owner of temporary store, the responsibility for payment of customs duties and taxes shall rest with the person, which placed the goods and transport vehicles into the temporary store; in absence of such person - this responsibility shall rest with the person, which is the owner or possessor of the goods and transport vehicles.

***Article 179. Temporary Storage Duration***

The duration of temporary storage shall be determined by the Customs Body of the Republic of Kazakhstan given the time required to lodge the Customs Declaration, nature of the goods and transport vehicle involved. The Customs Bodies of the Republic of Kazakhstan can extend a set period due to non-submission of the required Customs Declaration or lack of the documents required for customs clearance.

The total period of storage of goods and transport vehicles in temporary store shall not exceed two months; and in cases, stipulated in other Articles hereof, it shall not exceed the period determined therein.

The duration of temporary storage of goods and transport vehicles at a customs or free warehouse shall be determined pursuant to the second part of this Article.

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**Article 180. Operations with the Goods In Temporary Storage**

The owner of a temporary storage or any other person authorized appropriately in respect of goods and their representatives may inspect and measure goods placed at such a warehouse and, with the permission of the Customs Body, take samples of such goods for testing.

Goods kept in a temporary storage may undergo operations, required to ensure their safety in an unchanged state, including repairs of damaged packaging.

**Chapter 26. CUSTOMS BROKER**

**Article 181. Customs Broker (Intermediary)**

Any legal entity, created in accordance with the legislation of the Republic of Kazakhstan and located in the Republic of Kazakhstan, which has obtained the license issued by the central Customs Body of the Republic of Kazakhstan for performance of activities as the customs broker and which, among its personnel, has specialist in customs clearance, who, in turn, obtained the qualification certificate from the central Customs Body of the Republic of Kazakhstan, may be the customs broker.

Customs broker shall perform his activities in accordance with present Law and Regulations approved by the Government of the Republic of Kazakhstan.

Relationship between customs broker and the represented person shall be based on the agreement.

**Article 182. Licenses for the Right to Carry Out Activities As Customs Broker**

A legal entity may begin activities as a customs broker after receiving the license from the central Customs Body of the Republic of Kazakhstan for the right to carry out such activities.

Relations related to licensing shall be regulated by the legislation on licensing.

The duration of a license to engage in activities of a customs broker may be suspended by the central Customs Body of the Republic of Kazakhstan.

Revocation shall be effective from the date the licensee receives appropriate notice.

Suspension of a license shall be effective from the date a decision to suspend such a license is made.

The Customs Body shall ensure periodic publication of the list of customs brokers.

**Article 183. Rights and Obligations of Customs Broker**

A customs broker shall, on his own behalf, conclude operations related to customs clearance and execute other intermediary functions at the expense of and at the request of the declaring person in the field of customs matters in accordance with the Regulations concerning customs brokers.

The rights and obligations of a customs broker shall be uniform for all customs brokers. Concessions, exceptional (exclusive) rights and other advantages, which have an individual nature, may not be provided for certain customs brokers, unless otherwise stipulated by this Law.

When customs control and customs clearance have been carried out a customs broker shall execute all obligations and shall bear all liability, as if he transferred the goods across the customs border of the Republic of Kazakhstan himself.

**Article 184. Register of Customs Brokers**

The central Customs Body of the Republic of Kazakhstan shall keep the register of customs brokers and ensure its periodic publishing.

**Article 185. Specialists in Customs Processing**

The right to carry out transactions of customs processing on behalf of the customs broker shall be vested with the specialist who has the Qualification Certificate from the central Customs Body of the Republic of Kazakhstan.

When a specialist, mentioned in part one of this Article, carries out customs clearance on behalf of a customs broker, it is considered that this specialist has been authorized to do this by the customs broker, if the customs broker does not indicate otherwise.

A customs broker may not restrict the obligations of the specialists on customs processing to the Customs Bodies of the Republic of Kazakhstan.

The procedure for considering application and issuing of Qualification Certificates, and also the requirements in respect of the specialists on customs processing, shall be determined by the central

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Customs Body of the Republic of Kazakhstan. The Central Customs Body shall maintain a register of specialists of customs clearance.

The Qualification Certificate of a specialist on customs processing may be revoked by the central Customs Body of the Republic of Kazakhstan when:

- 1) the certificate is issued on the basis of incomplete or false data submitted by the applicant, which was material for the adoption of the decision to issue the Certificate;
- 2) the specialist failed to execute his obligations to the Customs Bodies of the Republic of Kazakhstan;
- 3) the specialist violated or failed to comply with the requirements of the Customs Legislation;
- 4) the specialist is recognized guilty in commission of a crime stipulated in the criminal legislation of the Republic of Kazakhstan, and also in the case of commission of violations stipulated in this Law;
- 5) the specialist unlawfully inflicted material damage to the represented person, including by means of illegal use of information which constitutes a commercial secret or confidential information;
- 6) violated, during customs clearance, the legislation of the Republic of Kazakhstan concerning customs payments and taxes.

A revocation shall be valid from the date a holder of a qualification certificate is notified of the revocation, with the exception of the revocation of a qualification certificate issued on the basis of incomplete or insufficient information submitted by the applicant, and whose revocation is valid from the date of issue of the qualification certificate.

A repeat application concerning the issue of a qualification certificate may be reviewed within 6 months from the day it is revoked under the conditions the reasons for it are eliminated.

The validity of a qualification certificate of a specialist on customs clearance may be suspended if the certificate has been issued to the applicant with a violation of the procedure for the issue.

The suspension shall be valid from the date of adoption of the decision to suspend.

In the event that a customs broker is recognized bankrupt, the Qualification Certificates of the specialists working with him shall be subject to re-registration in accordance with the procedure to be defined by the central Customs Body of the Republic of Kazakhstan.

A suspension in the validity of a qualification certificate may be carried out by the Customs Bodies of the Republic of Kazakhstan for up to two months.

In the case of a significant change in legal regulation of the customs matters, a customs processing specialist must within one month confirm the conformity of his knowledge with new requirements to such specialists. In the case of failure to comply with that condition the Customs Body of the Republic of Kazakhstan shall suspend the validity of the Qualification Certificate until such confirmation takes place, but no longer than two months, and in the case of a failure of the specialists to confirm the conformity of his knowledge within the period of suspension of the Qualification Certificate, the central Customs Body of the Republic of Kazakhstan shall revoke that Certificate. The decision that legal regulation of the customs matters changed significantly shall be adopted by the central Customs Body of the Republic of Kazakhstan.

The decision to revoke, to recognize as invalid or to suspend the validity of the Qualification Certificate may be challenged in accordance with Articles 388-395 of this Law.

The decision to revoke, to recognize as invalid or to suspend the validity of the Qualification Certificate may be challenged in accordance with Articles 388-395 of this Law.

#### ***Article 186. Fees for Issuance of the License and Qualification Certificate***

Fees shall be collected for the issue of a license for the right to engage in activities as a customs broker, a qualification certificate for a specialist on customs clearance, in accordance with and in amounts determined by tax legislation of the Republic of Kazakhstan.

Fees for the issue of a license or a certificate shall not be subject to return upon a revocation or suspension of the validity of a license for the right to engage in activities as a customs broker, a revocation, suspension of the validity of a qualification certificate for a specialist on customs clearance.

#### ***Article 187 Relations of a Customs Broker and its Employees to Information Received from a Declaring Person***

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The information received by customs broker and its employees from the represented entity for the customs purposes, may be used solely for these purposes.

Any unlawful damage to the rights and interests of the represented entity, which are protected by the law, shall not be allowed.

The information which constitutes commercial, banking or any other secret protected by the law, and confidential information of the represented entity may not be disclosed, used by the customs broker and its employees for their own purposes, transferred to third parties and government authorities (except for the Customs Bodies of the Republic of Kazakhstan), except for the cases clearly identified in the legislative acts of the Republic of Kazakhstan.

## **Chapter 27. THE CUSTOMS CARRIER**

### ***Article 188. Customs Carrier***

Legal entity, created in accordance with the legislation of the Republic of Kazakhstan and which has obtained the license issued by the central Customs Body of the Republic of Kazakhstan for acting as Customs Carrier, may be a customs carrier.

Customs carrier shall perform its activities in accordance with present Law and the legislation of the Republic of Kazakhstan.

Relationship between customs carrier and the persons concerned shall be built on a contractual basis.

Relations related to licensing shall be regulated by the legislation on licensing.

The central Customs Body of the Republic of Kazakhstan can suspend the duration of a license to engage in operations as customs carrier.

Revocation of a license shall be valid from the date the licensee is notified on such revocation.

Suspension of a license shall be valid from the date a decision to suspend is made.

### ***Article 189. (Deleted by the Law of the RK of July 16, 1999 # 426-I)***

### ***Article 190. Registration of Customs Carriers and Availability of Information Concerning Them***

The Customs Body of the Republic of Kazakhstan shall register customs carriers, which intend to perform such operations in the zone of activity of the Customs Body.

Registration shall be carried out upon the application of the Customs Carrier.

The Customs Body shall make the list of registered Customs Carriers publicly available.

### ***Article 191. Relation of a Customs Carrier and its Employees to Information Received from a Shipper of Goods and Documents Related to Them***

Information, received from the consignor of goods and documents with respect thereto, which constitute commercial, banking or any other secret, protected by the law, as well as confidential information, must not be disclosed, used by the Customs Carrier and its employees for their own purposes, transferred to third parties and government authorities (except for the Customs Bodies), except for the cases stipulated in the legislation of the Republic of Kazakhstan.

## **Chapter 28. DECLARING**

### ***Article 192. Declaring of Goods and Transport Vehicles***

Goods and transport vehicles, transferred through the customs border of the Republic of Kazakhstan, goods and transport vehicles, whose customs regime changes, and other goods and transport vehicles in cases, identified in the customs legislation of the Republic of Kazakhstan shall be subject to declaring to the Customs Body of the Republic of Kazakhstan.

### ***Article 193. Form of Declaring***

Declaring shall be carried out by declaration in accordance with the set pro-forma (in writing, verbally, by electronic or any other data transmission) of precise information on goods and transport vehicles, their customs regime and other information required for the customs purposes.

The pro-forma and procedure for declaring and the list of information required for customs purposes shall be defined by the central Customs Body of the Republic of Kazakhstan.

**Article 194. Place of Declaring**

Goods shall be declared to that Customs Body of the Republic of Kazakhstan at which the customs clearance of the goods is performed.

Transport vehicles, which convey goods, shall be declared simultaneously with the goods except for the cases stipulated in the third part of this Article.

Marine, river vessels and aircraft shall be declared at the port or airport of arrival to the customs territory of the Republic of Kazakhstan, or at the port or airport of departure from the customs territory of the Republic of Kazakhstan.

Cargo-free transport vehicles and transport vehicles, which convey passengers, shall be declared when they cross the customs border of the Republic of Kazakhstan.

**Article 195. Period of Lodgment of the Customs Declaration**

The deadline for submitting a Customs Declaration may not exceed 15 days following the date of presentation of goods and transport vehicles to the Customs Body of the Republic of Kazakhstan.

When physical persons transfer goods in accordance with Article 108 of this Law, the Customs Declaration shall be lodged simultaneously with submission of the goods.

Cargo-free transport vehicles which cross the customs border of the Republic of Kazakhstan, as well as transport vehicles which convey passengers, shall be declared at the time they cross the customs border of the Republic of Kazakhstan.

With the permission of the Customs Body of the Republic of Kazakhstan, the period mentioned in this Article may be extended in accordance with the procedure defined by the central Customs Body of the Republic of Kazakhstan.

**Article 196. Declarant**

Only a domestic person may be the declarant, except for the cases of transfer of goods by physical persons in accordance with Article 108 of this Law and in other cases defined by the central Customs Body of the Republic of Kazakhstan.

**Article 197. Rights and Obligations of Declarant**

A declarant, alongside other rights stipulated by this Law, before the lodgement of a Customs Declaration under customs control, shall have the right to review and measure goods and means of transport, following the permission of a Customs Body of the Republic of Kazakhstan to take samples and specimens of goods. No separate Customs Declaration shall be lodged with respect to samples and tested goods, provided that they are covered by the Customs Declaration, lodged with respect to the goods in question.

Regardless of the fact whether the declarant is the entity conveying the goods and transport vehicles, their carrier or the entity declaring the goods and transport vehicles under the agreement with the entity conveying them, the declarant shall fulfill all the duties and bear all responsibilities stipulated by this Law, as well as at the time of declaration of goods and transport vehicles a declarant shall be obligated:

- to declare goods and transport vehicles in accordance with the present Law;
- to submit the declared goods and transport vehicles at the request of the Customs Body of the Republic of Kazakhstan;
- to provide the Customs Body of the Republic of Kazakhstan with the documents and additional information, required for the customs purposes;
- to pay customs payments and taxes;
- to render assistance to the Customs Bodies of the Republic of Kazakhstan in the performance of customs clearance, including performance of the required cargo and other operations.

**Article 198. Documents and Additional Information Required for Customs Purposes**

The submission of a Customs Declaration should be accompanied by the submission of documents to the Customs Body of the Republic of Kazakhstan, on the basis of which the Customs Declaration has been completed and which confirm:

- the right of ownership to goods and transport vehicles subject to customs clearance (the right to dispose or use);

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the authorities of the declarant to submit the Customs Declaration in its own name;  
the fact of transference of goods;  
the customs value and origin of goods;  
the payment of customs payments and taxes and (or) justification for granting tariff concessions and tariff preferences and any other tax benefits;  
compliance with the compulsory requirements of the standards;  
as well as appropriate permissions of the authorized state bodies and any other documents in cases provided by the Legislation of the Republic of Kazakhstan and (or) international agreements of the Republic of Kazakhstan.

The list of required documents shall be determined by the central Customs Body of the Republic of Kazakhstan pursuant to the requirements of the customs regimes established by this Law and is subject to mandatory publication.

The Customs Body of the Republic of Kazakhstan shall have the right to require any additional information in order to verify the information, included in the Customs Declaration and documents submitted for customs purposes upon a written permission of the head of the Customs Body of the Republic of Kazakhstan.

The Customs Body of the Republic of Kazakhstan shall have the right to determine the period for submission of missing documents and information. The need to provide additional documents may not serve as a basis to refuse to accept the declaration and to release goods.

The date of submission to the Customs Body of the Republic of Kazakhstan of the Customs Declaration and documents required for customs purposes shall be indicated and attested by the stamp of the official of the Customs Body of the Republic of Kazakhstan in the check-list of submitted documents, formalized pursuant to the procedure determined by the Central Customs Body of the Republic of Kazakhstan. The check-list after its authentication shall be returned to the declarant.

If there are comments in respect of the submitted documents and (or) the need to provide additional documents, the checklist to be returned to the declarant shall be appropriately marked and authenticated by an official of the Customs Body of the Republic of Kazakhstan.

#### ***Article 199. Acceptance of the Customs Declaration***

A lodged Customs Declaration shall be subject to acceptance by the Customs Body of the Republic of Kazakhstan. Acceptance of the Customs Declaration shall be registered in accordance with the procedure defined by the central Customs Body of the Republic of Kazakhstan.

Upon acceptance by the Customs Body, such declaration shall become a legally effective document as of the moment of its registration.

The Customs Body of the Republic of Kazakhstan shall not have the right to refuse to accept the Customs Declaration.

The responsibility for release of goods and transport vehicles under Customs Declarations completed in breach of the procedure established by the central Customs Body of the Republic of Kazakhstan shall rest with the official of the Customs Body of the Republic of Kazakhstan.

#### ***Article 200. Modification and Additions to the Customs Declaration***

With the permission of the Customs Body of the Republic of Kazakhstan, declarant may change or make additions to the information, included in the Customs Declaration, and may withdraw the lodged Customs Declaration.

Such change, supplement or withdrawal shall be made prior to the conclusion of a review of a Customs Declaration or the beginning of the inspection of goods and vehicles, or prior to the moment the Customs Body of the Republic of Kazakhstan establishes that information indicated in the declaration is inauthentic.

Change or supplement to the Customs Declaration may not extend or restrict the sphere of its validity.

The officials of the Customs Bodies of the Republic of Kazakhstan shall not have the right, at their own initiative, by order or request of the entity, to fill in a written Customs Declaration, change or supplement information indicated in the Customs Declaration, with the exception of information entered into the Customs Declaration, which is in the competence of the Customs Bodies of the Republic of

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Kazakhstan, and also of changes or supplements of coded information used for machine processing, if this information is available in the declaration in non-coded form.

If the Customs Declaration is withdrawn, a new Customs Declaration shall be filed pursuant to the general procedure.

The procedure to make changes and supplements to the Customs Declaration as well as its withdrawal shall be determined by the central Customs Body of the Republic of Kazakhstan.

#### ***Article 201. Temporary or Incomplete Declaration***

Where the declarant due to special reasons is unable to lodge a complete Customs Declaration, the Customs Body of the Republic of Kazakhstan in accordance with the procedure defined by the central Customs Body of the Republic of Kazakhstan may allow lodgment of temporary or incomplete Customs Declaration, provided that temporary or incomplete Customs Declaration contains principal information required for the customs purposes and that missing information will be provided within the period determined by the Customs Body of the Republic of Kazakhstan.

#### ***Article 202. Periodic and Preliminary Declaration***

In case of a regular transfer of the same goods and transport vehicles by the same person, the Customs Body of the Republic of Kazakhstan may allow lodgment of one Customs Declaration for all goods and transport vehicles that are transferred through the customs border of the Republic of Kazakhstan for a certain period of time.

The procedure of preliminary declaration of goods shall be used, if a declarant applies to the Customs Body of the Republic of Kazakhstan not earlier than 30 days before the arrival of goods.

The central Customs Body of the Republic of Kazakhstan shall define the procedures for periodic and preliminary declaration of goods.

## **Section VII. CUSTOMS CONTROL**

### **Chapter 29. General Provisions**

#### ***Article 203. Performance of the Customs Control and Its Forms***

The customs control shall be performed by the officials of the Customs Bodies of the Republic of Kazakhstan in the form of verification of documents and information, required for customs purposes, customs inspection of goods and transport vehicles, personal inspection as an exceptional form of customs control, accounting for goods and transport vehicles, verbal inquiries to physical persons and officials, audit of accounting and reporting systems, inspection of the territory and premises of temporary stores, customs warehouses, free warehouses, facilities of free customs zones, duty free shops and other places, where goods and transport vehicles, subject to customs control, may be located or where the activity, control whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan, is carried out; and in the other forms, provided for in the present Law and legislation of the Republic of Kazakhstan concerning the customs matters.

Performance of the customs control may involve technical means, which are safe for life and health of people, animals and plants and which bring no harm to persons, goods and transport vehicles.

The rules of performance of the customs control shall be defined by the central Customs Body of the Republic of Kazakhstan in agreement with the state authorized body on customs matters.

#### ***Article 204. Zones of the Customs Control***

For the purposes of performing the customs control in the places of customs clearance, at the location of the Customs Bodies of the Republic of Kazakhstan and in the other places, determined by the central Customs Body of the Republic of Kazakhstan, the zones of customs control shall be created.

The procedure for creation and designation of the customs control zones shall be defined by the central Customs Body of the Republic of Kazakhstan. Performance of production and other commercial activities, transfer of goods, transport vehicles and persons, including officials of the other government authorities, through and within the borders of such zones shall be allowed only with the permission of the Customs Body of the Republic of Kazakhstan and under its control, except for the cases stipulated in the

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legislative acts of the Republic of Kazakhstan. In mentioned cases access to the zones of customs control shall be permitted with prior notification of the Customs Body of the Republic of Kazakhstan.

***Article 205. Documents and Information Required for the Customs Control***

Persons, which transfer goods and transport vehicles through the customs border of the Republic of Kazakhstan or perform the activity, control whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan, shall be required to provide these bodies with the documents and information required for the customs control. Procedure for their submission shall be defined by the central Customs Body of the Republic of Kazakhstan.

To perform customs control, the Customs Bodies of the Republic of Kazakhstan shall have the right to obtain from banks and organizations performing certain types of banking transactions information and reference documents concerning transactions and accounts of persons, which transfer goods and transport vehicles through the customs border of the Republic of Kazakhstan, customs brokers or other persons, which perform the activities, control whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan.

At the request of the Customs Bodies of the Republic of Kazakhstan or on their own initiative, law-enforcement bodies of the Republic of Kazakhstan, tax authorities and other monitoring bodies of the Republic of Kazakhstan shall inform Customs Bodies about available information required for the customs control.

The Customs Bodies, persons who convey goods, customs brokers and other persons who engage in activities subject to control by the Customs Bodies of the Republic of Kazakhstan shall store documents required for the customs control for not less than five years.

***Article 206. Involvement of Specialists and Experts to Receive Assistance in Performance of the Customs Control***

The Customs Bodies of the Republic of Kazakhstan shall have the right to involve in accordance with the legislation of the Republic of Kazakhstan specialists from law-enforcement and monitoring bodies, any state-owned and non-governmental legal entities on a contractual basis, as well as experts to render assistance in performance of the customs control.

For specialists and experts working in state bodies, in state legal entities, the average monthly salary at the place of work shall be maintained. Costs connected with the employment of specialists and experts, including expenses for travel, the lease of premises, the payment of daily remuneration and commission for work, if this work is not included in the work obligations of specialists and experts, working in state bodies, in state legal entities, with the exception of those cases established by this Law, shall lie with the Customs Bodies of the Republic of Kazakhstan in accordance with the procedure established by the Government of the Republic of Kazakhstan.

Request from the Customs Body of the Republic of Kazakhstan for the specialist or expert for providing assistance in performance of the customs control shall be binding for implementation by the head of the state body or state-owned legal entity where that specialist or expert works.

***Article 207. Access of the Customs Bodies Officials of the Republic of Kazakhstan to the Territories and Premises for Performing Customs Control***

For the purposes of performance of the customs control the officials of the Customs Bodies of the Republic of Kazakhstan in the presence of an order formalized appropriately, shall have the right to access territories and premises of any persons, where goods and transport vehicles subject to such control, documents required for the customs control may be located, or the activity, control whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan, is performed, except for the cases stipulated in the legislative acts of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan.

***Article 208. Identification of Goods, Transport Vehicles, Premises And Other Locations***

Transport vehicles, premises, containers and other places locations, where goods and transport vehicles subject to such control are or may be located, and places of performance of the activity, control whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan, as well as the goods and transport vehicles under customs control, may be identified by the Customs Bodies of the Republic of Kazakhstan.

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Identification shall be made by means of seals, stamps, figures, letters and other types of markings, identification figures, the taking of samples and specimens, a description of goods, drawings, the preparation of scale images, photographs, illustrations, the use of bills of lading and other documentation and other methods.

The identification means may be modified, removed or destroyed only by the Customs Bodies of the Republic of Kazakhstan or with their permission, except for the cases where there is a real threat of destruction, irretrievable loss or material damage of the goods and transport vehicles. A Customs Body of the Republic of Kazakhstan shall be informed immediately of modification, removal or destruction of means of identification and shall be given proof of the existence of the above threat.

***Article 209. Audits of Financial and Foreign Economic Activities for Customs Purposes***

To ensure the compliance with the legislation of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan, control over implementation whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan, the Customs houses and the upper Customs Bodies of the Republic of Kazakhstan shall have the right to designate or perform within the bounds of their authority audits of financial and foreign economic activities of the persons, which transfer goods and transport vehicles through the customs border of the Republic of Kazakhstan, customs brokers or other persons, which perform activities, control whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan, provided that there are reasons to believe that stated legislation and treaties are not complied with or complied with not to the full extent.

In performance of audits of financial and foreign economic activities, the officials of the Customs Bodies of the Republic of Kazakhstan shall have the right to require free of charge submission of and review any documentation (including banking) and the information which pertains to performance of foreign economic activities, that relate to the customs matters and functions of the Customs Bodies of the Republic of Kazakhstan, receive references, written and verbal explanations from the officials and other employees, seal premises, withdraw, under the statement prepared in accordance with the pro-forma which is set by the central Customs Body of the Republic of Kazakhstan, the documents if they are to be audited elsewhere. Withdrawn documents must be returned within the period determined in the legislation of the Republic of Kazakhstan. Where necessary, the officials of the Customs Bodies of the Republic of Kazakhstan may designate place and time to review the documents and information.

Actions of the officials of the Customs Bodies of the Republic of Kazakhstan in performing audits must not cause unlawful damage to the person whose financial and foreign economic activities are audited. Audit results shall be immediately communicated to this person.

Any information obtained as a result of audit shall be confidential and it shall be subject to provisions of Article 16 of the present Law.

***Article 210. Selectivity of the Customs Control***

In performance of the customs control, the Customs Bodies of the Republic of Kazakhstan shall use those forms of control, which are sufficient to ensure the compliance with the legislation of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan, control over implementation of which is the responsibility of the Customs Bodies of the Republic of Kazakhstan.

Non-application of the other forms of the customs control or relief therefrom shall not mean that the persons are relieved from the obligation to comply with the provisions of the present Law, the legislation of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan.

Where necessary, the Customs Bodies of the Republic of Kazakhstan may use any forms of the customs control mentioned in present Law, except for the cases described in Article 211.

***Article 211. Relief from Certain Forms of Customs Control***

Customs inspection shall not be performed with respect to personal baggage of the President of the Republic of Kazakhstan, State Secretary of the Republic of Kazakhstan, Prime-Minister of the Republic of Kazakhstan, Chairman of Senat of Parliament of the Republic of Kazakhstan, the Chairman of Majilis of Parliament of the Republic of Kazakhstan and members of their families, who travel with them.

Personal baggage of the Deputies of the Senate and Majilis of the Parliament of the Republic of Kazakhstan, members of the Government of the Republic of Kazakhstan, Attorney General of the Republic of Kazakhstan, Chairman of the Constitutional Council of the Republic of Kazakhstan,

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Chairman of Supreme Court of the Republic of Kazakhstan, Chairman of the National Bank of the Republic of Kazakhstan shall be relieved from customs inspection, if the mentioned persons cross the customs border of the Republic of Kazakhstan in connection with performance of their deputy's or work duties respectively.

Foreign naval military ships (vessels), combat and military transportation aircraft and military vehicles that proceed under their own power shall be relieved from the customs inspection, unless otherwise stipulated in the legislative acts of the Republic of Kazakhstan.

#### **Article 212. Personal Inspection**

Personal inspection as a form of customs control shall be performed upon the decision of the Head of the central Customs Body, customs department, customs house of the Republic of Kazakhstan or the person acting for the latter, provided that there are reasons to believe that the physical person, crossing the customs border of the Republic of Kazakhstan or which is in the customs control zone or transit zone of an international airport, hides on himself and does not extradite the goods constituting violation of the legislation of the Republic of Kazakhstan or international treaties of the Republic of Kazakhstan, control over implementation whereof is the responsibility delegated of the Customs Bodies of the Republic of Kazakhstan.

Decision to perform personal inspection shall be documented in writing in accordance with the procedure determined by the central Customs Body of the Republic of Kazakhstan.

Prior to personal inspection, the official of the Customs Body of the Republic of Kazakhstan shall be required to submit decision of the Head of the Customs Body of the Republic of Kazakhstan or official acting for the latter, concerning performance of personal inspection, to the physical person, inform the physical person with his rights and obligations in connection with such inspection and propose to voluntarily extradite hidden goods.

Physical person with respect to whom personal inspection is performed shall have the rights:

prior to the performance of personal inspection to familiarize himself with the procedure for performance of personal inspection and decision to perform personal inspection;

to voluntarily extradite the goods hidden by him which constitute violation of the legislation of the Republic of Kazakhstan or international treaties of the Republic of Kazakhstan,

to make a statement, subject to obligatory incorporation into the protocol concerning the procedure of performance of the personal inspection, to the officials of the Customs Bodies of the Republic of Kazakhstan, performing personal inspection;

to review the results of personal inspection and the procedural documents;

to appeal against actions of the officials of the Customs Body of the Republic of Kazakhstan, who perform personal inspection, in accordance with Section XV of present Law;

to use lawyer's services.

Photocopy of the protocol concerning performance of personal inspection and statement of confiscation of the goods shall be provided to the physical person, with respect to which personal inspection was performed.

Personal inspection shall be performed by the officials of the Customs Body of the Republic of Kazakhstan of the same sex as the inspected person, in the presence of two witnesses of the same sex, in isolated premises meeting sanitary and hygienic requirements. Access to these premises by any other physical persons and possibility of observation by such persons of the performance of personal inspection shall not be allowed. Inspection of body's organs of the inspected persons must be performed only by medical specialist.

With respect to personal inspection, protocol shall be prepared in accordance with the pro-forma designed by the central Customs Body of the Republic of Kazakhstan.

Protocol shall be signed by the official of the Customs Body of the Republic of Kazakhstan who performed personal inspection, physical person with respect to which the inspection was performed, witnesses, and, in case of inspection by medical specialist, - by this specialist as well. The physical person with respect to whom the inspection was performed shall have the right to make a statement in this protocol.

## **CHAPTER 30. ADDITIONAL PROVISIONS RELATING TO CUSTOMS CONTROL OF THE GOODS AND TRANSPORT VEHICLES TRANSFERRED THROUGH THE CUSTOMS BORDER OF THE REPUBLIC OF KAZAKHSTAN**

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***Article 213. Goods and Transport Vehicles Subject to Customs Control***

Any goods and transport vehicles, transferred through the customs border of the Republic of Kazakhstan, shall be subject to customs control except for the cases stipulated in Article 211 of present Law.

The Customs Bodies of the Republic of Kazakhstan shall have the right to coercively stop transport vehicles, coercively return marine and river vessels and aircrafts which departed from the customs territory of the Republic of Kazakhstan without a permission of the Customs Body of the Republic of Kazakhstan, except for foreign vessels and aircraft and vessels and aircrafts, located on the territory of the other states.

***Article 214. Period of Time Under Customs Control***

Goods and transport vehicles shall be under the customs control from its commencement until its completion, in accordance with the customs regime.

In importation, the customs control shall begin at the time the goods and transport vehicles cross the customs border of the Republic of Kazakhstan, and it shall be completed when the goods and transport vehicles are released for free circulation within the territory of the Republic of Kazakhstan or upon the reverse crossing of the customs border of the Republic of Kazakhstan.

In exportation, the customs control shall start as of the time of acceptance of the Customs Declaration.

The customs control of goods and transport vehicles exported outside of the customs territory of the Republic of Kazakhstan, shall be completed at the item they cross the customs border of the Republic of Kazakhstan.

***Article 215. Customs Control After the Release of Goods and Transport Vehicles***

Irrespective of the release of goods and transport vehicles, the customs control of these goods and transport vehicles may be performed at any time, if there are sufficient reasons to believe that there are violations of the legislation of the Republic of Kazakhstan or international treaties of the Republic of Kazakhstan, control over implementation of which is the responsibility of the Customs Bodies of the Republic of Kazakhstan.

In the above case, the Customs Bodies of the Republic of Kazakhstan shall have the right to verify availability of goods and transport vehicles, repeat their customs inspection, re-verify the information included in the Customs Declaration, verify commercial documents and other information which pertains to foreign economic and subsequent commercial transactions with respect to these goods. Verification may be performed at the premises of the declarant or any other person directly or indirectly related to these transactions or possessing the required documentation. If violations are discovered, the persons shall take the responsibility in accordance with the provisions of present Law.

***Article 216. Period of Verification of the Customs Declaration and Documents and Inspection of Goods and Transport Vehicles***

Verification of the Customs Declaration and documents and inspection of goods and transport vehicles, including urgent consignments, and in case of pre-arrival declaring of goods - verification of the Customs Declaration and documents, shall be performed by the Customs Body of the Republic of Kazakhstan not later than three days from the acceptance of the Customs Declaration by the Customs Body of the Republic of Kazakhstan and submission of all the documents required for the customs purposes.

The above period, except when used in respect of urgent consignments, may be extended to ten days from the day of acceptance of Customs Declaration only with the written permission of the head of the Customs Body of the Republic of Kazakhstan.

***Article 217. Presence of the Declarant and Other Persons Authorized With Respect to Goods and Transport Vehicles and Their Representatives During Performance of Inspection of Goods and Transport Vehicles***

Declarant and other persons authorized with respect to goods and transport vehicles and their representatives shall have the right to be present during the inspection of goods and transport vehicles on their own initiative.

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At the request of the officials of the Customs Body of the Republic of Kazakhstan, said persons shall be obligated to attend such inspection and provide the required assistance to the officials of the Customs Body of the Republic of Kazakhstan. In absence of the representative, specifically authorized by the Carrier, physical person, who drives the transport vehicle, shall be deemed such representative for the customs purposes.

when there is threat to national security, life and health of people, animals and plants, environment, safety of art, historic and archaeological wealth of nations of the Republic of Kazakhstan and in the other circumstances, which brook no delay;

when goods are sent in international postal traffic;

when goods and transport vehicles are left within the customs territory of the Republic of Kazakhstan violating the customs regime.

Inspection of goods and transport vehicles in the above cases shall be performed in the presence of witnesses and documented in the form of statement of customs inspection in accordance with the proforma approved by the central Customs Body of the Republic of Kazakhstan.

***Article 218. Taking Stock of Goods and Transport Vehicles Under the Customs Control***

The Customs Bodies of the Republic of Kazakhstan shall have the right at any time to take stock of goods and transport vehicles under the customs control, and goods with respect to which no customs payments and taxes were paid or no concessions was granted with respect to the customs payments and taxes.

***Article 218-1 Restrictions on Import to and Export from the Republic of Kazakhstan of Goods Containing Objects of Intellectual Property***

Importation into the territory of the Republic of Kazakhstan and exportation from the territory of the Republic of Kazakhstan of goods, containing objects of intellectual property included in the list of goods with objects of intellectual property of the central Customs Body of the Republic of Kazakhstan shall be effectuated in accordance with the legislation of the Republic of Kazakhstan or international treaties ratified by the Republic of Kazakhstan pursuant to the procedure established herein and other legal acts on objects of intellectual property of the Republic of Kazakhstan.

***Article 218-2 Application for Registration of Goods, Containing Objects of Intellectual Property***

The central Customs Body of the Republic of Kazakhstan shall include in its register goods, containing objects of intellectual property, upon application of the holder of right to objects of intellectual property. The application, application review and registration procedures shall be determined by the central Customs Body of the Republic of Kazakhstan in coordination with the state authorized bodies vested with the authority to protect objects of intellectual and industrial property.

The central Customs Body of the Republic of Kazakhstan shall maintain a register of goods, containing objects of intellectual property, and shall ensure its periodic publication.

Goods, containing objects of intellectual property, may be excluded from the register:

- 1) upon an application of the holder of rights to the objects of intellectual property;
- 2) in case of submission of inauthentic information on goods when including into the registers of goods, containing objects of intellectual property;
- 3) in case of failure to notify about changes in the information presented on the application;
- 4) when the duration of the right to the objects of intellectual property terminates.

The central Customs Body of the Republic of Kazakhstan shall notify the right-holder without delay on the exclusion of goods, containing objects of intellectual property, from the register of goods.

The right-holder shall be obligated to notify the central Customs Body of the Republic of Kazakhstan on the termination of his/her rights in an concerned object of intellectual property.

***Article 218-3 Suspension of Release of Goods, Containing Objects of Intellectual Property***

The Customs Body of the Republic of Kazakhstan shall suspend the release of goods, containing objects of intellectual property that are included into the register of the central Customs Body of the Republic of Kazakhstan, if the Customs Body of the Republic of Kazakhstan discovers such goods to be infringing upon the rights in objects of intellectual property of the applicant.

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No later than the workday following the day when a decision to suspend the release of goods, containing objects of intellectual property, is made, the Customs Body of the Republic of Kazakhstan shall notify the right-holder and declarant on such a suspension and the reasons therefor as well as inform the declarant about the name and address of the right-holder and the name and address of the declarant to the right-holder.

In case of suspension of the release of goods, containing objects of intellectual property, the right-holder shall be required to deposit within three days after his notification of the suspension a guarantee in the amount sufficient to compensate for the costs incurred by the declarant due to such a suspension. The aforementioned amount shall be determined by the Customs Body of the Republic of Kazakhstan pursuant to the procedure set forth in the Legislation of the Republic of Kazakhstan.

***Article 218-4 Terms of Suspension of Customs Clearance to Protect Rights in Intellectual Property***

The Customs Bodies of the Republic of Kazakhstan shall have a right to suspend the release of goods, containing objects of intellectual property for a period of up to ten workdays.

This period may be extended by the Customs Bodies of the Republic of Kazakhstan for another 10 workdays pursuant to the procedure set forth in the Legislation of the Republic of Kazakhstan or international treaties of the Republic of Kazakhstan.

Upon the expiration of the aforementioned term, the Customs Bodies of the Republic of Kazakhstan shall lift all limitation on the release of goods provided that any other requirements are met and a notification has been sent to the right-holder, if the applicant does not provide evidence to prove the commencement of legal proceedings in respect of infringement upon his/her right in intellectual property in connection with importation or exportation of detained goods.

If legal proceedings are instituted within the term of suspension of release of goods, containing objects of intellectual property, the Customs Bodies of the Republic of Kazakhstan shall not be allowed to release such goods until the court resolves the issue related to measures to meet the claims in question.

The release of goods, involving industrial designs, patents, integrated circuits or undisclosed information shall be effected provided that the declarant provides a security required to protect the rights and interests of the right-holder for the period of at least one month. The type and amount of such a security shall be determined by the Customs Body of the Republic of Kazakhstan pursuant to the procedure established by the Legislation of the Republic of Kazakhstan.

***Article 218-5. Liability for Failure to Undertake Measures or to Comply with Requirements of Protection of Rights in Objects of Intellectual Property***

The Customs Body of the Republic of Kazakhstan shall be liable pursuant to the Legislation of the Republic of Kazakhstan for failure to undertake measures set forth in Articles 218-2 - 218-4 of this Law or for suspending the release of goods in breach of the requirements set forth by this Law and other legal acts of the Republic of Kazakhstan.

## **SECTION VIII. CURRENCY CONTROLS**

### **Chapter 31. PERFORMANCE OF THE CURRENCY CONTROL BY THE CUSTOMS BODIES OF THE REPUBLIC OF KAZAKHSTAN**

***Article 219. Customs Bodies of the Republic of Kazakhstan as Currency Control Bodies***

The Customs Bodies of the Republic of Kazakhstan shall be the bodies of currency control in the Republic of Kazakhstan.

The central Customs Body of the Republic of Kazakhstan shall define the functions and authority of other Customs Bodies in performance of currency control, within the competence of the Customs Bodies of the Republic of Kazakhstan in the area of currency control.

***Article 220. Competence of the Customs Bodies of the Republic of Kazakhstan In the Area of Currency Control***

The Customs Bodies of the Republic of Kazakhstan shall perform currency control of transfer of currency assets by persons through the customs border of the Republic of Kazakhstan, except for the perimeters of free customs zones and free warehouses, and control over currency transactions, which involve transfer of goods and transport vehicles through said border.

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***Article 221. Performance of Currency Control By the Customs Bodies of the Republic of Kazakhstan***

The currency control performed by the Customs Bodies of the Republic of Kazakhstan shall be constituent of the customs control.

The currency control performed by the Customs Bodies of the Republic of Kazakhstan shall be constituent of the customs control.

The Customs Bodies of the Republic of Kazakhstan shall perform the currency control in accordance with the currency legislation of the Republic of Kazakhstan and Provisions of present Law.

***Article 222. Responsibility for Violations Discovered In Performance of the Currency Control By the Customs Bodies of the Republic of Kazakhstan***

In the event that Customs Bodies of the Republic of Kazakhstan in the course of performance of currency control discover violations of the currency legislation of the Republic of Kazakhstan, that constitute or relate to violations of customs rules or violations which encroach upon normal activities of Customs Bodies of the Republic of Kazakhstan, the persons shall take responsibility in accordance with this Law.

In other cases of violations of the currency legislation of Republic of Kazakhstan which are revealed by the Customs Bodies of the Republic of Kazakhstan, penalties shall be used in accordance with the legislation of the Republic of Kazakhstan.

**SECTION IX. CUSTOMS CONCESSIONS FOR CERTAIN CATEGORIES OF FOREIGN PERSONS**

**Chapter 32. CUSTOMS CONCESSIONS FOR REPRESENTATIONS OF FOREIGN STATES AND THEIR EMPLOYEES**

***Article 223. Customs Concessions for Diplomatic Representations of Foreign States***

Diplomatic representations of foreign states within the territory of the Republic of Kazakhstan, provided that they comply with the set procedure for transfer through the customs border of the Republic of Kazakhstan, may import to the territory of the Republic of Kazakhstan and export from the Republic of Kazakhstan goods intended for the official use by representations with exemption from customs payments, except for the fees for storage, customs clearance of goods outside of the designated areas or outside of the regular office hours of the Customs Bodies of the Republic of Kazakhstan as determined by the legislation of the Republic of Kazakhstan.

***Article 224. Customs Concessions for the Head of Diplomatic Representation of Foreign State and Members of Diplomatic Personnel of Representation***

Head of Diplomatic representation of foreign state and members of the diplomatic personnel of representation, as well as their family members, residing with them, may import to the Republic of Kazakhstan the goods intended for their personal use, including goods for initial household settlement, and export from the Republic or Kazakhstan goods intended for their personal use, complying with the set procedure for transfer of goods through customs border of the Republic of Kazakhstan, subject to exemption from customs payments, except for the fees for storage, customs clearance of goods outside of specially designated places and outside of official hours or the Customs Bodies of the Republic of Kazakhstan, if such fees are provided for by the legislation of the Republic of Kazakhstan.

Personal baggage of the Head of diplomatic representation of foreign state, members of diplomatic personnel of representation, family members, residing with them, shall be relieved from inspection, unless there are substantial reasons to believe that it contains goods, not intended for personal use, or the goods, whose importation or exportation is prohibited by the legislation of the Republic of Kazakhstan, international treaties of the Republic of Kazakhstan, or is regulated by the quarantine and other special rules. Such inspection must be performed only in the presence of the diplomatic agent or authorized representatives of the latter.

***Article 225. Customs Concessions for Administrative and Technical Personnel of Diplomatic Representations of Foreign States***

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Administrative and technical personnel members of diplomatic representations of foreign states and their family members, residing with them, provided that these employees and their family members are not permanent residents of the Republic of Kazakhstan, may import to the Republic of Kazakhstan the goods, intended for initial household settlement, subject to exemption from customs payments except for the fees for storage, customs clearance of goods outside of the specially designated places or outside of official hours of the Customs Bodies of the Republic of Kazakhstan, if such fees are stipulated in the legislation of the Republic of Kazakhstan.

***Article 226. Extension of Customs Concessions Granted to Diplomatic Personnel Of Representations of Foreign States, to the Administrative, Technical and Service Personnel***

Subject to special agreement of the Republic of Kazakhstan with foreign state, the customs concessions granted by present Law to members of the diplomatic personnel of representation of the foreign state may be extended to members of the administrative, technical and service personnel of this representation and to their family members who do not permanently reside in the Republic of Kazakhstan, based on the reciprocity principle with respect to each individual state.

***Article 227. Customs Concession to Consular Representations of Foreign States and Members of their Personnel***

Consular representations of foreign states, consular officials, including the head of the consular representations, and consular employees, and also members of their families shall be granted customs concessions stipulated by this Law for diplomatic representations of foreign states or the appropriate personnel of a diplomatic representation.

On the basis of a special agreement of the Republic of Kazakhstan with a foreign state the customs concessions granted by this Law to members of the appropriate personnel of a diplomatic representation of a foreign state may be extended to employees of the serving personnel of a consular representation, and also the members of their families, who are not residing in the Republic of Kazakhstan on a permanent basis, based on the reciprocity principle with respect to each individual state.

***Article 228. Transfer of Diplomatic Mail and Consular Valise of Foreign States Through the Customs Border of the Republic of Kazakhstan***

Diplomatic mail and consular valise of foreign states, transferred through the customs border of the Republic of Kazakhstan, shall not be subject to opening or detention. When there are reasons to believe that the consular valise contains items, not mentioned in the third part of this Article, the Customs Body of the Republic of Kazakhstan shall have the right to require that the valise be open by the authorized persons of the represented state in the presence of the officials of the Customs Body of the Republic of Kazakhstan. In case of the refusal to open consular valise, the latter shall be returned to the place of shipment.

All items which constitute the diplomatic mail or consular valise must have visible external signs, which indicate their nature.

The diplomatic mail may contain only diplomatic documents and goods intended for official use, and the consular valise may contain only official correspondence and documents or goods intended solely for the official use.

**Chapter 33. CUSTOMS CONCESSIONS TO OTHER FOREIGN PERSONS**

***Article 229. Customs Concessions for Foreign Diplomatic and Consular Couriers***

Foreign diplomatic and consular couriers may import into the Republic of Kazakhstan and export from the Republic of Kazakhstan the goods, intended for their personal use, with an exemption on the basis of reciprocity from a customs inspection, customs payments, with the exception of payments for storage, customs clearance of goods outside of specially designed places or outside the official hours of the Customs Bodies of the Republic of Kazakhstan.

***Article 230. Customs Concessions for Representatives and Members of Delegations of Foreign States***

The representatives of foreign states, members of parliament and government delegations, and also on the basis of reciprocity the employees of delegations of foreign states, who arrive in the Republic of Kazakhstan to participate in interstate negotiations, international conferences and meetings or with

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other official orders, shall be granted customs concessions as stipulated by this Law for the members of the diplomatic personnel of the representation. These concessions shall be also granted to the members of the families accompanying these persons.

***Article 231. Customs Concessions for Members of Diplomatic Personnel, Consular Officials, Representations of Foreign States and Members of Delegations in Transit Across the Customs Territory of the Republic of Kazakhstan***

The members of diplomatic personnel and consular officials of representations of foreign states, the members of the families of these persons, and also persons indicated in Article 230 of this Law, who are crossing for the same purposes the customs territory of the Republic of Kazakhstan in transit, shall be granted customs concessions stipulated by this Law for members of the diplomatic personnel of the representation.

***Article 232. Customs Concessions to International Inter-Governmental Organizations, Representations of Foreign States Within Those and Their Personnel***

Customs concessions for international inter-governmental organizations, representations of foreign states within those and personnel of these organizations and representations and family members of the personnel, shall be defined in the relevant international treaties ratified by the Republic of Kazakhstan.

**SECTION X. MAINTENANCE OF CUSTOMS STATISTICS AND COMMODITY NOMENCLATURE OF FOREIGN ECONOMIC ACTIVITIES**

**Chapter 34. MAINTENANCE OF CUSTOMS STATISTICS**

***Article 233. Customs Statistics for Foreign Trade***

For the purposes of providing the highest bodies of the State power with information concerning status of foreign trade of the Republic of Kazakhstan, control of the receipts of customs payment and taxes to the State Budget, currency control, analyses of status and development or foreign trade of the Republic of Kazakhstan, country's trade and payment balances and its economy in general, the Customs Bodies of the Republic of Kazakhstan shall collect and process information concerning transfer or goods through the customs border of the Republic of Kazakhstan, provide and publish the customs statistics.

The customs statistics on foreign trade of the Republic of Kazakhstan shall be maintained in accordance with the provisions of present Law and legislation of the Republic of Kazakhstan.

For the purposes of maintenance of the customs statistics, the methodology shall be used which ensures international comparability of information and its comparability with that of the state-maintained statistics applied in the Republic of Kazakhstan.

***Article 234. Special Customs Statistics***

In order to ensure implementation of other tasks assigned to the Customs Bodies of the Republic of Kazakhstan, these bodies shall maintain special customs statistics in accordance with the procedure determined by the central Customs Body of the Republic of Kazakhstan.

***Article 235. Documents and Information Used for Statistical Purposes***

Documents and information for the statistical purposes shall be submitted in accordance with the provisions of the present Law concerning procedure for customs clearance and customs control.

Information submitted for the statistical purposes shall be confidential and subject to the provisions of Article 16 of the present Law.

***Article 236. Responsibility for Violations Relating to Maintenance of the Customs Statistics***

Persons shall bear responsibility in accordance with the present Law for violations, relating to the maintenance of customs statistics which simultaneously constitute violations of the customs rules or violations that encroach on the normal activities of the Customs Bodies of the Republic of Kazakhstan.

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## **Chapter 35. MAINTENANCE OF THE NOMENCLATURE OF GOODS FOR FOREIGN ECONOMIC ACTIVITIES**

### ***Article 237. Maintenance of the Commodity Nomenclature for Foreign Economic Activities***

The central Customs Body of the Republic of Kazakhstan shall perform maintenance of the Commodity Nomenclature for Foreign Economic Activities, that is, it shall:

ensure keeping track of amendments and supplements to the international basis for Commodity Nomenclature for Foreign Economic Activities, international and other decisions concerning interpretation of that basis,

bring the Commodity Nomenclature for foreign economic activities into conformity with its international basis,

ensure publishing of the Commodity Nomenclature for foreign economic activities,

develop and approve explanatory notes and other decisions concerning interpretation of the Commodity Nomenclature for foreign economic activities and ensure their publishing;

perform other functions required for the maintenance of Commodity Nomenclature for Foreign Economic Activities.

### ***Article 238. Classification of Goods***

The Customs Bodies of the Republic of Kazakhstan shall classify the goods, that is, to attribute specific goods to the headings indicated in the Commodity Nomenclature for Foreign Economic Activities.

The decisions of the Customs Bodies of the Republic of Kazakhstan on goods classification shall be binding.

### ***Article 239. Additional Authority of the Central Customs Body of the Republic of Kazakhstan In the Area of Commodity Nomenclature for Foreign Economic Activities***

The central Customs Body of the Republic of Kazakhstan shall:

represent the Kazakhstani party in the international organizations which engage in customs issues with regard to development, modification, additions, interpretation and application of the international basis of the Commodity Nomenclature for Foreign Economic Activities,

participate in the preparation of proposals concerning development, modification and additions to the Commodity Nomenclature for Foreign Economic Activities.

## **SECTION XI. CRIMES IN THE AREA OF THE CUSTOMS MATTERS. INQUIRY AND OPERATIVE AND INVESTIGATIVE ACTIVITIES OF THE CUSTOMS BODIES OF THE REPUBLIC OF KAZAKHSTAN**

### **Chapter 36. CRIME IN THE SPHERE OF THE CUSTOMS MATTERS. THE CUSTOMS BODIES OF THE REPUBLIC OF KAZAKHSTAN AS BODIES OF INQUIRY**

*Articles 240-241 are deleted by the Law of the RK of July 16, 1999 # 426*

#### ***Article 242. Performance of Inquiry By the Customs Bodies of the Republic of Kazakhstan***

When there are indications of crime, performance of inquiry on which is within the authority of the Customs Bodies of the Republic of Kazakhstan, the Customs Body of the Republic of Kazakhstan, guided by the provisions of the criminal procedural legislation of the Republic or Kazakhstan, shall institute criminal case and perform immediate investigative acts intended to identify and record the traces of the crime and to identify the persons who committed this crime.

### **Chapter 37. OPERATIVE AND INVESTIGATIVE ACTIVITIES OF THE CUSTOMS BODIES OF THE REPUBLIC OF KAZAKHSTAN**

#### ***Article 243. The Customs Bodies of the Republic of Kazakhstan As Bodies Which Perform Operative and Investigative Activities***

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The Customs Bodies of the Republic of Kazakhstan shall perform operative and investigative activities for the purposes of identifying the persons who prepare for, commit or have committed illegal acts, which qualify as crime in accordance with legislation of the Republic of Kazakhstan, the performance of inquiry on which is conferred to the authority of the Customs Bodies of the Republic of Kazakhstan, for the purposes of ensuring the security of the Customs Bodies and also at the request from international customs organizations, customs and other authorized bodies of foreign states in accordance with international treaties (agreements) on customs issues.

***Article 244. Performance of the Operative and Investigative Activities by the Customs Bodies of the Republic of Kazakhstan***

The Customs Bodies shall perform operative and investigative activities in accordance with the Law of the Republic of Kazakhstan "On Operative and Investigative Activities in the Republic of Kazakhstan".

***Article 245. Operative and Investigative Efforts Which Ensure the Safety of the Customs Bodies of the Republic of Kazakhstan***

The operative and investigative efforts, which ensure safety of the Customs Bodies of the Republic of Kazakhstan themselves, shall be performed in accordance with the procedure stipulated in legislation of the Republic of Kazakhstan.

**Chapter 38. CONTROLLED SUPPLIES**

***Article 246. Use of the Method of "Controlled Supplies" With Respect to Narcotic Substances, Psychotropic Substances and Other Items***

To head off international illegal trafficking of narcotic substances, psychotropic substances and other items, and to identify the persons who participate in such trafficking, the Customs Bodies and other authorized bodies of the Republic of Kazakhstan shall use the method of "controlled supplies", that is allow importation to Republic of Kazakhstan and exportation from the Republic of Kazakhstan or transit through its territory of narcotic or psychotropic substances under their control, in each individual case subject to the agreements with customs and other authorized bodies of foreign states or based on the international treaties of the Republic of Kazakhstan.

The method of the "controlled supplies" may be used with respect to the other items which are tools or means of committing of crimes, or items obtained as a result of crime or items, illegal actions with which qualify as smuggle.

In the event that the decision has been made to use the method of "controlled supply", if the country of destination of narcotic substances, psychotropic substances and other items is the foreign state, the criminal case shall not be instituted in the Republic of Kazakhstan.

The decision to apply method of "controlled supply" shall be made by the central Customs Body of the Republic of Kazakhstan in cooperation with the Committee for National Security of the Republic of Kazakhstan.

The Customs Body of the Republic of Kazakhstan shall immediately notify Attorney General of the Republic of Kazakhstan on the decision made.

***Article 247. Disposal of Cash Funds and Property Confiscated When Using Method of "Controlled Supply"***

Cash funds, which have been confiscated by the courts of the Republic of Kazakhstan and foreign states in relation to criminal proceedings, which use the "controlled supplies" method for their solution or discovery, and also cash funds received from the sale of confiscated goods, shall be distributed between the states whose customs and other authorized bodies participated in the use of this method, in accordance with certain joint agreements between these bodies.

**Section XII ceased to be effective as a result of coming into effect of the new Code of the Republic of Kazakhstan on Administrative Violations, as of February 25, 2001 # 155-II (pursuant to the Law of the RK of July 16, 1999 # 426-I).**

## **Section XIII. INFORMING AND CONSULTING. PRELIMINARY DECISIONS**

### **Chapter 52. PROVIDING THE PERSONS WITH THE INFORMATION AND ADVISORY ON CUSTOMS ISSUES**

#### ***Article 372. Obtaining of Information on Reasons of Passed Decisions, Action or Non-action***

The person, with respect to which the decision has been made by Customs Body of the Republic of Kazakhstan, action has been performed by the official of the Customs Body of the Republic of Kazakhstan, and the person, with respect to which the decision was not made or the necessary action was not performed within a two month period, shall have the right to send the request to this Customs Body.

The request shall be subject to consideration by the Customs Body of the Republic of Kazakhstan within a one-month period.

When request has been provided in writing, the response thereto shall be given in writing.

#### ***Article. 373. Publication of Legal Acts on Customs Matters***

The central Customs Body of the Republic of Kazakhstan shall ensure publication of legal acts on customs matters adopted by it pursuant to the Legislation of the Republic of Kazakhstan.

#### ***Article 374. Information on Current Acts***

Information on current acts under Article 373 of this Law, including the title of the act, subject and edition in which this act was published, shall be provided free of charge to all persons concerned by Customs Bodies.

Brief information on general clauses of customs or another legislation of the Republic of Kazakhstan, supervision of which implementation is entitled to Customs Bodies of the Republic of Kazakhstan, shall be provided for general access where Customs Bodies of the Republic of Kazakhstan are located.

#### ***Article 375. Advisory on Customs Matters***

The staff of Customs Bodies of the Republic of Kazakhstan, customs laboratories, research organizations and educational institutions of the central Customs Body of the Republic of Kazakhstan shall provide advisory on customs matters, in accordance with the procedure determined by the central Customs Body of the Republic of Kazakhstan.

### **Chapter 53. PRELIMINARY DECISIONS**

#### ***Article 376. Passing of Preliminary Decision***

The central Customs Body of the Republic of Kazakhstan, the customs departments, as well as individual customs houses of the Republic of Kazakhstan as determined by the central Customs Body of the Republic of Kazakhstan, upon a request of an interested person, shall make preliminary decisions concerning classification, customs value, the country of origin of goods, in relation to particular goods or concrete economic transactions.

A fee shall be charged for adopting a preliminary decision in the amounts specified by the Government of the Republic of Kazakhstan.

#### ***Article 377. Request for Making Preliminary Decision***

The person interested in passing of the preliminary decision shall submit a written request to the Customs Bodies of the Republic of Kazakhstan indicated in Article 376 of this Law.

The central Customs Body of the Republic of Kazakhstan shall determine the information content required for the issuance of a preliminary decision.

The review procedure as well as the timeline for issuing a preliminary decision to the applicant shall be established pursuant to legislative acts of the Republic of Kazakhstan and this Law.

A preliminary decision shall not be issued in response to an application-request that fails to comply with the statutory requirements.

A preliminary decision shall not be issued with regard to issues, which are contrary to the legislation or hypothetical in nature.

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A preliminary decision or refusal to issue a preliminary decision may be appealed under the procedure set forth by legislative acts of the Republic of Kazakhstan.

***Article 378. Legal Implication of Preliminary Decision***

The preliminary decision shall be binding for the Customs Bodies of the Republic of Kazakhstan.

If the facts and conditions on the basis of which a preliminary decision was made do not change, a preliminary decision of the Customs Bodies of the Republic of Kazakhstan shall have a legal force during the following periods:

- three years – in respect to origin of goods;
- one year - in respect to other issues.

***Article 379. Invalidation, Revocation, Amendment or Suspension of Preliminary Decision***

The superior Customs Bodies of the Republic of Kazakhstan shall be entitled to revoke, amend or suspend a preliminary decision issued by inferior Customs Bodies of the Republic of Kazakhstan.

A recipient of the preliminary decision in indicated above cases shall be provided with a written notification, which specifies the grounds for revocation, amendment, suspension or invalidation of the previously issued decision.

The decision on revocation, amendment or suspension of a preliminary decision shall take effect after the notification from the Customs Bodies of the Republic of Kazakhstan is officially delivered to the applicant.

If the Legislation of the Republic of Kazakhstan changes, causing a preliminary decision to conflict with the existent Legislation, such preliminary decision of the Customs Bodies of the Republic of Kazakhstan shall be deemed invalid from the moment the new legislative act of the Republic of Kazakhstan takes effect.

A preliminary decision may be deemed to be invalid where it has been made on the basis of inauthentic information submitted by an applicant.

***Article 379-1 Preliminary Decision Transparency***

Preliminary decisions issued by the Customs Bodies of the Republic of Kazakhstan, except for confidential information, shall be published and made available at the request of any interested person in part related to the rights, obligations and freedoms of citizens and legal persons.

**SECTION XIV. DISPOSAL OF GOODS AND TRANSPORT VEHICLES AND USE OF RESOURCES OBTAINED FROM CUSTOMS ACTIVITY**

**Chapter 54. DISPOSAL OF GOODS AND TRANSPORT VEHICLES**

***Article 380. Exaction to the Ownership of the State***

Goods, transport vehicles and other items confiscated in accordance with this Law and the legislation of the Republic of Kazakhstan, including those on the cases of customs crimes and also goods and transport vehicles rejected by the person in favor of the state, shall be exacted to the ownership of the state.

The present Law and the legislation of the Republic of Kazakhstan shall determine the procedure for exaction of goods and transport vehicles to the ownership of the state.

***Article 381. Disposal of Goods, Transport Vehicles and Other Items Exacted to the Ownership of the State***

Goods, transport vehicles and other items exacted to the ownership of the state shall be subject to sale, unless otherwise specified by legislative acts of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan, at auction, the terms and procedure of which are determined by the Government of the Republic of Kazakhstan.

***Article 382. Recovery of Amounts not Covering the Expenditures of Customs Bodies for Sale of Goods, Transport Vehicles and Other Items***

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Should the amounts gained from sale of goods, transport vehicles and other items exacted to the state ownership fail to cover the expenses of the Customs Bodies of the Republic of Kazakhstan directly related to transportation, storage and sale of goods, transport vehicles and other items exacted to the state ownership, the lacking part shall be recovered from the declarant or any other person responsible for payment of customs fees under legal procedure.

***Article 383. Disposal of Goods, Transport Vehicles and Other Items Not Sold or Not Liable to Sale***

The list of goods, transport vehicles and other items exacted to the state ownership not liable to sale shall be specified by the legislation of the Republic of Kazakhstan. The procedure for disposal of goods, transport vehicles and other items exacted to the state ownership, not sold or not liable to sale at customs auctions, commodity exchanges or through trade companies and organizations shall be specified by the legislation of the Republic of Kazakhstan.

***Article 384. Application and Use of Resources Obtained from Collection of Customs Duties, Taxes and from Customs Activity***

The resources obtained in the form of customs payments and taxes and also from sale of goods, transport vehicles and other items exacted to the ownership of the state in accordance with this Law and the legislation of the Republic of Kazakhstan under cases on crimes in a sphere of customs matters, customs rules violation, fines stipulated by this Law, except for the customs duties, taxes and fees for issuance of licenses, shall enter the state budget in full.

**Section XV ceased to be effective as a result of coming into effect of the new Code of the Republic of Kazakhstan on Administrative Violations, as of February 25, 2001 # 155-II (pursuant to the Law of the RK of July 16, 1999 # 426-I).**

**SECTION XVI. OFFICIALS OF CUSTOMS BODIES OF THE REPUBLIC OF KAZAKHSTAN**

**Chapter 58. LEGAL STATUS OF OFFICIALS OF CUSTOMS BODIES OF THE REPUBLIC OF KAZAKHSTAN**

***Article 397. Officials of Customs Bodies of the Republic of Kazakhstan***

Only capable citizens of the Republic of Kazakhstan, who are able in terms of their matters and moral qualities, education and state of health perform functions assigned to the Customs Bodies of the Republic of Kazakhstan, may hold official positions within the Customs Bodies of the Republic of Kazakhstan.

A probation period from three months to one year shall be applied to those hired to work at the Customs Bodies of the Republic of Kazakhstan.

It shall not be allowed to employ to work within the Customs Bodies of the Republic of Kazakhstan persons who are retired because of their age or state of health from the Armed Forces of the Republic of Kazakhstan, the National Security Committee of the Republic of Kazakhstan, the Ministry of Internal Affairs of the Republic of Kazakhstan and the Procuracy Bodies of the Republic of Kazakhstan.

The officials shall take service in the Customs Bodies of the Republic of Kazakhstan and be subject to certification in accordance with the procedure determined by the Regulations on Service of Officials in the Customs Bodies of the Republic of Kazakhstan approved by the Government of the Republic of Kazakhstan.

The officials of the Customs Bodies of the Republic of Kazakhstan shall be promoted to special ranks as follows:

*The Junior Leadership:*

warrant customs officer;  
senior warrant customs officer.

*The Medium Leadership:*

junior customs lieutenant;  
customs lieutenant;  
senior customs lieutenant;

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customs captain.

*Senior Leadership:*

customs major;

customs lieutenant-colonel;

customs colonel.

*Highest Leadership:*

customs general-major;

customs general-lieutenant;

Special ranks of the highest leadership shall be awarded by the President of the Republic of Kazakhstan.

Special ranks of the junior, medium and senior leadership shall be awarded by the head of the central Customs Body of the Republic of Kazakhstan according to the Regulation on Service of Customs Officers approved by the Government of the Republic of Kazakhstan.

Officials of the Customs Bodies of the Republic of Kazakhstan shall be required to wear the uniform. The uniform shall be determined by the Government of the Republic of Kazakhstan, and the rules of wearing the uniform - by the State Authorized Body on customs Matters. The uniform shall be provided free of charge.

The provisions of the fourth, fifth, sixth, seventh and eighth parts of this Article shall also apply to the heads and specialists of customs laboratories, professors and trainers, the heads and specialists of scientific research institutions and educational facilities of the central Customs Body of the Republic of Kazakhstan.

***Article 398. Guarantee of Due Performance by Officials of the Customs Bodies of the Republic of Kazakhstan of their Official Duties***

The officials of the Customs Bodies of the Republic of Kazakhstan in performance of their official duties shall represent the State Power.

The official of Customs Bodies of the Republic of Kazakhstan in performance of duties, assigned to him, shall be guided only by legislative and other acts of the Republic of Kazakhstan and the international treaties of the Republic of Kazakhstan and subordinated only to immediate and direct officials.

The illegal action or interference in any form whatsoever by government authorities, political and public organization and movements, mass media, other legal entities, their officials and other employees, individual entrepreneur and physical persons with the purpose of influencing the decision made by the Customs Body of the Republic of Kazakhstan or its official or the action, performed by such official, shall not be allowed.

Upon receipt of the order or instruction, which explicitly conflicts with legislation, the official of the Customs Body of the Republic of Kazakhstan shall be obligated to follow the legislation.

Establishment and operation of political parties, public associations pursuing political goals and their organizations within the Customs Bodies of the Republic of Kazakhstan shall not be allowed. The officials of the Customs Bodies of the Republic of Kazakhstan, during their activities, shall not be connected with decisions of the political parties and public movements.

The officials of the Customs Bodies of the Republic of Kazakhstan shall not have the right to perform entrepreneurial activities, including those through intermediaries, to be the attorney for the third parties on customs issues, hold more than one paid job, except for scientific and lecturing activities, fulfill customs-related works on legal agreements of civil nature, provide any assistance, not stipulated by the legislation of the Republic of Kazakhstan, to the persons with the use of their official position and receive compensation for it, provide services and privileges, participate independently or through representatives in the governance of economic entities.

The officials of the Customs Bodies of the Republic of Kazakhstan shall not be allowed to organize strikes and participate in them.

The offense of the official of the Customs Body of the Republic of Kazakhstan, threat, resistance, violence or encroachment on his life, health and property shall entail the responsibility in accordance with present Law and legislation of the Republic of Kazakhstan.

Protection of life, health, honor, dignity and property of the family members of the official of the Customs Bodies of the Republic of Kazakhstan from criminal encroachments in connection with the

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performance by this official of his official duties shall be provided for by the legislation of the Republic of Kazakhstan.

***Article 399. Binding Nature of Legal Orders or Requirements of the Officials of the Customs Body of the Republic of Kazakhstan***

The legal orders or requirements of the officials of the Customs Body of the Republic of Kazakhstan shall be binding for the government authorities, persons, officials and other employees.

Disobedience to the legal order or requirement of the official of the Customs Body of the Republic of Kazakhstan, as well as other actions preventing from the performance of official duties assigned to this official shall entail the responsibility prescribed by present Law.

**Chapter 59. APPLICATION OF COERCIVE MEASURES, SPECIAL MEANS AND FIREARMS**

***Article 400. Terms and Scope of Application of Coercive Measures, Special Means and Firearms***

In the cases and in accordance with the procedure, prescribed by present Law, the officials of the Customs Bodies of the Republic of Kazakhstan, provided that they have gone through the medical testing, shall have the right to apply coercive measures, special means and firearms.

The officials of the Customs Bodies of the Republic of Kazakhstan shall be obligated to take special training and go through regular checks for fitness to acting in the conditions that are associated with the application of coercive measures, special means and firearms.

In applying coercive measures, special means and firearms, the official of the Customs Body of the Republic of Kazakhstan shall be required to:

warn of the intent to apply them, providing the time sufficient for fulfillment of his requirements except when the delay in application of coercive measures, special means and arms entails direct danger to his life and health, can entail other material consequences, cases of sudden or armed offenses, offense with the use of military technical means and transport vehicles or other circumstances, when such warning is inappropriate or impossible in the given situation;

provide pre-medical help to the injured persons and immediately notify senior official of the Customs Body of the Republic of Kazakhstan or person, acting for the latter, on the case;

make efforts to minimize any damage, caused by elimination of danger, depending on the nature and extent of the danger of the offense, persons who committed it, as well as the force of resistance.

The Head of the Customs Body of the Republic of Kazakhstan or the person acting for him shall be required to notify immediately the prosecutor on all incidents of death or injuries.

The application of coercive measures, special means and firearms with excess of authorization shall entail the responsibility determined by the legislation of the Republic of Kazakhstan.

***Article 401. Application of Coercive Measures***

The officials of Customs Bodies of the Republic of Kazakhstan shall have the right to apply coercive measures to head off offenses, arrest the offenders, overcome their resistance, head off disobedience to legal orders or requirements, prevention access to the premises, territory, goods and transport vehicles, which are under customs control, any other actions that impede performance of duties assigned to these persons as prescribed by present Law and legislation of the Republic of Kazakhstan.

***Article 402. Application of Special Means***

The officials of the Customs Bodies of the Republic of Kazakhstan shall have the right to use handcuffs, rubber sticks, tear gas, light-and-sound devices of distracting effect, tools for opening premises, tools for coercive stoppage of transport vehicles, water cannon, martial arts, trained animals and other special means:

- 1) to ward off attacks on citizens, officers of Customs Bodies of the Republic of Kazakhstan or other persons performing their official or public duties for protection of public order and struggle against crimes and to liberate hostages;
- 2) to ward off attacks on buildings, premises, facilities, transport vehicles belonging or used by the Customs Bodies of the Republic of Kazakhstan, on goods and transport vehicles which are under customs control and to liberate the said items in case of their seizure;

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- 3) to arrest offenders, deliver them to the office of the Customs Body of the Republic of Kazakhstan, whenever such persons show disobedience, resistance, the other counteraction or if such persons can injure other persons or themselves;
- 4) to head off physical resistance to the official of the Customs Body of the Republic of Kazakhstan;
- 5) to stop the transport vehicle, the driver of which has not obeyed the order of the official of the Customs Body of the Republic of Kazakhstan to stop;
- 6) in any other cases of intentional impediment to performance of the duties assigned to the official of the Customs Body of the Republic of Kazakhstan.

Application of special means to women, persons with visible indications of disability and minors shall be prohibited, except when they offer armed resistance or except for cases of group attack threatening people's lives and health.

The Government of the Republic of Kazakhstan shall identify the list of special means used by Customs Bodies officials of the Republic of Kazakhstan.

#### ***Article 403. Wearing, Storage and Use of Firearms***

In performance of official duties, the officials of the Customs Bodies of the Republic of Kazakhstan shall be entitled to wear, keep and use firearms.

Firearms shall be used depending on the nature of the offense, specific offender, specific situation and only in circumstances and within the limits prescribed by this Law.

The categories of officials of the Customs Bodies of the Republic of Kazakhstan, entitled to wear, keep and use firearms, shall be defined by Government of the Republic of Kazakhstan.

The Government of the Republic of Kazakhstan shall identify the list of types of firearms and ammunition thereto to be used in the Customs Bodies of the Republic of Kazakhstan.

Officials of the central Customs Body of the Republic of Kazakhstan and Customs Bodies of the Republic of Kazakhstan shall bear responsibility for the loss, careless storage, inappropriate fulfillment of duties on guarding arms and ammunition in accordance with the legislation of the Republic of Kazakhstan.

#### ***Article 404. Application and Use of Firearms***

As an extreme measure, the officials of the Customs Bodies of the Republic of Kazakhstan shall have the right to apply firearms in the following cases:

- 1) for protection of citizens from criminal encroachment as well as for liberation of hostages;
- 2) for warding off the group or armed attacks on officials of the Customs Bodies of the Republic of Kazakhstan and members of their families;
- 3) for warding off the attacks on buildings, premises, facilities and transport vehicles belonging to or used by the Customs Bodies of the Republic of Kazakhstan, goods and transport vehicles under customs control;
- 4) for arrest of persons who offered armed resistance or who were caught in the process of committing material crime and of armed persons refusing to follow the legitimate order to give in the arms;
- 5) for stoppage of transport vehicles by damaging them whenever the driver does not obey the repeated legal orders from the official of the Customs Body of the Republic of Kazakhstan to stop, thereby jeopardizing life and health of citizenry;
- 6) for protection from attacks of animals;
- 7) for warning about application of arms, giving the alarm signal or calling for help.

It shall be forbidden to use arms against women, persons with visible indications of disability and minors, except for those cases when they show armed resistance, armed attack, and also it shall be forbidden in those cases when the use of arms may create a threat to the life and health of other citizens.

In all cases of application of arms, the Customs Body official of the Republic of Kazakhstan shall take required measures to ensure safety of surrounding people, provide emergent medical aid to injured, and inform the prosecutor.

## **Chapter 60. FINANCING, MATERIAL AND TECHNICAL SUPPORT AND SOCIAL PROTECTION OF OFFICIALS OF THE CUSTOMS BODIES OF THE REPUBLIC OF KAZAKHSTAN**

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**Article 405. Financing, and Material and Technical Support of Officials of Customs Bodies of the Republic of Kazakhstan**

Financing and material and technical support of the Customs Bodies of the Republic of Kazakhstan shall be funded from the republican budget.

**Article 406. Payment of Allowances in Case of Death of the Official of the Customs Body of the Republic of Kazakhstan, Injury or Other Damage to Health and Indemnification of Material Loss**

In case of death of the official of the Customs Body of the Republic of Kazakhstan in connection with the performance of the official duties, the family of this person shall receive lump sum allowance in the amount of 10 annual compensations of the official in accordance with his last position in the Customs Bodies of the Republic of Kazakhstan.

In case when the official of the Customs Body of the Republic of Kazakhstan in connection with performance of official duties is injured or suffered other damage to health preventing him from further engagement in professional activities, said person shall receive the lump sum allowance in the following amounts:

to the disabled of first and second group - 5 annual compensations;

to the disabled of third group - 2 annual compensations;

in case of permanent loss of capacity to work without qualifying for disability - 1/2 of the annual compensation.

Monthly payments to indemnify for the damage caused to the officers by injury or other damage to health (in case of death - to family members) in connection with performance of official duties in the Customs Bodies of the Republic of Kazakhstan, the indemnification of additional expenses caused by damage to health, shall be effected in accordance with the procedure and on the terms determined by the legislation of the Republic of Kazakhstan.

The damage caused to the property of the official of the Customs Body of the Republic of Kazakhstan or his next of kin in connection with performance by this official of duties shall be indemnified in full.

Payment of allowances and indemnification of the property damage shall be made out of the State budget of the Republic of Kazakhstan.

The procedure for calculation of the annual compensation and payments mentioned in this Article shall be determined by the Government of the Republic of Kazakhstan.

**Article 407. Compulsory State Personal Insurance of the Officials of the Customs Bodies of the Republic of Kazakhstan**

The officials of the Customs Bodies of the Republic of Kazakhstan shall be liable to compulsory state personal insurance at the expense of the funds of the state budget of the Republic of Kazakhstan.

The insurance amounts shall be paid:

- 1) in case of death of the insured official during the period of service in the Customs Bodies of the Republic of Kazakhstan or before the expiry of one year after retirement therefrom as a consequence of wound (contusion), other bodily injuries, diseases occurred during execution of duties, to his heirs (upon producing of the inheritance right certificate) - 10-fold annual money compensation;
- 2) in case of qualifying disability of the insured person in connection with the performance of the official duties during the service or before the expiry of one year after retirement from the Customs Bodies of the Republic of Kazakhstan:
  - to the disabled of the first group - 5-fold annual compensation;
  - to the disabled of the second group - 3-fold annual compensation;
  - to the disabled of the third group - 1 annual compensation;
- 3) in case of severe bodily injury inflicted to the insured person in connection with the execution of official duties without entailing disability - 3 month compensation, and in case of medium or trivial bodily injury - one month compensation.

The insurance payment under this type of insurance cover shall be paid regardless of payments under other types of insurance and payments for indemnification for damage.

The annual money compensation of the official of the Customs Body of the Republic of Kazakhstan shall be determined on the basis of the last position held by this official in the Customs Body

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of the Republic of Kazakhstan and include all types of money payments which the said person was supposed to receive in the year of insurance event emergence.

***Article 408. Income Tax Imposition on Personal Income of the Officials of Customs Bodies of the Republic of Kazakhstan***

The procedure and terms of income tax imposition on personal income, gained in connection with the performance of official duties by officials of the Customs Bodies of the Republic of Kazakhstan, shall be determined by the Tax Legislation of the Republic of Kazakhstan.

***Article 409. The Leave of the Official of the Customs Body of the Republic of Kazakhstan***

The official of the Customs Body of the Republic of Kazakhstan shall be granted an annual 30-work days leave without taking into account the time of travel to the place of rest and back.

Regular 45-days leaves shall be granted to the officials who serve in high-mountain areas as well as in other areas of the Republic of Kazakhstan with hard or unfavorable climatic conditions as determined by the Government of the Republic of Kazakhstan.

The officials of the Customs Bodies of the Republic of Kazakhstan shall be entitled to additional paid leave:

- after 10 years of service in these bodies - 5 calendar days;
- after 15 years of service - 10 calendar days;
- after 20 years of service - 15 calendar days.

***Article 410. Provision of Officials of the Customs Bodies of the Republic of Kazakhstan with Living Space, Telephone.***

The Customs Bodies of the Republic of Kazakhstan can have the housing assets formed in accordance with the procedure specified by the Government of the Republic of Kazakhstan.

In case of death of the official of the Customs Body of the Republic of Kazakhstan in connection with the performance thereby of the official duties the right shall be retained for the family of the perished person to receive the housing not later than one year from the day of death of the official of the Customs Body of the Republic of Kazakhstan on the same grounds as at the time of his getting registered.

The residential telephones shall be installed for the officials of the Customs Bodies of the Republic of Kazakhstan within three months from the date of filing the application subject to the technical availability.

***Article 411. Rights of the Officials of the Customs Bodies of the Republic of Kazakhstan when on Business Trips***

An official of a Customs Body of the Republic of Kazakhstan, who has been sent on a business trip, shall use the right to purchase the tickets without queuing on all types of transport and accommodation in a hotel without reservation in accordance with his business trip identification.

***Article 412. Pension Security of Officials of the Customs Bodies of the Republic of Kazakhstan***

Pension security of the officials of the Customs Bodies of the Republic of Kazakhstan and their family members shall be determined in accordance with legislation of the Republic of Kazakhstan.

Officials of the Customs Bodies of the Republic of Kazakhstan after retirement shall retain the right to medical treatment in health care institutions, where they were registered.

**Chapter 61. ADMINISTRATIVE VIOLATIONS, ENCROACHING ON ACTIVITIES OF THE CUSTOMS BODIES OF REPUBLIC OF KAZAKHSTAN, RESPONSIBILITY FOR SUCH VIOLATIONS, PROCEEDINGS ON THEIR CASES AND THEIR CONSIDERATION**

***Article 413. Disobedience to the Order or Requirement of the Official of the Customs Body of the Republic of Kazakhstan***

The disobedience to the legal order or requirement of the official of the Customs Body of the Republic of Kazakhstan in performance by this official of his official duties, except for cases, stipulated by the other Articles of the present Law, - shall entail imposition of the fine in the amount from five to ten monthly index rates.

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***Article 414. Insult of the Official of the Customs Body of the Republic of Kazakhstan, Persons Participating in Performance of the Customs Control, Customs Clearance, and in Proceedings on or Consideration of the Customs Rule Violation Case, As Well As Offense of Witnesses***

An insult of an official of a Customs Body of the Republic of Kazakhstan during the performance of official duties, and also auditors, experts, specialists, translators, eye-witnesses, and also witnesses involved or invited to participate in customs control, customs clearance, participation in proceedings for a case concerning a violation of customs rules, or in its review, if there are no indications of a crime, - shall entail imposition of the fine in the amount from five to ten monthly index rates.

***Article 415. Threat of Violent Actions With Respect to the Officials of the Customs Body of the Republic of Kazakhstan, Persons Participating in Performance of the Customs Control, Customs Clearance, as well as Proceedings on or Consideration of the Customs Rule Violation Case As Well As Witnesses***

The threat of corporal injuries, beating or other violent actions with respect to the officials of the Customs Body of Republic of Kazakhstan in connection with performance by them of official duties, as well as to auditors, experts, specialists, translators, eye-witnesses, as well as witnesses involved or invited for participation in the performance of the customs control, proceedings on or consideration of the customs rule violation case, if there are no indications of the crime, - shall entail imposition of the fine in the amount from ten to twenty monthly index rates.

***Article 416. Refusal or Evasion of an Eye-Witness to Give Evidence***

A refusal or evasion without sufficient reasons of a person, who is subject to questioning concerning a violation of customs rules as an eye-witness, from giving important evidence, with the exception of those cases of giving evidence against yourself, spouse and close relatives, as determined by law, - shall lead to the imposition of a fine in the amount of three times of the monthly index rate.

***Article 417. Impeding or Refusal to Carry out a Revision, Review, Inventory***

An impeding or refusal of the officials of a legal entity, individual entrepreneurs, in accordance with a resolution of a Customs Body of the Republic of Kazakhstan, to carry out an audit, review, inventory, if they have been stipulated by a charter, statute, and also legislation of the Republic of Kazakhstan, - shall lead to a fine for individual entrepreneurs in the amount of twenty times the monthly index rate and for officials of legal entities - fifty times the monthly index rate.

***Article 418. Refusal or Evasion of an Expert and Specialist from Participating in Proceedings for a Case Concerning a Violation of Customs Rules, Customs Control, or Customs Clearance***

A refusal or evasion, without sufficient grounds, of an expert from submitting conclusions, a translator - from participating in proceedings or the review of a case concerning a violation of customs rules, and a specialist furthermore - from participation in customs control or customs clearance, - shall lead to the imposition of a fine in the amount of ten times the monthly index rate.

***Article 419. Refusal or Evasion of an Official from Carrying out of Resolution or Instruction Concerning Conducting of Expertise, or Requirement to Call a Specialist***

A refusal or evasion, without sufficient reasons, of an official, who has been referred a resolution or instruction of a Customs Body of the Republic of Kazakhstan to carry out an expertise, or requirement to call a specialist to participate in customs control, customs clearance, proceedings for a case of violation of customs rules or its review, from their execution, - shall lead to the imposition of a fine on the official in the amount of three times the monthly index rate.

***Article 420. Impeding to the official of the Customs Body of Republic of Kazakhstan in realization of customs inspection and other actions***

Impeding to the official of the Customs Body of Republic of Kazakhstan in realization of customs inspection and other actions, stipulated by the present Law, if such impeding does not attract the criminal liability or responsibility according to the other Articles of the present Law, - shall lead to the imposing of the fine in the amount from five up to twenty monthly index rate.

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***Article 421. Illegal Effect or Interference with the Aim of Influencing an Adopted Decision or Action Carried out***

Illegal effect or interference in any form from legal entities, their officials and other employees with the aim of influencing a decision adopted by a Customs Body of the Republic of Kazakhstan or its official, or an action carried out by this official, and also effect or interference of individual entrepreneurs and physical persons, - shall lead to the imposition of a fine in the amount of ten times the monthly index rate.

***Article 422. Proceedings On And Consideration Of Administrative Violations, Encroaching On The Activities Of The Customs Bodies Of Republic Of Kazakhstan***

Proceedings on and consideration of the cases of administrative violations, encroaching on the activities of the Customs Bodies of the Republic of Kazakhstan, shall be performed in accordance with the provisions of this chapter as they concern the procedure, determined by section XII of the present Law, and if unsettled by those, they shall be governed in accordance with legislation of the Republic of Kazakhstan concerning administrative violations.

Proceedings on administrative violation cases, indicated the first part of this Article, shall be performed by specially authorized officials of the Customs Bodies of the Republic of Kazakhstan; the cases of such violations shall be tried by the courts of the Republic of Kazakhstan.

***Article 423. Transmission Of The Case Of Administrative Violation Encroaching On The Activities Of The Customs Bodies Of The Republic of Kazakhstan***

Upon termination of proceedings on the case of administrative violation, encroaching on activity of the Customs Bodies of Republic of Kazakhstan, the Head of appropriate Customs Body of Republic of Kazakhstan, his deputy or the authorized official of the Central Customs Body of Republic of Kazakhstan, shall issue the resolution to transfer such case for consideration by courts of the Republic of Kazakhstan not later than fifteen days prior expiry of the penalty imposition period. Said resolution shall include:

name of the Customs Body of the Republic of Kazakhstan, on behalf of which resolution has been issued,

surname, name, patronymic of the official who issued resolution,

date and place it was issued;

information on the person, with respect to which resolution was issued,

information on the person, with respect to which violation was committed,

description of circumstances, detected in course of proceedings on the case,

reference to the Article of the present Law, that provides for responsibility for committing the violation,

name of the court of the Republic of Kazakhstan, to which the case is transferred for consideration.

Resolution shall also indicate costs incurred in performance of the proceedings on the case.

**Chapter 62. RESPONSIBILITY OF THE CUSTOMS BODIES OF THE REPUBLIC OF KAZAKHSTAN AND THEIR OFFICIALS**

***Article 424. Responsibility of the Customs Bodies of the Republic of Kazakhstan***

The Customs Bodies of the Republic of Kazakhstan shall be responsible before the citizenry and State for ensuring the economic sovereignty and economic security of the Republic of Kazakhstan, state of protection of the legal rights and interests of the persons and fulfillment by them of obligations in the sphere of customs matters.

If their employees violate legal rights and interests of the citizens, the Customs Bodies of the Republic of Kazakhstan shall be obligated to restore these rights and ensure that guilty persons are punished, in accordance with the legislation of Republic of Kazakhstan.

The Customs Bodies of the Republic of Kazakhstan shall be responsible for the losses or damage, caused to the persons and their property owing to their illegal decisions, actions or action default in the performance by them of official duties.

The losses or damage shall be indemnified on the general basis in accordance with the procedure, stipulated by the legislation of the Republic of Kazakhstan.

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***Article 425. Responsibility Of The Officials And Other Employees Of The Customs Bodies Of the Republic Of Kazakhstan***

Disciplinary, administrative, criminal and other responsibilities for illegal decisions, actions or action default, inappropriate performance of their official duties shall rest with the officials and other employees of the Customs Bodies of the Republic of Kazakhstan in accordance with the legislation of the Republic of Kazakhstan.

***Article 426. Procedure for Entry of Present Law Into Force***

The present Law shall enter into force as of the date of its publishing.

**President of the Republic of Kazakhstan  
N. NAZARBAEV  
Almaty, 20 July 1995, № 2368**