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# **THE CUSTOMS CODE OF THE REPUBLIC OF KAZAKHSTAN**

This Customs Code defines the legal, economic and organizational principles of customs activity in the Republic of Kazakhstan for the purpose of protecting the economic security and sovereignty of the Republic of Kazakhstan, enhancing the links of Kazakhstan's economy with the system of world economic relations, and liberalizing foreign economic activity.

## **I. GENERAL PROVISIONS**

### **SECTION I. GENERAL PROVISIONS**

#### **CHAPTER 1. BASIC PROVISIONS**

##### **Article 1**

##### **Customs Activity in the Republic of Kazakhstan**

Customs activity in the Republic of Kazakhstan establishes the procedure and conditions with regard to goods and means of transport conveyed across the customs border of the Republic of Kazakhstan, customs clearance and customs control, the application of customs procedures, levying customs duties and taxes, combating violations in the sphere of customs activity, and other means of executing customs policy, including customs administration and the operations of

the customs authorities of the Republic of Kazakhstan, based on authoritative relationships between the State and persons carrying out foreign economic and other activity.

## **Article 2**

### **The Sphere of Customs Activity**

1. The sphere of customs activity shall include the area of state regulation of the application of customs activity when pursuing the customs policy of the Republic of Kazakhstan.
2. Relations covering the sphere of customs activity, not regulated by this Code, shall be regulated by other legislative acts of the Republic of Kazakhstan.

## **Article 3**

### **Customs Policy of the Republic of Kazakhstan**

1. A single customs policy, constituting an integral part of the foreign and domestic policy of the Republic of Kazakhstan, shall be pursued in the Republic of Kazakhstan.
2. Customs policy shall be under the jurisdiction of the central bodies of executive authority, and within their authority.
3. The main goals of customs policy of the Republic of Kazakhstan shall be the facilitation of the growth of the economy and the protection of the economic interests of the Republic of Kazakhstan, ensuring effective customs control, and other goals set forth by legislative acts of the Republic of Kazakhstan.

## **Article 4**

### **Customs Legislation of the Republic of Kazakhstan**

1. Customs legislation of the Republic of Kazakhstan consists of this Code, legislative acts of the Republic of Kazakhstan, amendments and additions introduced to this Code, and normative legal acts, the adoption of which are stipulated by this Code.
2. Legislative acts of the Republic of Kazakhstan, which introduce amendments, and additions to this Code shall come into force no earlier than 30 calendar days from the date of their official publication.
3. In case an international agreement ratified by the Republic of Kazakhstan provides for regulations other than those stipulated by this Code, then the regulations of the international agreement shall apply.

## **Article 5**

### **The Effect of Customs Legislation of the Republic of Kazakhstan In Terms of Time**

1. In the sphere of customs activity, the customs legislation of the Republic of Kazakhstan, effective on the date when a customs authority of the Republic of Kazakhstan registers a customs declaration, shall be applied, except in cases stipulated in Paragraph 2 of this Article.
2. With respect to goods and means of transport crossing the customs border of the Republic of Kazakhstan with an infringement of the requirements stipulated by this Code, the customs legislation effective on the date of:
  - 1) the de facto transfer of goods and means of transport across the customs border of the Republic of Kazakhstan;
  - 2) the detection of violations in the sphere of customs activity, if the date of de facto transfer is impossible to determine;

shall apply.

## **Article 6**

### **The Customs Territory and the Customs Border Of the Republic of Kazakhstan**

1. The customs territory of the Republic of Kazakhstan shall include territorial lands, territorial and internal waters (sea), and the airspace above them, as well as artificial islands, installations, structures and other facilities situated in the exclusive maritime economic zone of the Republic of Kazakhstan, and on the continental shelf of the Republic of Kazakhstan, which are within the exclusive jurisdiction of the Republic of Kazakhstan with regard to customs activity.
2. The territory of a special economic zone established on the territory of the Republic of Kazakhstan shall constitute part of the customs territory of the Republic of Kazakhstan.
3. Goods placed under a customs regime in a Free Customs Zone on the territory of a Special Economic Zone, shall be considered, for the purposes of levying customs duties and taxes, to be located outside the customs territory of the Republic of Kazakhstan.
4. The boundaries of the customs territory of the Republic of Kazakhstan are the customs borders. 'Customs border' shall mean a line and the vertical surface passing through this line, which determines the boundaries of the customs territory of the Republic of Kazakhstan.
5. A customs border may coincide with a national border of the Republic of Kazakhstan and have a customs infrastructure.

## **Article 7**

### **Basic Terms Used in This Code**

1. Basic terms used in this Code are as follows:
  - 1) **Release of goods and means of transport** – actions of customs authorities which permit persons to use (and dispose of) goods and means of transport in compliance with the terms of a certain customs regime;
  - 2) **Cargo operations** – transportation, loading, unloading, reloading, repairing of damaged packages, packaging, repackaging, and admission of goods and means of transport subject to customs control, for transportation, taking samples and specimens of such goods, or unsealing of premises and other places where the indicated goods may be located;
  - 3) **Force majeure** – an extraordinary and unavoidable event under the existing circumstances, which hampers the execution or performance of certain actions stipulated by the customs legislation of the Republic of Kazakhstan;
  - 4) **Declarant** - a person who conveys goods and means of transport or a customs broker, who declares, presents and submits such goods on his/her behalf;
  - 5) **Declaring** – stating information on goods and means of transport crossing the customs border of the Republic of Kazakhstan and (or) subject to customs control;
  - 6) **Foreign person** - a person not specified in Paragraph 8) of this Article;
  - 7) **Foreign goods** - goods not specified in Paragraph 9) of this Article;
  - 8) **Kazakhstani person** - a citizen of the Republic of Kazakhstan; a legal person established in compliance with the legislation of the Republic of Kazakhstan, as well as its branches and representatives located in the Republic of Kazakhstan;
  - 9) **Kazakhstani goods** - goods wholly produced in the Republic of Kazakhstan; goods processed in compliance with the criteria for sufficient processing; goods released for free circulation on the territory of the Republic of Kazakhstan; goods transferred to state ownership in compliance with this Code;
  - 10) **Commercial documents** - invoices, specifications, loading and packing lists, as well as other documents, which confirm the cost of goods and are used in compliance with international agreements of the Republic of Kazakhstan;

11) **Person** – a natural or legal person;

12) **Person conveying goods** -

a person performing a foreign economic transaction on his/her own behalf or on behalf of another person;

a person who has the right to use and own goods on the territory of the Republic of Kazakhstan which are subject to customs control, if the conveyance of goods across the customs border of the Republic of Kazakhstan is effected without a Kazakhstani person performing a foreign economic transaction;

a person whose capacity under this Code is sufficient for performing legally significant actions with goods subject to customs control, on his/her own behalf;

13) **Non-tariff regulatory measures** - prohibitions and restrictions with regard to the importation of goods and means of transport to the Republic of Kazakhstan and export of them from the Republic of Kazakhstan, quotas on goods, licensing of goods, mandatory confirmation of compliance of goods with standards and safety requirements (including technical, pharmacological, sanitary, veterinary, phytosanitary, ecological and other requirements), as set forth by the Government of the Republic of Kazakhstan;

14) **Tariff regulatory measures** – measures set forth by the Government of the Republic of Kazakhstan ensuring state regulation of foreign economic and other activity in the sphere of customs activity, by applying customs tariff rates to goods and means of transport conveyed across the customs border of the Republic of Kazakhstan;

15) **Taxes** - value-added tax and excise tax levied by the customs authorities of the Republic of Kazakhstan in connection with the conveyance of goods and means of transport across the customs border of the Republic of Kazakhstan;

16) **Ensuring payment of customs duties and taxes** – measures undertaken by the customs authorities of the Republic of Kazakhstan with the purpose of fulfilling the obligations stipulated by this Code;

17) **Conveyance of goods and means of transport across the customs border of the Republic of Kazakhstan** - undertaking activities to import to and export from the customs territory of the Republic of Kazakhstan goods and means of transport by any method including use of international mail, and use of pipelines and electric power lines;

18) **Consignee** - a person indicated in the accompanying documents, to whom a carrier is obliged to ship goods subject to customs control;

19) **Checkpoint** – a territory within the area of a motorcar station, railway station, station, airport, airfield, sea port, river port, or any other equipped place, identified by the Government of the Republic of Kazakhstan or by international agreements for passing persons, goods, and means of transport across the customs border of the Republic of Kazakhstan;

20) **Specialized bodies** – state bodies established by the Government of the Republic of Kazakhstan with the purpose of carrying out tasks in the sphere of customs activity;

21) **Customs declaration** – a document submitted by the declarant, certifying data in written and (or) electronic format on goods and means of transport;

22) **Customs control** - all measures undertaken by the customs authorities of the Republic of Kazakhstan for the purpose of ensuring observance of the customs legislation of the Republic of Kazakhstan;

23) **Customs clearance** – all activities and procedures performed by persons and customs authorities related to the conveyance of goods and means of transport across the customs border of the Republic of Kazakhstan;

24) **Customs operations** – separate actions undertaken in compliance with the customs legislation of the Republic of Kazakhstan, both by the customs authorities of the Republic of Kazakhstan and by persons, with regards to goods and means of transport subject to customs control;

25) **Customs point of departure** – The customs authority of the Republic of Kazakhstan, which is the starting point for the conveyance of goods, and means of transport under customs control;

- 26) **Customs point of destination** – The customs authority of the Republic of Kazakhstan, which is the final point for conveyance of goods, and means of transport under customs control;
- 27) **Customs formalities** – all actions, taken by the customs authorities of the Republic of Kazakhstan and persons in the sphere of customs activity, with regard to goods and means of transport subject to customs control;
- 28) **Customs regime** – all norms in the sphere of customs activity set forth by this Code, which determine the status of goods and means of transport when they are conveyed across the customs border of the Republic of Kazakhstan, depending on the purpose of their conveyance and their use on the customs territory of the Republic of Kazakhstan or beyond its boundaries;
- 29) **Customs escort** – accompaniment of goods and means of transport subject to customs control by customs officials of the Republic of Kazakhstan;
- 30) **Customs terminal** – a specially constructed and technically equipped place in the area of activity of a customs authority of the Republic of Kazakhstan, assigned to perform customs procedures with goods and means of transport conveyed across the customs border of the Republic of Kazakhstan;
- 31) **Goods** - property conveyed across the customs border of the Republic of Kazakhstan, including sources of information, currency values, electric, thermal or other kinds of energy, as well as means of transport, except for the means of transport specified in Sub-paragraph 35) of this Article;

**32) Goods Subject to Customs control**

Goods with regard to which the customs authorities apply measures for compliance with the customs and other legislation of the Republic of Kazakhstan, the control over which is entrusted to the customs authorities in compliance with the provisions of this Code;

- 33) **Transportation documents** – international truck bill of lading, cargo transport bill of lading, railroad bill of lading, baggage ticket, baggage receipt, air way bill, way bill, as well as documents used when goods are conveyed by pipelines and electric power lines, and other documents accompanying goods and means of transport in the course of conveyance, which are stipulated by legislative acts of the Republic of Kazakhstan on transport issues and by international agreements;
- 34) **Documents accompanying goods** - commercial and transportation documents for goods and means of transport conveyed across the customs border of the Republic of Kazakhstan;
- 35) **Means of transport** - any marine vessel, aircraft, motor vehicle (including trailers, semi-trailers, and combined means of transport); a unit of railway rolling stock (also containers) including the usual spare parts, accessories and equipment thereto, and fuels and lubricants contained in their regular tanks, if they are transported together with the means of transport and are used in international traffic;
- 36) **Authorized state body on customs issues** - a state body that executes general supervision over customs activity in the Republic of Kazakhstan;
- 37) **Authorized body** - a state body determined by the Government of the Republic of Kazakhstan and granted authority in compliance with the legislation of the Republic of Kazakhstan;
- 38) **Conditional release** – release of goods and means of transport involving restrictions and special conditions for the use and disposal thereof;
- 39) **Participant in foreign economic activity** - a person performing foreign economic activity in compliance with the legislation of the Republic of Kazakhstan;
- 40) **Central Customs Authority** - a state body determined by the Government of the Republic of Kazakhstan, which executes direct supervision over customs activity in the Republic of Kazakhstan;
- 41) **Electronic document** – information submitted in electronic-digital format, including data on the person who signs it;
- 42) **Electronic-digital signature**- a set of electronic-digital symbols which are created by means of an electronic-digital signature, and which confirm the authenticity, integrity and authorship of an electronic document.

43) **Means of electronic-digital signature** – set of software and technical means used to create and to verify the authenticity of an electronic-digital signature.

2. Other special terms of the customs legislation of the Republic of Kazakhstan shall be used in the sense determined by the corresponding articles of this Code.

3. Terms of civil and other legislation of the Republic of Kazakhstan used in this Code shall be applied in the sense determined in the corresponding legislation of the Republic of Kazakhstan, unless otherwise stipulated by this Code



## **CHAPTER 2. BASIC PRINCIPLES FOR CONVEYANCE OF GOODS AND MEANS OF TRANSPORT ACROSS THE CUSTOMS BORDER OF THE REPUBLIC OF KAZAKHSTAN**

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### **Article 8**

#### **The Right to Import to and Export from the Republic of Kazakhstan Goods and Means of Transport**

1. All persons shall have an equal right to import to and export from the Republic of Kazakhstan goods and means of transport, except in cases stipulated by this Code and by international agreements of the Republic of Kazakhstan.
2. The legislative acts of the Republic of Kazakhstan, and acts of the President and the government of the Republic of Kazakhstan may establish prohibitions and restrictions with regard to the importation to and exportation from the Republic of Kazakhstan of goods and means of transport, to determine tariff and non-tariff regulatory measures with regard to goods and means of transport conveyed across the customs border of the Republic of Kazakhstan.

### **Article 9**

#### **Procedure for Conveying Goods and Means of Transport Across the Customs Border of the Republic of Kazakhstan**

1. When importing goods and means of transport onto the customs territory of the Republic of Kazakhstan, 'conveyance' shall mean the de facto crossing of a customs border and the undertaking of actions set forth by the customs legislation of the Republic of Kazakhstan.
2. When exporting goods and means of transport from the customs territory of the Republic of Kazakhstan, 'conveyance' shall mean submission of a customs declaration or other actions aimed at exportation of goods and means of transport. Other actions shall include:
  - 1.) entry on foot (or by means of transport) of a natural person, leaving the territory of the Republic of Kazakhstan, into a customs control zone;
  - 2.) submission by the carrier of goods and means of transport of a notification on the exportation of goods and means of transport from the customs territory of the Republic of Kazakhstan;
  - 3.) entry of a means of transport into a checkpoint at the customs border of the Republic of Kazakhstan, with the intention of leaving the customs territory of the Republic of Kazakhstan;
  - 4.) submission of goods to freight forwarding companies or submission of international mail to postal offices for shipment outside the boundaries of the customs territory of the Republic of Kazakhstan.
3. Conveyance of currency values across the customs border of the Republic of Kazakhstan shall be affected in compliance with the currency legislation of the Republic of Kazakhstan and with this Code.

### **Article 10**

#### **Customs Clearance**

Goods and means of transport conveyed across the customs border of the Republic of Kazakhstan shall be subject to customs clearance in compliance with the procedures and on the terms stipulated by the customs legislation of the Republic of Kazakhstan.

### **Article 11**

## **Selection and Change of Customs Procedures**

1. At a person's option, goods and means of transport conveyed across the Customs border of the Republic of Kazakhstan shall be placed under a specific customs regime in compliance with the procedures and on the terms stipulated by this Code.
2. A customs regime for goods and means of transport may be changed to another customs regime, depending on the destination and use of the goods and means of transport conveyed across the customs border of the Republic of Kazakhstan in compliance with the procedures and on the terms stipulated by this Code.

### **Article 12**

#### **Observance of Tariff and Non-Tariff Regulatory Measures When Conveying Goods and Means of Transport Across the Customs Border Of the Republic of Kazakhstan.**

1. When conveying goods and means of transport across the customs border of the Republic of Kazakhstan, a declarant shall be obliged to submit to the customs authorities of the Republic of Kazakhstan documents and data confirming observance of tariff and non-tariff regulatory measures for foreign economic activity.
2. Goods prohibited for importation onto the customs territory of the Republic of Kazakhstan shall be subject to exportation from the customs territory of the Republic of Kazakhstan within 24 hours of the date when such goods were transferred, unless otherwise stipulated by the legislation of the Republic of Kazakhstan or by international agreement of the Republic of Kazakhstan.  
When goods prohibited for importation onto the customs territory of the Republic of Kazakhstan, are not exported within the time limits set forth in this Article, such goods shall be placed into temporary storage warehouses established by the customs authorities of the Republic of Kazakhstan. The time limit for storing goods prohibited for importation in temporary storage warehouses shall be three days. Upon the expiry of the established time limit, such goods shall become state property in compliance with the procedures and on the terms set forth by this Code and by the legislation of the Republic of Kazakhstan.
3. Goods which are restricted for import onto the customs territory of the Republic of Kazakhstan shall be permitted to be imported and, in cases stipulated by this Code, shall be released by the customs authorities of the Republic of Kazakhstan on the assumption of observation of the requirements set forth by the legislation of the Republic of Kazakhstan.
4. Goods prohibited for exportation cannot be de facto exported outside the customs territory of the Republic of Kazakhstan.
5. Goods, which are restricted for export from the customs territory of the Republic of Kazakhstan shall be permitted to be exported by the customs authorities of the Republic of Kazakhstan on the assumption of observation of the requirements, set forth by the legislation of the Republic of Kazakhstan.

### **Article 13**

#### **Use and Disposal of Goods and Means of Transport**

1. No one shall have the right to use and dispose of goods and means of transport in any way prior to their release, other than in compliance with the procedures and on the terms stipulated by this Code.
2. After goods and means of transport are released, they shall be used and disposed of in compliance with the procedures of the stated customs regime.

### **Article 14**

## **Conditional Release**

Goods and means of transport conveyed across the customs border of the Republic of Kazakhstan, with respect to which privileges with regard to customs duties and taxes are granted on the condition of adhering to restrictions, or with respect to which terms and requirements are set forth by this Code, shall be subject to conditional release.

## **Article 15** **Customs Control**

Goods and means of transport conveyed across the customs border of the Republic of Kazakhstan shall be subject to customs control.

Customs control shall be executed by the customs authorities of the Republic of Kazakhstan in compliance with the procedures and in the forms set forth by this Code.

## **SECTION II. THE CUSTOMS AUTHORITIES OF THE REPUBLIC OF KAZAKHSTAN**

### **CHAPTER 3. STRUCTURE AND ACTIVITY OF THE CUSTOMS AUTHORITIES OF THE REPUBLIC OF KAZAKHSTAN**

#### **Article 16**

##### **The Customs Authorities of the Republic of Kazakhstan**

1. The customs authorities of the Republic of Kazakhstan (hereinafter referred to as “customs authorities”) shall mean state bodies which execute law enforcement activity and participate, within the limits of their authority, in pursuing customs policy and directly implementing customs activity in the Republic of Kazakhstan, as well as executing other functions stipulated by the legislative acts of the Republic of Kazakhstan.
2. The authorized state body on customs issues shall exercise general supervision over the customs authorities of the Republic of Kazakhstan. The Central Customs Authority shall exercise direct supervision over customs authorities.

#### **Article 17**

##### **The Customs Authorities System**

1. The customs authorities of the Republic of Kazakhstan shall consist of the following bodies:
  - 1) The Central Customs Authority;
  - 2) Regional customs office, and the Astana and Almaty customs offices (hereinafter referred to as “customs offices”);
  - 3) Customs houses;
  - 4) Customs points;
  - 5) Checkpoints on the customs border of the Republic of Kazakhstan.
2. To carry out tasks in the sphere of customs activity, the authorized state body on customs issues shall have the right to make proposals to the Government of the Republic of Kazakhstan on establishing customs laboratories, dog-handling, training, computer centers and other specialized institutions;
3. The Central Customs Authority is a legal person and shall act within the limits of its authority. The Government of the Republic of Kazakhstan shall approve the statute on the Central Customs Authority.
4. Regional customs offices and customs houses are legal persons and shall act on the basis of regulations approved by the Government of the Republic of Kazakhstan.
5. Customs points and checkpoints are not legal persons and shall act on the basis of regulations approved by the authorized state body on customs issues, upon the recommendation of the Central Customs Authority.
6. The establishment, reorganization and liquidation of regional customs offices and customs houses shall be effected upon a decision by the Government of the Republic of Kazakhstan.
7. The establishment, reorganization and liquidation of customs points and checkpoints shall be effected upon a decision by the authorized state body on customs issues, upon the recommendation of the Central Customs Authority.
8. The Government of the Republic of Kazakhstan shall approve the quota for the number of staff of the customs authorities. The structure and number of staff of the customs authorities shall be approved by the authorized state body on customs issues within the quota approved by the Government of the Republic of Kazakhstan.

9. Customs authorities shall be directly vertically subordinated to a corresponding superior customs authority.

10. Customs authorities and marine vessels at their disposal shall have a flag and markings identifying them as customs authorities. Automotive vehicles and aircraft, which are at the disposal of the customs authorities, shall have markings identifying them as customs authorities. The authorized state body on customs issues shall determine the description of and procedure for using the identification flag and the identification markings of customs authorities.

## **Article 18**

### **Principles of Activity of the Customs Authorities**

The activity of customs authorities shall be based on the following principles:

- 1) lawfulness;
- 2) ensuring the right to defense and equality before the law, respect and observance of the rights of participants in foreign economic and other activity in the sphere of customs activity;
- 3) publicity;
- 4) interaction with other state bodies;

## **Article 19**

### **Tasks of the Customs Authorities**

The customs authorities shall carry out the following tasks:

- 1) participate in the development and pursuit of the customs policy of the Republic of Kazakhstan;
- 2) ensure, within the limits of their authority, the economic safety and economic sovereignty of the Republic of Kazakhstan;
- 3) ensure compliance with customs and other legislation of the Republic of Kazakhstan, control over which observance must be implemented by the customs authorities;
- 4) ensure observance of tariff and non-tariff regulatory measures set forth by the legislation of the Republic of Kazakhstan with regard to goods and means of transport conveyed across the customs border of the Republic of Kazakhstan;
- 5) combat contraband and other offenses in the sphere of customs activity when conveying goods and means of transport across the customs border of the Republic of Kazakhstan; stop the illegal circulation over the customs border of narcotic and psychotropic substances and their components, weaponry, cultural and historical valuables, the archeological heritage of the Republic of Kazakhstan and foreign states, radioactive substances, endangered plants and animals, parts and derivatives thereof, objects of intellectual property, and other goods; promotion of opposition to international terrorism and prevention of unlawful intervention in the functioning of international civil aviation in the airports of the Republic of Kazakhstan;
- 6) conduct and improve customs clearance and customs control procedures, create conditions promoting intensive turnover of goods across the customs border of the Republic of Kazakhstan;
- 7) exercise currency control within the limits of their authority;
- 8) ensure the implementation of international obligations of the Republic of Kazakhstan and participate in the development of international agreements of the Republic of Kazakhstan pertaining to customs activity; cooperate with customs and other competent bodies of foreign states and international organizations engaged in customs activity;
- 9) take part in the implementation of the single budget policy, and the development of the material, technical and social basis of the customs authorities;
- 10) carry out other tasks stipulated by legislative acts of the Republic of Kazakhstan.

## **Article 20**

### **Locations of Customs Authorities**

1. Locations of customs authorities shall be determined by the authorized state body on customs issues, upon the recommendation of the Central Customs Authority, taking into consideration the traffic flows of passengers and goods, the intensity of growth in foreign economic relations between separate regions, and the needs of participants in foreign economic and other activity.

2. Customs authorities shall be located on premises directly belonging to the customs authorities except in cases stipulated by Paragraph 3 of this Article.

3. In cases stipulated by this Code, customs authorities may be located on territories and (or) premises belonging to persons acting as customs brokers, customs carriers, owners of temporary storage warehouses, bonded warehouses and (or) free warehouses, and also on the territory and (or) premises of customs terminals, airports, ports, railway and automotive terminals, and stations, and to participants in foreign economic activity who are performing export and import deliveries of goods.

In such cases, the required territories and (or) premises shall be provided to customs authorities on a contract basis in compliance with the Civil code of the Republic of Kazakhstan.

4. Land areas shall be provided to customs authorities in compliance with the legislation of the Republic of Kazakhstan.

## **Article 21**

### **Places for Effecting Customs Procedures**

Customs procedures with regard to goods and means of transport shall be effected in customs control zones, except in cases set forth by this Code.

## **Article 22**

### **Business Hours of the Customs Authorities**

1. The business hours of the customs authorities shall be defined by the Central Customs Authority in compliance with the terms stipulated in Paragraphs 2 and 3 of this Article.

The business hours of the customs authorities at seaports, airports, railway stations and other checkpoints on the customs borders of the Republic of Kazakhstan shall correspond to the business hours of the other controlling bodies and services operating at these points.

3. When possible, the business hours of the customs authorities at checkpoints on the customs borders of the Republic of Kazakhstan shall correspond to the business hours of the customs authorities of neighboring foreign states.

4. When required, customs officials may carry out their functional duties outside of business hours, at night, on weekends and holidays. In such cases remuneration for labor shall be effected in compliance with the legislation of the Republic of Kazakhstan.

## **CHAPTER 4. POWERS OF THE CUSTOMS AUTHORITIES**

### **Article 23**

#### **Rights of the Customs Authorities**

The customs authorities shall be authorized to:

- 1) issue, within the limits of their authority, normative legal acts stipulated by this Code;
- 2) request and receive necessary information, documents and data relevant to customs activity from state bodies and bodies of foreign countries, and from participants in foreign economic and other activities;
- 3) issue licenses and execute control over licensees' compliance with the requirements within the limits of their authority as set forth by this Code and the legislation of the Republic of Kazakhstan on licensing;
- 4) institute, within the limits of their authority, an inquiry in the sphere of customs activity, initiate and execute proceedings in cases of administrative offences in the sphere of customs activity, impose administrative penalties in compliance with the legislative acts of the Republic of Kazakhstan;
- 5) bring suits in courts in compliance with the legislative acts of the Republic of Kazakhstan;
- 6) detain and deliver to official premises of a customs authority, or law-enforcement bodies of the Republic of Kazakhstan, persons who are suspected of committing, who have already committed, or who are in the process of committing offences in the sphere of customs activity, in compliance with the legislative acts of the Republic of Kazakhstan;
- 7) file documentation, make video and audio recordings, and film and photograph facts and events related to the performance of their functional authorities in compliance with the legislation of the Republic of Kazakhstan;
- 8) send official representatives of the customs authorities to foreign states on the basis of respective international agreements;
- 9) develop, set up and operate information systems, communication and data transmissions systems, technical means of customs control, and information security systems, in compliance with the legislation of the Republic of Kazakhstan;
- 10) in compliance with the existing legislation, purchase goods, including armaments, special technical and other materials, with the purpose of implementing the functions of the customs authorities;
- 11) exercise other powers stipulated by this Code and other legislative acts of the Republic of Kazakhstan.

### **Article 24**

#### **Duties of the Customs Authorities**

1. The customs authorities shall be obliged to:

- 1) observe the legal rights of participants in foreign economic and other activity in the sphere of customs activity and to protect the interests of the State;
- 2) consider persons' complaints concerning decisions, or the actions (inactions) of a subordinate customs office and customs officials;
- 3) facilitate external trade and the economic development of the Republic of Kazakhstan within the limits of their authority, and promote the accelerated turnover of goods across the customs border of the Republic of Kazakhstan;
- 4) exercise customs control over conveyance of goods and means of transport across the customs border of the Republic of Kazakhstan;
- 5) create conditions to prevent demurrage of means of transport when exercising customs control;

- 6) provide assistance, within the limits of their authority, to participants in foreign economic and other activities when exercising their rights;
  - 7) ensure full collection and timely transfer of customs duties and taxes into the national budget;
  - 8) force payment of customs duties and taxes, which were not paid into the national budget in a timely manner, as well as penalties thereon;
  - 9) make decisions within the stated time limits on issuing licenses, permits and qualification certificates permitting the conduct of activity in the sphere of customs activity;
  - 10) keep customs statistics on foreign trade and special customs statistics of the Republic of Kazakhstan;
  - 11) exercise control over the export of strategic goods;
  - 12) ensure the safety of goods and means of transport, which have become state property;
  - 13) ensure the protection, within the limits of their authority, of the customs border of the Republic of Kazakhstan, and exercise control over observance of customs control zone procedures;
  - 14) ensure the safety of customs authorities' activity, and protection of customs officials and members of their families from unlawful actions;
  - 15) take measures, within the limits of their authority, to prevent, reveal, and put a stop to departmental malfeasance on behalf of customs officials;
  - 16) collect and analyze data on the commitment of violations in the sphere of customs activity;
  - 17) enforce, within the limits of their authority, court decisions and written orders of prosecutors, as well as other law enforcement bodies, and assist them in performing some procedural actions;
  - 18) cooperate with the national security bodies to ensure the security of the state border of the Republic of Kazakhstan;
  - 19) assist the tax bodies and other state bodies in revealing, preventing and suppressing violations of tax, currency and other legislation of the Republic of Kazakhstan;
  - 20) keep secret the data stipulated by this Code;
- in a timely manner and on a regular basis, provide participants in foreign economic and other activity with information relating to customs activity, including that on amendments and additions to the customs legislation of the Republic of Kazakhstan, in compliance with the procedures set forth by this Code;
- 22) ensure timely consideration of and submission of responses to or undertaking of other activities with regard to requests and proposals in the sphere of customs activity;
  - 23) provide, on an unpaid basis, consulting on customs issues;
  - 24) perform customs administration in compliance with the customs legislation of the Republic of Kazakhstan;
  - 25) perform other duties pursuant to this Code and other legislative acts of the Republic of Kazakhstan.
2. When customs authorities reveal offences which are under the control of other state bodies according to the legislative acts of the Republic of Kazakhstan, they must, within the time limits stipulated by the legislative acts of the Republic of Kazakhstan, hand over related files to the corresponding state bodies.

## **Article 25**

### **Mandatory Execution of the Legal Requirements of Customs Authorities**

1. The legal requirements of customs authorities and officials shall be mandatory for all persons in regard to whom these requirements are made, in compliance with the customs legislation of the Republic of Kazakhstan.



2. Failure to comply with the legal requirements of customs authorities and officials, as well as other actions impeding the fulfillment of functional duties by customs officials, shall entail responsibility as stipulated by the legislative acts of the Republic of Kazakhstan.

## **Article 26**

### **Confidentiality of Data Submitted to Customs Authorities**

1. Data submitted to customs authorities by other state bodies, or by participants in foreign economic or other activity in the sphere of customs activity shall be used exclusively in compliance with the customs legislation of the Republic of Kazakhstan.

2. Any information in the sphere of customs activity received by customs authorities shall be deemed confidential, except for the following data:

1) data on amounts of customs duties and taxes paid by legal persons and by individual entrepreneurs;

2) data provided to law enforcement bodies for the legal prosecution of persons committing offences in the sphere of customs activity; to courts in the course of consideration of cases of violation of the customs legislation of the Republic of Kazakhstan; and also to subjects of operational and investigative activity with regard to materials under production in compliance with the procedures set forth in joint orders of the Central Customs Authority, and corresponding subjects of operational and investigative activity;

3) data provided to customs authorities or law enforcement bodies of foreign states, or to international organizations, in compliance with international agreements ratified by the Republic of Kazakhstan;

4) data provided to state bodies, pursuant to this Code;

5) participants in foreign economic activity listed in the register and belonging to the minimal risk category;

6) goods listed in the register, which contain objects of intellectual property.

3. Data regarding a participant in foreign economic and other activity in the sphere of customs activity shall not be delivered to another person without the written consent of the participant in foreign economic or other activity in the sphere of customs activity, except in cases specified in Paragraph 2 of this Article.

## **Article 27**

### **Responsibility of the Customs Authorities and Officials**

1. Customs authorities shall bear the responsibility for violation of customs and other legislation of the Republic of Kazakhstan in compliance with the legislative acts of the Republic of Kazakhstan.

2. Customs authorities shall reimburse damages caused to persons and their property as a result of illegal decisions made by the customs authorities, or actions (inactions) of customs officials in the course of carrying out their functional duties, in compliance with the legislation of the Republic of Kazakhstan.

### **SECTION III. RELATIONS OF THE CUSTOMS AUTHORITIES WITH STATE BODIES, AND WITH PARTICIPANTS IN FOREIGN ECONOMIC AND OTHER ACTIVITY IN THE SPHERE OF CUSTOMS ACTIVITY**

#### **CHAPTER 5. RELATIONS OF THE CUSTOMS AUTHORITIES WITH STATE BODIES, AND WITH PARTICIPANTS IN FOREIGN ECONOMIC AND OTHER ACTIVITY IN THE SPHERE OF CUSTOMS ACTIVITY**

##### **Article 28**

##### **Cooperation between Customs Authorities and State Bodies**

1. Customs authorities shall carry out their functions independently and in cooperation with other state bodies.
2. Customs authorities shall ensure coordination of activities related to the conveyance of goods and means of transport across the customs border of the Republic of Kazakhstan and, where possible, simultaneously implement these activities in cases when goods are subject to the control of other state bodies according to the legislative acts of the Republic of Kazakhstan.
3. Interference in the activities of customs authorities shall be prohibited, except in cases stipulated by the legislative acts of the Republic of Kazakhstan.
4. Customs authorities shall cooperate with state bodies in compliance with the procedures set forth in the joint instructions of the corresponding state bodies.

##### **Article 29**

##### **Relations of the Customs Authorities with Participants in Foreign Economic and Other Activity in the Sphere of Customs Activity, and with Self-Regulated Organizations**

1. Customs authorities shall establish and maintain official relations with participants in foreign economic and other activity in the sphere of customs activity, with the purpose of cooperating and interacting in introducing effective methods of accomplishing tasks in the sphere of customs activity.
2. Customs authorities, within the authorities set forth by this Code, shall cooperate with self-regulated organizations with the purpose of protecting the rights of participants in foreign economic and other activity in the sphere of customs activity.

##### **Article 30**

##### **Cooperation of Customs Authorities with the Customs Authorities and Other Bodies of Foreign States and International Organizations**

When carrying out their functions, customs authorities shall cooperate with the customs authorities and other bodies of foreign states and international organizations in compliance with the international agreements of the Republic of Kazakhstan.

## **CHAPTER 6. INFORMING AND CONSULTING IN THE SPHERE OF CUSTOMS ACTIVITY**

### **Article 31**

#### **Communication of Information in the Sphere of Customs Activity**

Customs authorities shall present information in the sphere of customs activity to participants in foreign economic and other activity in compliance with the procedures set forth in Article 32 of this Code.

### **Article 32**

#### **Procedures for the Communication of Information in the Sphere of Customs Activity**

1. The Central Customs Authority shall communicate information in the sphere of customs activity by officially publishing normative legal acts in printed publications in compliance with the procedures set forth in the legislation of the Republic of Kazakhstan.
2. Communication of information in the sphere of customs activity shall also be accomplished through oral announcements, information stands, data displays, booklets and other printed materials, as well as video, audio, and other technical means used for information distribution, including those available to the public for unpaid familiarization in the following places:
  - 1) checkpoints on the customs border of the Republic of Kazakhstan;
  - 2) airports, railway and automotive terminals, and seaports;
  - 3) on board automotive means of transport, aircraft, and marine vessels involved in international traffic;
  - 4) customs control zones identified by this Code, and in other places determined by the customs authorities.
3. The customs authorities shall provide access for participants in foreign economic and other activity to information on current normative legal acts in the sphere of customs activity, through the use of information technologies, in compliance with the procedures set forth by the authorized state body on customs issues.

### **Article 33**

#### **Consulting in the Sphere of Customs Activity**

1. Consulting in the sphere of customs activity shall mean explanation by the customs authorities to participants in foreign economic and other activity of the provisions of the customs legislation of the Republic of Kazakhstan.
2. Consulting in the sphere of customs activity shall be provided at the place of location of the customs authorities and within the business hours of the customs authorities.

### **Article 34**

#### **Consulting Procedures in the Sphere of Customs Activity**

1. Consulting in the sphere of customs activity shall be conducted in writing.
2. Written consulting shall be provided by the customs authorities based upon a written inquiry, including the use of information technologies, received from participants in foreign economic and other activity. Inquiries received shall be subject to mandatory registration by customs authorities. The time limit for considering a written inquiry shall be ten working days from the day of registration, except in cases identified by Paragraph 3 of this Article.

3. In regard to inquiries requiring submission of supplementary documents and files in order to provide valid and objective consultation, as well as in cases where the customs authorities have to address state bodies and other organizations to get information that is of significant importance in terms of consideration of the inquiry received, consultation shall be provided no later than thirty calendar days from the date a written inquiry was registered.

**Article 35**  
**Responsibility for Invalid Information and Consultation**  
**in the Sphere of Customs Activity**

1. The customs authorities shall not bear responsibility for invalid information in the sphere of customs activity, which is unofficially published in printed publications .
2. Customs officials shall be responsible for unreliable information and consulting in the sphere of customs activity in compliance with the legislation of the Republic of Kazakhstan.

## **CHAPTER 7. SELF-REGULATED ORGANIZATIONS FOR THE PROTECTION OF THE RIGHTS OF PARTICIPANTS IN FOREIGN ECONOMIC AND OTHER ACTIVITY IN THE SPHERE OF CUSTOMS ACTIVITY**

### **Article 36**

#### **Establishment of a Self-Regulated Organization for the Protection of the Rights of Participants in Foreign Economic and Other Activity in the Sphere of Customs Activity**

1. A self-regulated organization for the protection of the rights of participants in foreign economic and other activity in the sphere of customs activity (hereinafter referred to as a self-regulated organization in the sphere of customs activity) shall mean a legal person, and shall be established by participants in foreign economic and other activity in the sphere of customs activity as a non-commercial organization.
2. A self-regulated organization with the purpose of the protection of the rights of participants in foreign economic and other activity in the sphere of customs activity, shall be recognized and considered by the customs authorities as an authorized representative of participants in foreign economic and other activity if it consists of no less than thirty legal persons who are united based on territorial principle or by types of activity.
3. A self-regulated organization in the sphere of customs activity shall be established, re-organized and liquidated in compliance with the legislative acts of the Republic of Kazakhstan.

### **Article 37**

#### **Main Tasks of a Self-Regulated Organization in the Sphere of Customs Activity**

1. The following shall be the main tasks of a self-regulated organization in the sphere of customs activity:
  - 1) to promote the creation of conditions for efficient foreign economic and other activity in the sphere of customs activity;
  - 2) to provide guaranties, as set forth by this Code, to customs authorities;
  - 3) to provide assistance to members of a self-regulated organization on customs issues;
  - 4) to represent and protect the rights and interests of participants in foreign economic and other activity in the sphere of customs activity;
  - 5) to undertake activities ensuring compliance by participants with the customs legislation of the Republic of Kazakhstan;

### **Article 38**

#### **Rights of A Self-Regulated Organization in the Sphere of Customs Activity**

1. A self-regulated organization in the sphere of customs activity shall be authorized to represent the interests of participants in foreign economic and other activity to customs authorities on the following issues:
  - 1) the appointment of authorized representatives of the indicated organizations in order to protect their rights and interests;
  - 2) the carrying out of activities aimed at the protection of the rights and interests of the organization's members;
  - 3) the recommendation to include organization members in the list of persons in the minimal risk category;
  - 4) the submission of proposals on and participation in the development of legislative acts in the sphere of customs activity upon coordination with the authorized state body on customs issues;

- 5) the conducting of a social survey among participants in foreign economic and other activity in the sphere of customs activity, and provision of information based on the social survey results to the authorized state body on customs issues;
  - 6) a presence as observers at processes of certification of customs officials in a quantity of not more than 3 representatives in total.
2. A self-regulated organization in the sphere of customs activity may act as a guarantor that its members will comply with the norms and requirements of the customs legislation of the Republic of Kazakhstan by ensuring payment of the customs duties and taxes stipulated in Chapter 45 of this Code.

### **Article 39**

#### **Obligations of a Self-Regulated Organization in the Sphere of Customs Activity**

A self-regulated organization in the sphere of customs activity shall be obliged to:

- 1) assist members of the self-regulated organization in complying with the customs legislation of the Republic of Kazakhstan;
- 2) in a timely manner, provide to the customs authorities necessary and accurate information in compliance with the procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues;
- 3) assist in providing information on the customs legislation of the Republic of Kazakhstan to participants in foreign economic and other activity;
- 4) consider members' proposals and forward them, in a timely manner, to the customs authorities for consideration;
- 5) submit information on violations of the customs legislation of the Republic of Kazakhstan, committed by customs officials, to the authorized state body on customs issues and to the Central Customs Authority;
- 6) submit information on violations of the customs legislation of the Republic of Kazakhstan, committed by its members, to the authorized state body on customs issues and to the Central Customs Authority;
- 7) assist in submitting information on the standard and quality of the activity of customs authorities, when implementing customs procedures, to the authorized state body on customs issues and to the Central Customs Authority.

### **Article 40**

#### **Responsibility of a Self-Regulated Organization in the Sphere of Customs Activity**

1. A self-regulated organization in the sphere of customs activity shall bear responsibility for violation of the customs legislation of the Republic of Kazakhstan and of statutory requirements in compliance with the legislative acts of the Republic of Kazakhstan.
2. Members of a self-regulated organization in the sphere of customs activity shall not have any privileges as compared to other participants in foreign economic and other activity.

## **II. SPECIAL PART**

### **SECTION 4. COUNTRY OF ORIGIN OF GOODS. FOREIGN ECONOMIC ACTIVITY COMMODITY NOMENCLATURE.**

#### **PRELIMINARY DECISION**

#### **CHAPTER 8. DETERMINATION OF ORIGIN OF GOODS**

##### **Article 41**

##### **Determination of Origin of Goods**

1. The origin of goods shall be determined in order to apply tariff and non-tariff regulatory measures when importing goods onto the customs territory of the Republic of Kazakhstan and exporting goods from the territory.
2. The country of origin of goods shall be defined as the country where the goods were wholly produced or manufactured or were subjected to sufficient processing in compliance with the criteria established by Article 43 of this Code. The country of origin of goods may be understood as a group of countries, customs unions, or a region or part of a country, if it is necessary to identify it for the purpose of determination of the origin of goods.

##### **Article 42**

##### **Goods Wholly Produced in a Given Country**

The following shall be considered goods wholly produced in a given country:

- 1) mineral products extracted from the soil of a country, from its territorial waters (seas) or from its continental shelf;
- 2) vegetable products harvested or gathered in a given country;
- 3) live animals born and (or) raised in a given country;
- 4) products obtained from live animals in a given country;
- 5) products obtained from hunting and fishing conducted in a given country;
- 6) products of maritime fishing and other sea products obtained by a vessel of a given country or a vessel leased by that country;
- 7) products obtained aboard a factory ship of a given country solely from products specified in Sub-paragraph 6) of this Article;
- 8) products obtained from marine soil or subsoil outside the territorial waters of a given country, provided this country has the sole right to work that soil or subsoil;
- 9) scrap and waste (secondary raw materials) derived from manufacturing and other processing operations, as well as used articles collected in a given country and fit only for processing into raw materials;
- 10) products of high technologies, obtained in open space onboard a spacecraft of a given country or leased by a given country;
- 11) goods produced in a given country solely from products referred to in Sub-paragraphs 1) through 10) of this Article;
- 12) electricity generated on the territory of a given country.

### **Article 43**

#### **Criteria for Sufficient Processing of Goods**

1. Where two or more countries take part in the production of goods, the country of origin of goods shall be the country where the goods underwent final operations in processing or production in compliance with the criteria for sufficient processing of goods and in compliance with this Article.
2. The criteria for sufficient processing of goods in a given country shall be as follows:
  - 1) a change in the goods classification code in accordance with the foreign economic activity commodity nomenclature at the level of any of the first four digits, resulting from processing the goods;
  - 2) fulfillment of production or technological operations sufficient for regarding the country where such operations took place as the country of origin;
  - 3) use of the ad valorem ratio rule, signifying a change in the value of the goods such that the percentage ratio of the cost of materials used or the value added reaches a fixed share of the price of the finished product.
3. The criteria for sufficient processing of goods, specified in Sub-paragraphs 2) and 3) of Paragraph 2 of this Article with respect to certain goods, shall be established by the Government of the Republic of Kazakhstan.
4. Where the ad valorem ratio rule is applied, the price indices of goods shall be calculated as follows:
  - 1) for imported goods – based on the customs value of these goods when they are imported into the country where the finished product is manufactured or, if the origin of the imported goods is unknown, based on the documentarily certified price of the first sales of goods on the territory of the country where the finished product is manufactured;
  - 2) for finished products – based on the seller's ex-factory (ex-warehouse) price.
5. The following operations shall be considered as not meeting the criteria for sufficient processing of goods in a given country:
  - 1) operations necessary for preservation of goods during their storage or transportation;
  - 2) operations necessary for preparing goods for sale and transportation (splitting a consignment, grouping of packages, sorting and grading, repacking);
  - 3) simple assembly operations, which mean assemblage of a commodity's components with the help of strengthening materials (screws, nuts, bolts etc.) or by riveting, welding, bonding, or gluing;
  - 4) mixing of goods (components) originating in various countries, provided that the characteristics of the finished product are not essentially different from the characteristics of the goods, which have been mixed;
  - 5) slaughtering of livestock;
  - 6) a combination of two or more of the above mentioned operations.
6. If there are no special requirements set forth as to how to determine the origin of specific types of goods imported into the customs territory of the Republic of Kazakhstan or to a country which enjoys tariff preferences provided by the Republic of Kazakhstan, the following general rule shall be applied: goods are considered as originating in a given country if the operations for processing or manufacturing of goods result in a change in the classification code at the level of any of the first four digits according to the foreign economic activity commodity nomenclature .

### **Article 44**

#### **Determination of Origin of Goods Supplied in a Disassembled or Unassembled State**

1. Goods, unassembled or disassembled, supplied in lots, or when their shipment in one lot is impossible for production or transportation reasons, or in the event that a lot of goods is



subdivided into several lots through error, shall be considered as a single commodity with regard to their origin.

2. The conditions for the application of Paragraph 1 of this Article are as follows:

1) preliminary notification of the customs authorities of a shipment of goods in disassembled or unassembled state, or shipped in several lots, stating the reasons for shipping this way, and specifying the classification codes of each lot in compliance with the foreign economic activity commodity nomenclature, and the value and country of origin of the goods in each lot. In case of subdividing commodities into several lots as a result of an error or wrong address, documents confirming the subdivision of the entire lot of goods into several lots by mistake, shall be provided additionally;

2) shipment of all lots of goods from the same country by the same supplier under the same contract;

3) declaration of all lots of goods to the same customs authority;

4) importation into the customs territory of the Republic of Kazakhstan of all shipments of goods within a period of time not to exceed six months from the date of acceptance of the customs cargo declaration by a customs authority, or when the time limit for submission with the regard to the first lot of goods has expired. Based on a declarant's justified request, when it is impossible to deliver goods due to reasons not dependent on the consignee, the period for shipping remaining lots of goods may be extended by the customs authorities. This extension shall not exceed one year, starting from the date of importation of the first lot of goods;

#### **Article 45**

#### **Particular Features of Determining the Origin of Goods**

1. The country of origin of energy resources, machines, equipment and tools used in production or processing shall not be taken into consideration when determining the country of origin of goods.

2. Accessories, appliances, spare parts and tool kits to be used with machines, equipment, devices, or means of transportation, shall be considered as having the same origin as the machines, equipment, devices, or means of transportation, provided that the accessories, appliances, spare parts and tool kits are imported with and sold together with them, and in the quantities specified in the accompanying document of technical characteristics.

3. The packaging in which goods are imported into the customs territory of the Republic of Kazakhstan shall be considered to have the same country of origin as the goods packed in them, except in cases when, in compliance with the foreign economic activity commodity nomenclature, the packaging is to be declared separately from the goods. In such cases, the country of origin of packaging shall be determined separately from the country of origin of goods.

4. Where the packaging in which the goods are imported into the customs territory of the Republic of Kazakhstan is considered to have the same origin as the goods, only the packaging intended for retail sales of the said goods shall be taken into consideration for the purpose of determining origin of goods, including the application of the ad valorem ratio rule.

#### **Article 46**

#### **Confirmation of Origin of Goods**

A certificate of origin or declaration of origin shall be evidence of the origin of goods.

#### **Article 47**

#### **Certificate of Origin of Goods**

1. 'Certificate of origin of goods' shall mean a document, proving the origin of the goods and issued by an authorized body of that country or the country of exportation, provided that, in the

country of exportation, the certificate is issued based on information received from the country of origin of the goods.

2. When goods are exported from the customs territory of the Republic of Kazakhstan, the certificate of origin of goods shall be issued by the authorized body, whenever such a certificate is required under the terms of the contract in compliance with the national regulations of the country of importation of the goods, or when the availability of the certificate is stipulated by international agreements of the Republic of Kazakhstan.

The authorized body which issued the document certifying the origin of goods shall be obliged to keep a copy of it and other documents, based upon which the origin of the goods was determined, for at least three years from the day of issuing the document certifying the origin of goods.

3. When information on the origin of goods in the certificate of origin of goods is based on criteria other than those applied in the Republic of Kazakhstan, the country of origin of goods shall be determined in compliance with the criteria specified in Article 43 of this Code.

## **Article 48**

### **Declaration of Origin of Goods**

1. 'Declaration of origin of goods' shall mean a statement as to the origin of goods, made by a manufacturer or a seller on the shipping document relating to the goods.

2. When the information on the origin of goods in the declaration of origin of goods is based on criteria other than those applied in the Republic of Kazakhstan, the country of origin of goods shall be determined in compliance with the criteria specified in Article 43 of this Code.

## **Article 49**

### **Terms of Submission of Certificate of Origin of Goods**

1. When goods are imported into the customs territory of the Republic of Kazakhstan, the certificate of origin of goods shall be submitted in the following cases:

- 1) the country of origin of said goods enjoys tariff preferences in compliance with international agreements to which the Republic of Kazakhstan is a signatory;
- 2) a customs authority has a well-grounded suspicion that the goods originate from countries whose imports are subject to non-tariff regulatory measures;
- 3) it is stipulated by international agreements to which the Republic of Kazakhstan is a signatory.

2. In cases specified in Paragraph 1 of this Article, the certificate of origin shall be submitted in compliance with the format stipulated by international agreements to which the Republic of Kazakhstan is a signatory.

3. Regardless of the provisions of Subparagraph 1, Paragraph 1 of this Article, submission of a certificate of origin of goods shall not be required when:

- 1) goods imported into the customs territory of the Republic of Kazakhstan are exempted from customs duties and taxes in compliance with the terms of the chosen customs regime;
- 2) the customs value of the imported consignment of goods does not exceed an amount equal to 900 monthly calculated indices, except for multiple shipments under one contract and repeated shipments of the same goods by the same shipper to the address of the same consignee under different contracts;
- 3) norms and terms established by the Government of the Republic of Kazakhstan in regard to goods conveyed across the customs border of the Republic of Kazakhstan by natural persons are complied with;
- 4) it is stipulated by international agreements of the Republic of Kazakhstan.

4. The original certificate of origin shall be submitted together with the customs declaration and other documents required for customs clearance, except in cases when customs clearance of goods is conducted according to a procedure of preliminary, temporary or incomplete declaration.

If a certificate is lost, a copy, officially certified by the body, which issued the original certificate, shall be accepted.

5. The origin of goods shall be determined by the customs authorities after the information indicated in the certificate has been compared with the information given in the shipping documents. A discrepancy between the quantity of goods actually delivered and the quantity of goods indicated in the certificate should not exceed plus or minus five per cent. In other cases, the certificate of origin shall be considered as not having been correctly completed.

6. In case of doubts as to the authenticity of the certificate or information contained therein, a customs authority may apply to the authorized body of the country of origin which certified the certificate, with a justified request to provide additional or clarifying data, including spot checking of certificates. In such cases, the goods shall not be considered as originating in that country until documents proving their origin have been submitted.

7. A condition for customs authorities to accept certificates of origin shall be the availability of samples of forms, stamp imprints, and signatures of persons as well as addresses of organizations authorized to certify and issue certificates of origin. The Central Customs Authority shall transfer the specified information to the customs authorities after it is officially received from the authorized bodies of the country of origin of the imported goods.

8. The origin of goods shall be confirmed by a declaration of origin when a certificate of origin is not required.

## **Article 50**

### **Grounds to Deny Release of Goods for Reasons Relating to Origin**

1. A customs authority shall deny the release of goods in the event that the goods originate in a country whose goods are prohibited for importation into the Republic of Kazakhstan, in compliance with the legislation of the Republic of Kazakhstan or international agreements to which the Republic of Kazakhstan is a signatory. Such denial by a customs authority shall be presented to the declarant in written form.

2. Failure to submit or non-submission of a properly completed certificate of origin or declaration of origin of goods shall not constitute a reason to deny release of them, except in cases stipulated by Paragraph 1 of this Article.

3. Where the origin of goods is not confirmed, doubled rates of customs duties shall be applied with respect to such goods.

4. The preferential or most favored nation procedure shall be applied (restored) with respect to goods specified in Paragraphs 2 and 3 of this Article, provided the customs authority receives confirmation of the origin of the goods within one year from the day the customs declaration is accepted by the customs authority.

## **Article 51**

### **Additional Provisions Relating to Origin of Goods**

1. The Republic of Kazakhstan shall grant tariff preferences, provided the rules of «direct shipment» are complied with. In cases specified by an international agreement to which the Republic of Kazakhstan is a signatory, compliance with the rule of “direct purchase” shall be a prerequisite to grant tariff preferences to countries, which are signatories to that agreement.

2. «Direct shipment» shall mean delivery of goods from the country of origin to the Republic of Kazakhstan without them transiting through the territory of another country, except in cases when goods are transferred through the territory of one or several countries due to economic, geographical, technical or transportation reasons, provided that these goods remain under customs control in the transit countries, including during temporary storage or placement in bonded warehouses on the territory of these countries.

3. The rule of «direct shipment» shall also apply to goods purchased at exhibitions or fairs, provided the following conditions are observed:

1) goods were delivered to the territory of the country holding the said fairs or exhibitions, from the territory of the countries of their origin, and remained under customs control throughout the duration of the fairs and exhibitions;

2) from the moment of their delivery to a fair or exhibition, goods were not used for any purposes other than for demonstration;

3) goods are imported to the Republic of Kazakhstan in the same state as when they were delivered to the fair or exhibition, taking into consideration changes in their state due to natural wear or losses due to normal shipment (transportation) and storage conditions.

4. “Direct purchase” shall mean transfer of goods across the customs border of the Republic of Kazakhstan based on an agreement signed between a Kazakhstani person and a resident of the country signatory to the international agreement to which the Republic of Kazakhstan is a signatory.

## **CHAPTER 9. FOREIGN ECONOMIC ACTIVITY COMMODITY NOMENCLATURE**

### **Article 52**

#### **Foreign Economic Activity Commodity Nomenclature**

1. **“foreign economic activity commodity nomenclature”** shall mean a classifier of goods, that is comprised of sections, headings, sub-headings and sub-sub-headings in the form of a digit or group of digits (codes). Notes to headings at any level of classification, as well as The General Rules of Interpretation, shall comprise an integral part of the foreign economic activity commodity nomenclature.
2. foreign economic activity commodity nomenclature shall be used for tariff and non-tariff regulation, and for keeping customs statistics of the Republic of Kazakhstan.
3. foreign economic activity commodity nomenclature shall be approved by the Government of the Republic of Kazakhstan.
4. foreign economic activity commodity nomenclature shall be based on the Harmonized Commodity Description and Coding System and the Foreign Economic Activity Single Commodity Nomenclature of the Commonwealth of Independent States (CIS).

### **Article 53**

#### **Basic Principles of Maintaining the Foreign Economic Activity Commodity Nomenclature**

The Central Customs Authority of the Republic of Kazakhstan shall maintain the foreign economic activity commodity nomenclature, specifically it shall:

- 1) represent Kazakhstan in international organizations on issues relating to the development, amendment, addition, interpretation and application of an international base;
- 2) ensure monitoring of amendments and additions to the international base of the foreign economic activity commodity nomenclature, and monitoring of internationally accepted explanations and interpretations of this base;
- 3) make proposals to the Government of the Republic of Kazakhstan on bringing the foreign economic activity commodity nomenclature into conformity with the international base;
- 4) ensure proposals are made in coordination with other interested state bodies with regard to further development, amendments and additions to the foreign economic activity commodity nomenclature;
- 5) draft and update a master copy of the foreign economic activity commodity nomenclature ;
- 6) ensure publication of the foreign economic activity commodity nomenclature;
- 7) develop, approve and ensure publication of all mandatory decisions pertaining to classifications of various goods;
- 8) carry out other functions required to maintain the foreign economic activity commodity nomenclature.

### **Article 54**

#### **Classification of Goods**

1. When being declared, all goods shall be subject to classification, i.e. classification code(s) based on the foreign economic activity commodity nomenclature shall be determined with respect to the goods.
2. When a declarant indicates an incorrect classification code for goods under the foreign economic activity commodity nomenclature, the customs authority shall be entitled to independently classify the goods.
3. Decisions made by the customs authorities with regard to the classification codes of goods shall be binding.

4. When classifying goods, the customs authorities shall consider the classification codes of goods under the foreign economic activity commodity nomenclature and the data contained in the accompanying documents, as well as in conclusions, notices, and expert examinations issued by expert organizations, of an auxiliary (informative) nature.
5. At the request of a person, the customs authority shall make preliminary decisions with regard to the classification of goods, in compliance with this Section.

## **CHAPTER 10. PRELIMINARY DECISION**

### **Article 55**

#### **Making Preliminary Decisions**

1. Upon the request of a person (applicant), the customs authorities, except at customs points and checkpoints, shall make a preliminary decision on the classification of goods under the foreign economic activity commodity nomenclature with regard to specific goods.
2. The customs authorities identified in Paragraph 1 of this Article shall be entitled to make preliminary decisions on the application of methodology for the determination of the origin and customs value of goods, in compliance with the provisions of this Code. The procedure for and process of making preliminary decisions on specific issues shall be defined by the Central Customs Authority in coordination with the authorized state body on customs issues, in compliance with this Chapter.
3. A customs fee, set forth in compliance with Article 321 of this Code, shall be charged for making a preliminary decision.

### **Article 56**

#### **Application for Making a Preliminary Decision**

1. An applicant shall submit an application in written form to the customs authority specified in Article 55 of this Code.
2. The application shall contain the information required for making a preliminary decision. The application shall be supplemented with a description of the goods, and photographs, sketches, drawings, commercial, and technical or other documents, required for making a preliminary decision. Where possible, specimens and samples of goods with regard to which preliminary decisions are being made shall also be submitted.
3. The application shall be considered by the customs authority and a preliminary decision shall be issued within ten days of the day the application is registered, if other information or expertise is not required.
4. When the information submitted by the applicant is not sufficient for making a preliminary decision, the customs authority shall advise the person of the need to provide evidence and shall establish a time limit for submission. If the requested evidence has not been provided within the established time limit, the application for making a preliminary decision shall be declined. The total period of time for providing evidence shall not exceed one month from the date of the written notification of the applicant.
5. When an application for making a preliminary decision has been declined, the customs authority shall be obliged to notify the applicant thereof within seven working days, in written form, giving well-grounded reasons for declining. Declining an application shall not prevent the applicant from making a repeat application to the customs authorities for making a preliminary decision, provided the reasons for which the previous application was denied are rectified.
6. A preliminary decision, or failure by the customs authority to make a preliminary decision within the established period of time, may be appealed pursuant to procedures established by this Code.

### **Article 57**

#### **Period of Validity of a Preliminary Decision**

A preliminary decision made by the customs authorities shall be effective for three years from the date it was made.

## **Article 58**

### **Annulment or Change of a Preliminary Decision**

1. The Central Customs Authority shall be entitled to annul or change a preliminary decision made by it or by a regional customs office or customs house.
2. A preliminary decision made on the basis of incomplete or incorrect information provided by the applicant shall be annulled if, when providing complete and correct information, a different preliminary decision is made. The annulment shall come into effect starting from the date of making the preliminary decision.
3. A preliminary decision shall be changed in the following cases:
  - 1) when decisions are made by the World Customs Organization, which are mandatory for application in the Republic of Kazakhstan;
  - 2) when international agreements are signed to which the Republic of Kazakhstan is a signatory and the provisions of which contradict the preliminary decision;
  - 3) when amendments to the provisions of the customs legislation of the Republic of Kazakhstan are made relating to making a preliminary decision;
  - 4) when violations made in the course of making a preliminary decision are detected.
4. An amendment to a preliminary decision shall come into effect after the person is notified of the decision concerning the amendment.

When the customs legislation of the Republic of Kazakhstan has been amended and, as a result of this, the preliminary decision contradicts the current customs legislation of the Republic of Kazakhstan, the decision made by the customs authorities shall be recognized as invalid as of the date the law of the Republic of Kazakhstan in the sphere of customs activity was entered into force.

In the cases specified above, a written notification, which contains the reasons for the annulment or change, shall be sent to the applicant.
6. When a preliminary decision is annulled or changed, customs fees for making the preliminary decision shall not be refunded, except in cases when the annulment or amendment occurred due to a mistake made by the customs authority.

## **Article 59**

### **Publicity of Preliminary Decision**

Preliminary decisions made by the customs authorities, except for confidential information, may be published and provided to any person upon a written request.

## **Article 60**

### **Presentation of Preliminary Decision in the Course of Customs Clearance of Goods**

1. A preliminary decision made by the customs authorities indicated in Article 55 of this Code shall be binding for the customs authorities.
2. A preliminary decision shall be presented to the customs authority together with the customs declaration.
3. For customs clearance and customs control purposes, the original of the preliminary decision or a copy certified by the customs authority specified in Article 55 of this Code, which issued the decision, shall be used.



4. When the same type of goods are delivered in consignments within different periods of time and/or to different customs authorities, the preliminary decision with regard to classification of the goods shall be made by the customs authority which cleared the first consignment of goods. When this is the case, copies of the preliminary decision, certified by the customs authority, which made the decision, may be used to clear the next consignments of identical goods.

## **SECTION 5. PRELIMINARY OPERATIONS AND CUSTOMS OPERATIONS RELATING TO THE CONVEYANCE OF GOODS AND MEANS OF TRANSPORT**

### **CHAPTER 11. CONVEYANCE OF GOODS AND MEANS OF TRANSPORT ACROSS THE CUSTOMS BORDER OF THE REPUBLIC OF KAZAKHSTAN**

#### **Article 61**

##### **Procedure for the Execution of Preliminary Operations When Conveying Goods and Means of Transport onto the Customs Territory of the Republic of Kazakhstan**

1. The procedure for the execution of preliminary operations when conveying goods and means of transport onto the customs territory of the Republic of Kazakhstan shall be as follows:
  - 1) crossing a customs border of the Republic of Kazakhstan;
  - 2) notification of the customs authorities on the crossing of a customs border of the Republic of Kazakhstan;
  - 3) preliminary customs clearance at the checkpoint on the customs border of the Republic of Kazakhstan;
  - 4) delivery of goods, means of transport and accompanying documents to the customs point of destination;
  - 5) notification of the customs point of destination on the delivery of goods and means of transport;
  - 6) temporary storage of goods and means of transport.
2. The provisions of this Chapter shall not apply to goods conveyed by pipelines and electric power lines.

#### **Article 62**

##### **Crossing a Customs Border of the Republic of Kazakhstan**

1. Crossing by goods and means of transport of a customs border of the Republic of Kazakhstan shall mean the actual conveyance of goods and means of transport into the customs territory of the Republic of Kazakhstan.
2. Crossing of a customs border of the Republic of Kazakhstan shall entail the responsibility of the person who is conveying the goods and means of transport, to deliver the goods, means of transport, and accompanying documents within the shortest possible period of time to the customs authority located at the checkpoint.

#### **Article 63**

##### **Specifying Checkpoints**

1. "Checkpoint", where goods and means of transport may cross a customs border of the Republic of Kazakhstan shall mean:
  - 1) for goods conveyed by aircraft – the airport of destination or the first airport on the customs territory of the Republic of Kazakhstan where the aircraft transporting the goods lands and where the goods are unloaded;
  - 2) for goods conveyed by sea (river) transport – the first port of unloading or the port of reloading located on the customs territory of the Republic of Kazakhstan;
  - 3) for goods conveyed by other means of transport – a checkpoint on the customs border of the Republic of Kazakhstan.

4) for goods conveyed by pipelines and electric power lines – the sites of installment of commercial control devices which are coordinated with the Central Customs Authority.

#### **Article 64**

### **Notification of the Customs Authorities on Crossing the Customs Border of the Republic of Kazakhstan**

1. The carrier or the person conveying goods shall be obliged to notify the customs authority, located at a checkpoint, upon crossing the customs border of the Republic of Kazakhstan.
2. Notification of the customs authorities upon crossing the customs border of the Republic of Kazakhstan shall mean informing the customs authority, located at the checkpoint on the customs border of the Republic of Kazakhstan, of the fact of crossing the border.
3. When crossing the customs border of the Republic of Kazakhstan, notification of the customs authority shall mean submission of goods, means of transport and accompanying documents to the customs authority located at a checkpoint on the customs border of the Republic of Kazakhstan.
4. Customs officials are not entitled to refuse to accept the documents specified in Paragraph 3 of this Article.

#### **Article 65**

### **Preliminary Customs Clearance at a Checkpoint On the Customs Border of the Republic of Kazakhstan**

1. Preliminary customs clearance at a checkpoint on the customs border of the Republic of Kazakhstan shall mean the actions preceding the main customs clearance procedures, which are performed in compliance with the established forms of customs control, aimed at prevention of the conveyance of goods prohibited for importation into the customs territory of the Republic of Kazakhstan.
2. The procedure for preliminary customs clearance at a checkpoint on the customs border of the Republic of Kazakhstan allows the following:
  - 1) unloading and reloading operations with goods and means of transport in areas specially assigned and equipped for unloading and reloading operations, the location of which has been coordinated with the customs authorities;
  - 2) upon the request of the person performing unloading and reloading operations with goods and means of transport, the goods can be located in areas where such operations are performed, without placement in temporary storage areas, for the period of time required to perform unloading and reloading operations. The total period of time for storing goods shall not exceed the period for the temporary storage of goods stipulated by this Code. In the event of loss of goods or transfer of goods to third persons without the permission of the customs authorities, the responsibility for payment of customs duties and taxes, pursuant to this Code, shall rest with the person who is responsible for the safety of the goods and who performs operations with the goods.
3. The main customs clearance procedures may be performed at a checkpoint on the customs border of the Republic of Kazakhstan, provided there are appropriate conditions for conducting such procedures, or at any other customs authority in compliance with this Code.

#### **Article 66**

### **Delivery of Goods, Means of Transport and Accompanying Documents to the Customs Point of Destination**

1. Delivery of goods, means of transport and accompanying documents shall be performed in compliance with the domestic customs transit procedure, stipulated in Chapter 13 of this Code.
2. The carrier shall be obliged to deliver goods, means of transport and accompanying documents to the places and within the period of time determined by the customs authority, in an unaltered state, except for changes due to natural deterioration or damage under normal conditions of transportation and storage

#### **Article 67**

##### **Notification of Delivery of Goods to the Customs Point of Destination**

When delivering goods and means of transport to the customs point of destination, the carrier or person conveying the goods and means of transport shall make notification of delivery of goods by submission of:

- 1) delivery control documents;
- 2) transportation and commercial documents;
- 3) imported goods and means of transport.

#### **Article 68**

##### **Measures to Take in Case of Accident or Force Majeure**

1. In case of accident or force majeure, as well as in cases when a marine vessel or aircraft is forced to make an emergency stop or landing on the territory of the Republic of Kazakhstan, the carrier shall be obliged to take all measures to ensure the safety of the goods and means of transport, and to immediately advise the nearest customs authority of the circumstances and location of the goods.
2. Depending on the nature of the accident, the level of damage to the quality of the goods and the technical state of the means of transport, the customs authority which received notification of the accident shall determine the measures required to ensure customs control.
3. The customs authorities shall not reimburse expenses borne by carriers due to the fulfillment of the requirements of this Article.

## **CHAPTER 12. THE CUSTOMS CARRIER**

### **Article 69 The Customs Carrier**

A Kazakh person who possesses a means of transport under the right of property or on other legal grounds, provides services transporting goods for payment or for hire, holds an appropriate license or authorization duly issued by an authorized body on transport issues, and has obtained a license from the Central Customs Authority to act as a customs carrier, may act as a customs carrier.

### **Article 70 Activity of a Customs Carrier**

1. The activity of a customs carrier shall mean transportation of goods subject to customs control in compliance with the provisions of this Code.
2. The relations between a customs carrier and the person transporting the goods shall be regulated by a contract.

### **Article 71 Qualification Requirements for the Activity of a Customs Carrier**

To act as a customs carrier, a Kazakhstani person must comply with the following requirements:

- 1) the existence of a license or appropriate authorization to transport goods, which was duly issued by an authorized body on transport issues;
- 2) ensuring the payment of customs duties and taxes, in compliance with the procedure stipulated by Chapter 45 of this Code, in the amount of 10000 monthly calculation indices;
- 3) the availability of the equipped means of transport in compliance with the requirements set forth in Article 89 of this Code, which will ensure the arrival of at least one means of transport within 24 hours;
- 4) the availability of conditions ensuring record keeping and accounting for goods subject to customs control.

### **Article 72 Procedures for Issuing a License to Act as a Customs Carrier**

1. The following shall be required to receive a license :
  - 1) an application by the person for a license , made in the established format;
  - 2) notary certified copies of registration documents;
  - 3) documents, which confirm payment of license fees;
  - 4) documents, which confirm compliance with the qualification requirements, set forth in Article 71 of this Code.
2. The Central Customs Authority shall consider the application within ten working days of the day it was registered.
3. Within a period of time not less than ten calendar days, the authorized body on transport issues shall inform the Central Customs Authority on the suspension, withdrawal or termination

of the validity of a license or of the corresponding permission for transportation of goods, which is issued by the authorized body on transport issues.

4. The Central Customs Authority shall keep lists of customs carriers and shall publish them in printed publications.

### **Article 73**

#### **Obligations of a Customs Carrier**

A customs carrier shall be obliged to:

- 1) comply with the terms and requirements stipulated by this Code;
- 2) keep records of goods transported subject to customs control and present reports on transportation of such goods to the customs authorities;
- 3) not transport other goods together with goods subject to customs control;
- 4) present goods and accompanying documents to the customs point of destination;
- 5) place goods into the customs control zone;
- 6) maintain means of transport in an appropriate technical state, and ensure compliance with the requirements regarding the equipment of the means of transport for transportation of goods subject to customs control;
- 7) comply with the time limits determined by the customs point of departure regarding delivery of goods, and accompanying documents and the route;
- 8) deliver goods and means of transport in an unaltered state, except for changes due to natural deterioration or damage under normal conditions of transportation and storage, without using them for any other purposes;
- 9) after delivering the goods, not leave them unsupervised without permission of the customs point of destination, not change the initial location of the goods, not unpack, pack or repack the goods, nor change, remove, or eliminate the means of customs identification;
- 10) pay customs duties and taxes in case of loss of goods or their transfer to other persons without the permission of the customs authorities;
- 11) return the decision to the Central Customs Authority within 15 working days in of termination of activity as a customs carrier.

### **Article 74**

#### **Suspension of a License to Act as a Customs Carrier**

1. The Central Customs Authority may suspend the validity of a license for up to six months:

- 1) based on the application by the person holding the decision to temporarily terminate activity as a customs carrier;
- 2) based on the conclusion of the customs authority where the customs carrier is registered, in cases when the customs carrier fails to carry out his/her duties as stipulated by Article 73 of this Code;
- 3) in case of suspension of the validity of the license, or of the respective permission to convey goods, which is issued by the authorized body on transport issues.

2. When the validity of a license is suspended, the person shall not be entitled to operate as a customs carrier. The suspension of the license shall go into effect as of the date that the order on suspension of activity as a customs carrier was issued.

3. The license shall be renewed by an appropriate order from the Central Customs Authority after elimination of the reasons for its suspension.

### **Article 75**

#### **Withdrawal of a License to Act as a Customs Carrier**

1. The Central Customs Authority shall withdraw a license under the following conditions:
  - 1) the withdrawal of the license or of the respective permission to convey goods which was issued by the authorized body on transport issues.
  - 2) the license was issued based on incomplete or invalid information provided by a customs carrier;
  - 3) the requirements set forth by this Code are not being complied with;
  - 4) the reasons for the suspension of a decision have not been eliminated within the period of time set forth by Article 74 of this Code.
2. A decision to withdraw shall be issued in the form of an order from the Central Customs Authority, which includes the grounds for the decision.

#### **Article 76**

#### **Accounting for Goods being Transported by a Customs Carrier which are Subject to Customs Control,**

A customs carrier shall keep records of transported goods subject to customs control and shall present accounts thereon in compliance with the procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues.

#### **Article 77**

#### **Responsibilities of a Customs Carrier**

1. A customs carrier shall bear responsibility before the customs authorities, including payment of customs duties and taxes, up to the moment of the actual transfer of goods to the owner of a temporary storage warehouse at the place of delivery of the goods, or the actual transfer of goods to the person authorized with respect to these goods, with the permission of the customs authority at the point of destination.
2. Where goods are released without the permission of the customs authority, or where they are lost or not delivered to the customs point of destination, the customs carrier shall bear responsibility in compliance with this Code and the legislative acts of the Republic of Kazakhstan.

#### **Article 78**

#### **Termination of the Validity of a License to Act as a Customs Carrier**

1. The validity of a license shall be terminated under the following conditions:
  - 1) in case of withdrawal of the license or of the respective permission to convey goods which was issued by the authorized body on transport issues.
  - 2) in case of withdrawal of a license to act as a customs carrier;
  - 3) at the desire of the customs carrier and with the submission of an application in writing thereon;
  - 4) in case of the re-organization or liquidation of a legal person who has a license to operate as a customs carrier.
2. In case of the termination of the validity of a license, the person shall be obliged to provide the customs authority with records kept on goods transported under customs control, and reports on all transportation carried out by him/her as a customs carrier, within a month.
3. Termination of the validity of a license shall be issued in the form of an order from the Central Customs Authority, which includes the grounds for termination of the activity as a customs carrier.





## **CHAPTER 13. DOMESTIC CUSTOMS TRANSIT PROCEDURE**

### **Article 79 Terms Used in this Chapter**

Meanings of the terms used in this Chapter.

- 1) **‘Domestic customs transit procedure’** shall mean the procedure of conveying goods and means of transport, established by this Code and by international agreements ratified by the Republic of Kazakhstan, under customs control from the customs point of departure to the customs point of destination;
- 2) **‘Intermediary Customs Authority’** shall mean the customs authority, where goods being conveyed under the domestic customs transit procedure are partially unloaded.

### **Article 80 General Provisions**

The provisions of this Chapter shall apply in all cases when goods and means of transport, subject to customs control, are conveyed through the customs territory of the Republic of Kazakhstan and (or) of a foreign state, including conveyance between the points of temporary storage, free and bonded warehouses, and special economic zones.

The provisions of this Chapter shall not apply to goods transported by pipelines and electric power lines, or to goods transported by air when, during a regular international flight, an aircraft is subject to forced (technical) or intermediate landing at the place of entry of the goods without partial unloading of the goods.

### **Article 81 Domestic Customs Transit Procedure**

1. **‘Domestic customs transit procedure’** shall mean the customs procedure when goods subject to customs control are conveyed through the customs territory of the Republic of Kazakhstan, or through the territory of a foreign state, in compliance with the terms set forth in this Chapter.
2. Goods shall be conveyed under the domestic customs transit procedure from the customs point of departure to the customs point of destination under the responsibility of the carrier and (or) person who is conveying the goods and means of transport.
3. Conveyance of goods by railway under the domestic customs transit procedure shall be allowed through the use of means of identification, and the seals of the carriers and shippers.
4. Transit goods shall be conveyed under the domestic customs transit procedure across the customs border of the Republic of Kazakhstan provided one of the requirements specified in Paragraph 2 of Article 82 of this Code is complied with.

### **Article 82 Terms of Conveyance of Goods and Means of Transport Under the Domestic Customs Transit Procedure**

1. Goods and means of transport shall be admitted for conveyance under the domestic customs transit procedure, provided the following terms are complied with:

- 1) goods are not prohibited for importation to and exportation from the customs territory of the Republic of Kazakhstan;
- 2) the delivery control document is drawn up in compliance with Article 84 of this Code;
- 3) one of the measures ensuring delivery of the goods, specified in Paragraph 2 of this Article, is complied with.

2. Measures ensuring delivery of goods and means of transport under the domestic customs transit procedure shall include the following:

- 1) admission of a means of transport for conveying goods, under customs stamps and seals;
- 2) ensuring payment of customs duties and taxes at any customs authority;
- 3) conveyance of goods by a customs carrier;
- 4) Customs escort of goods.

A carrier and (or) a person conveying goods and means of transport shall be entitled to choose any of the measures specified in Paragraph 2 of this Article, except in cases stipulated by Article 519 of this Code.

3. When goods are conveyed by railway transport under the domestic customs transit procedure, Sub-Paragraphs 1), 3), and 4) of Paragraph 2 of this Article shall not be applied.

4. Measures ensuring delivery of goods and means of transport under the domestic customs transit procedure shall not be applied with respect to the Most Favored Nations stipulated by Article 518 of this Code, and with respect to goods conveyed in compliance with international agreements ratified by the Republic of Kazakhstan, or goods conveyed by aircraft.

5. A list of goods conveyed through the territory of the Republic of Kazakhstan, with ensured payment of customs duties and taxes, shall be approved by the Government of the Republic of Kazakhstan.

6. The decision to admit a means of transport to convey goods under customs seals and stamps shall be made by the customs authority, based on an application submitted by the owner of the means of transport. This decision shall be verified by a certificate authorizing the means of transport to convey goods under customs stamps and seals. The format and the procedure for completing the certificate shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

### **Article 83**

#### **Documents to be Submitted in Order to Employ Domestic Customs Transit Procedures**

1. To carry out the issue of a delivery control document, a customs carrier shall present shipping documents to the customs point of departure.

2. The documents presented shall be certified by an official of the customs point of departure and shall state the registration number of the delivery control document.

### **Article 84**

#### **Delivery Control Document**

1. 'Delivery control document' shall mean a document, containing information on goods conveyed across the customs border of the Republic of Kazakhstan, required by the customs authorities to exercise control over delivery of goods to the customs point of destination.

2. A delivery control document shall be drawn up for each consignment of goods transported under one or several shipping documents. In case of a consolidated conveyance of goods (several consignees and shippers), a delivery control document shall be issued separately to each consignee and shipper.

3. The delivery control document shall be completed by the declarant and, in the absence of a declarant, by a customs official.
4. The delivery control document shall be strictly accounted for. The format and the procedures for its completion shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.
5. In cases stipulated by international agreements ratified by the Republic of Kazakhstan, the documents specified by such agreements shall be used as delivery control documents.

#### **Article 85**

#### **Delivery of Goods and Means of Transport Using a Document Ensuring Payment of Customs Duties and Taxes**

1. Goods subject to customs control can be conveyed through the customs territory of the Republic of Kazakhstan in compliance with domestic customs transit procedure, using a document ensuring payment of customs duties and taxes.
2. The format and procedure for filling out and submitting the document ensuring payment of customs duties and taxes to the customs authorities, and the procedure for submitting them, shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

#### **Article 86**

#### **Customs Escort of Goods and Means of Transport Conveyed Under the Domestic Customs Transit Procedure**

1. 'Customs escort' shall mean the escort of goods subject to customs control, the means of transport, and the accompanying documents from the customs point of departure to the customs point of destination by customs officials, as well as in the area of a single customs authority.
2. A customs escort shall be used by the customs authorities as an exclusive measure to ensure delivery of goods, means of transport, and accompanying documents, conveyed through the customs territory of the Republic of Kazakhstan when the requirements set forth in Sub-paragraphs 1)-3) of Paragraph 2 of Article 82 of this Code are not complied with.
3. The procedures for customs escort of goods and means of transport through the territory of the Republic of Kazakhstan shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

#### **Article 87**

#### **Time Limits for Delivery of Goods and Means of Transport to Customs Points of Destination under the Domestic Customs Transit Procedure**

Time limits for the domestic customs transit procedure shall be determined by the customs point of departure in compliance with the normal period of time established for delivery, according to the capacity of the means of transport, the established route and other transport conditions, but shall not exceed the time limits determined on the basis of 2,000 km. per month.

#### **Article 88**

#### **Ensuring Identification of Goods and Means of Transport Under the Domestic Customs Transit Procedure**

1. The customs point of departure shall ensure identifications of goods and means of transport, and the customs point of destination shall verify the safety of the identification of goods and means of transport in the course of their conveyance, in compliance with the domestic

customs transit procedure. Intermediary customs points shall make notations on the shipping documents upon the application of new identification marks.

2. The customs authorities shall use customs seals and (or) stamps as identification marks on means of transport in compliance with Article 89.

3. The customs authorities shall recognize customs seals and other identification marks used by customs authorities of foreign states, except in cases when they are considered as insufficient or unreliable in compliance with Article 89 of this Code.

### **Article 89**

#### **Requirements for Equipment of Means of Transport When Conveying Goods Under Customs Seals and (or) Stamps**

1. To convey goods under customs seals and (or) stamps, means of transport shall be designed and equipped in compliance with the following requirements:

- 1) The possibility of affixing customs seals and (or) stamps;
- 2) the absence of opportunity to take goods from or to place goods into the sealed section of the means of transport without damaging the customs seals and (or) stamps;
- 3) the absence of places to conceal goods;
- 4) easy access for customs inspection of goods.

2. Where it is impossible to use customs seals and (or) stamps, goods shall be identified in compliance with Article 525 of this Code.

### **Article 90**

#### **Operations with Goods Under the Domestic Customs Transit Procedure**

1. Cargo operations with goods conveyed under the domestic customs transit procedure may be authorized under the supervision of the customs authority in whose activity area the cargo operations are to be performed.

2. When goods may be transloaded from one means of transport to another without causing damage to customs seals and (or) stamps, the transloading shall be permitted upon preliminary notification of the customs authority in whose activity area such operations are to be performed.

3. Upon application by a person, the customs authority shall approve the performance of cargo operations with goods subject to customs control, outside of business hours.

### **Article 91**

#### **Obligations of a Carrier Under the Domestic Customs Transit Procedure**

When conveying goods under the domestic customs transit procedure, a carrier shall be obliged to:

- 1) deliver goods and accompanying documents to the customs point of destination within the period of time established by the customs point of departure, and specified in the delivery control documents;
- 2) ensure the safety of the goods, customs seals and (or) stamps and any other means of identification of goods, if used;
- 3) prevent cargo operations with goods without authorization of the customs authorities, except for transloading of goods to another means of transport in cases stipulated by Article 90 of this Code.

**Article 92**  
**Responsibility of a Carrier Under the**  
**Domestic Customs Transit Procedure**

1. When a carrier fails to deliver goods, means of transport and accompanying documents to the customs point of destination, he/she shall bear responsibility in compliance with the legislative acts of the Republic of Kazakhstan.
2. A carrier shall not bear responsibility for payment of customs duties and taxes, or for unloading, transloading, unpacking or repackaging goods, nor for change, removal, destruction or damage of means of identification in cases stipulated by Article 93 of this Code. A carrier shall provide documents issued by authorized bodies proving that those operations were performed due to a genuine threat to the life or health of the passengers and crew of the means of transport, or due to the destruction, loss, irrevocable loss or substantial damage of goods or means of transport.
3. When goods are conveyed under the domestic customs transit procedure, the responsibility for payment of customs duties and taxes shall rest with the carrier who lost the goods or released them without the authorization of the customs authority.

**Article 93**  
**Measures to be Taken in Case of Accident and (or) Force Majeure or Other Events**  
**Obstructing Conveyance of Goods and Means of Transport Under the Domestic Customs**  
**Transit Procedure**

1. In case of accident and (or) force majeure, a carrier shall be obliged to:
  - 1) take all required measures to ensure the safety of the goods and means of transport;
  - 2) immediately inform the authorized body and the nearest customs authority about the event. The customs authority, having received the information, shall immediately notify the customs point of departure and the customs point of destination thereof, and shall make a decision on the possibility of transporting the goods further in compliance with the domestic customs transit procedure.
2. Customs authorities shall not reimburse expenses borne by the carrier due to taking the measures stipulated by this Article.

**Article 94**  
**Termination of the Domestic Customs Transit Procedure**

1. Goods and means of transport conveyed under the domestic customs transit procedure shall be considered as having been delivered as of the day when the customs point of destination has processed the completion of the delivery of goods.
2. In order to process the completion of the delivery of goods conveyed under the domestic customs transit procedure, a carrier shall present the goods, means of transport, shipping documents and the delivery control document to the customs point of destination.
3. When goods are conveyed by railway, the time limit for submission of the documents by the carrier to the customs point of destination shall not exceed 24 hours from the moment the goods arrived at the activity area of the customs point of destination.
4. The customs point of destination shall register the arrival of a means of transport within 3 hours of the moment that the carrier presented documents to the customs point of destination, and shall issue a written statement confirming arrival of the means of transport. The Central Customs Authority shall determine the format and procedures for submitting the statement in coordination with the authorized state body on customs issues.

5. Prior to processing the completion of delivery, the goods and means of transport conveyed under the domestic customs transit procedure shall be placed at the delivery point in the activity area of the customs point of destination.

6. The customs point of destination shall process the completion of the domestic customs transit of goods and means of transport within the shortest possible period of time, but not later than twenty-four hours from the moment that the means of transport was registered as having arrived, if no violation in the sphere of customs activity has been revealed in the course of verification of the document.

## **CHAPTER 14. TEMPORARY STORAGE**

### **Article 95 Temporary Storage**

‘Temporary storage’ shall mean the customs procedure under which goods are stored under customs control from the moment when they are presented to the customs point of destination until the moment they are released in compliance with the intended customs regime, or turned into property of the state in compliance with the procedures established by this Code.

### **Article 96 Temporary Storage Places**

1. Goods and means of transport shall be temporarily stored in specially assigned and equipped premises or open grounds, on means of transport, or at temporary storage warehouses, bonded warehouses, free warehouses, and consignee’s warehouses.

2. Temporary storage places of goods and means of transport shall be:

1) ‘means of transport’ - means of transport used for conveyance and temporary storage of goods;

A means of transport may be used as a place for temporary storage for up to two days, except for consolidated cargoes and except in cases stipulated by Article 102 of this Code;

2) ‘open grounds’ – grounds belonging to the owners of goods which are located:

- on the guarded territory of airports, sea and river ports, railway stations, or industrial enterprises, intended for the temporary storage of goods owned by these persons;
- on the territories of these persons specially assigned and guarded for the temporary storage of goods belonging to them;

Goods located on means of transport can be stored on open grounds.

3) ‘specially assigned and equipped premises’ – premises belonging to the owner of the goods, or a part of the premises specially assigned and equipped for temporary storage of goods belonging to them;

4) ‘temporary storage warehouses’ - warehouses specially assigned for temporary storage of goods and means of transport, and which operate under a license issued by the Central Customs Authority;

5) ‘bonded warehouses’ and ‘free warehouses’ - warehouses specially assigned for the placement of goods and means of transport in compliance with bonded warehouse and free warehouse customs procedures, a part of which is used for temporary storage, and which operates under a license for a bonded warehouse or a free warehouse which was issued by the Central Customs Authority.

6) ‘consignees` warehouses’ – in compliance with the procedures stipulated by Article 103 of this Code.

3. Specially assigned and equipped premises or open ground shall be recognized as a place for temporary storage, provided that the relevant place is a single and undivided complex and is located at a single address.

Decisions to recognize a place as a location for temporary storage, issued by the Central Customs Authority in compliance with Article 104 of this Code, shall be considered as confirmation of the recognition of specially assigned and equipped premises and open grounds as temporary storage places.

### **Article 97 Requirements for Temporary Storage Places**

1. A specially assigned and equipped premise shall comply with the requirements set forth for the establishment of a temporary storage warehouse, except for the requirements set forth in Sub-paragraphs 2), 3), 4), 7), 8) of Article 112 of this Code.
2. Where the premise in question that is being used for temporary storage is part of a bonded or free warehouse, it shall be isolated from the rest of the premises by a construction made of reinforced concrete, concrete, bricks, metal or a combination of these materials.
3. The territory of an open ground must l:
  - 1) be marked and enclosed along its perimeter. The enclosure of the territory of an open ground shall be a continuous construction of reinforced concrete, concrete, brick, metal or a combination of these materials, of not less than 2.2 meters in height;
  - 2) be equipped with technical facilities sufficient to conduct customs control;
  - 3) meet the requirements set forth in Sub-paragraphs 1), 6)-8) of Article 112 of this Code.Customs control zones on open grounds, located on the territory of airports, sea and river ports, or railway stations, shall be marked in agreement with the persons concerned (administration of airports, sea and river ports, railway stations).
4. A means of transport can be used as a temporary storage place, when:
  - goods are conveyed and delivered under the international road transportation procedure;
  - they comply with the requirements regarding equipment and admission of means of transport for the conveyance of goods under customs seals and (or) stamps.When it is necessary to perform any type of cargo operations with goods (unloading, clarification of weight and quantity of goods, taking samples and specimens to conduct an expert examination) when means of identification are used, they shall be performed in a temporary customs control zone in the presence of a customs official or, when goods are placed in other temporary storage places – cargo operations shall be performed in compliance with the set procedure for placing goods in temporary storage facilities.  
The consignee shall bear responsibility for the safety of goods placed on a means of transport, and of the means of identification.
5. Temporary storage places shall comply with existing requirements during the entire period of use as temporary storage places.
6. For the purpose of conducting customs clearance and customs control of goods placed into temporary storage, the owner of a temporary storage warehouse shall be obliged to provide customs officials with service rooms and amenity rooms, equipment and means of communication, according to the procedures determined by the customs authority. .
7. In case of the establishment of customs terminals, temporary storage places shall be equipped with a customs clearance room, the necessary office equipment and means of communication and provided access to the unified computerized system of the customs authorities.

## **Article 98**

### **Documents Required for Placing Goods and Means of Transport Into Temporary Storage Places**

1. A short form declaration shall be recognized as a document verifying the placement of goods and means of transport into temporary storage places.
2. A short form declaration shall be submitted by the carrier or the person authorized in regard to the goods, simultaneously with the notification of the customs point of destination on the submission of goods to the places of delivery of goods.
3. The short form declaration shall contain data mentioned in the accompanying documents, and required to identify the goods, as well as data on the stated place of temporary storage of imported goods.



4. The format of a short form declaration and the procedure for its completion shall be set by the Central Customs Authority in coordination with the authorized state body on customs issues.

#### **Article 99**

##### **Time Limit for Temporary Storage**

1. The time limit for temporary storage of goods in places of temporary storage shall not exceed two months.
2. The time limit for temporary storage of goods and means of transport that are serving as physical evidence in criminal cases and cases regarding administrative violations in the sphere of customs activity shall not exceed six months.
3. Upon the expiration of the time limit for temporary storage stipulated by this Article, goods and means of transport shall be disposed of in compliance with the legislation of the Republic of Kazakhstan.

#### **Article 100**

##### **Operations with Goods Placed into Temporary storage**

1. The owner of a temporary storage warehouse, the owner of other temporary storage facilities, the consignee of goods, the customs broker, or any other person, and their representatives, authorized with respect to goods, shall be entitled to inspect and measure the goods stored on the temporary storage premises, and, with the permission of the customs authority, take samples and specimens of goods.
2. With the permission of the customs authority, goods placed into temporary storage may undergo operations required to ensure their preservation in an unaltered state, including repairs of damaged packaging.
3. Goods which are worn out, broken, or damaged as a result of force majeure during temporary storage shall be subject to placement under a certain customs regime, to be determined by the declarant, as if they were imported in a worn out, broken or damaged state.

#### **Article 101**

##### **Goods to be Placed into Temporary Storage Places**

1. Any goods may be placed into temporary storage warehouses. Goods that may cause damage to other goods or goods requiring special storage conditions shall be kept at temporary storage warehouses specially equipped to store such goods.
2. Goods transported by pipelines and electric power lines shall not be placed into temporary storage places.

#### **Article 102**

##### **Particular Features of Temporary Storage of Goods Transported by Railway**

1. Upon the request of the person who is responsible for the railway section of the route, and where a stop has been made, specific goods and goods requiring special storage conditions, which are being transported by railway, shall be placed into temporary storage, provided that customs payments and taxes have been paid.
2. Prior to unloading, goods shall be temporarily stored inside the means of transport belonging to these persons, located on the railway tracks in places the location of which has been coordinated with the customs authorities.
3. The said places shall constitute a temporary customs control zone.
4. Goods shall be unloaded and moved to other places only with the permission of the

Customs authority.

5. The person who is responsible for the railway section of the route, shall be obliged to:

- 1) preclude the possibility of taking temporarily stored goods from the means of transport without customs control;
- 2) ensure the safety of goods placed into temporary storage;
- 3) assist in conducting customs control;
- 4) register and submit to the customs authority a records of goods stored in the means of transport, in compliance with the procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues;
- 5) preclude the possibility of access by unauthorized persons to the stored goods without the permission of the customs authorities;
- 6) pay customs duties and taxes when goods are lost or transferred to other persons without the permission of the customs authorities.

### **Article 103**

#### **Temporary Storage at a Warehouse Belonging to the Consignee**

1. The customs authority may permit the temporary storage of goods at a warehouse belonging to the consignee, without the latter having to hold a license for the establishment of a temporary storage warehouse and a decision recognizing the place as a temporary storage place, in the following cases:

- 1) simplified customs procedures are to be applied by customs to individual persons enjoying most favored treatment status;
- 2) a necessity has arisen to temporarily store specific goods or goods requiring special storage conditions, provided that the customs cargo declaration is submitted within the time limit set forth by this Code;
- 3) there is no temporary storage warehouse at the place of delivery of goods, and provided that customs duties and taxes have been paid.

2. When storing goods, a consignee shall be obliged to comply with the requirements stipulated by Paragraph 5 of Article 102 of this Code.

3. Goods belonging to other persons are not permitted to be stored in the warehouse of a consignee.

### **Article 104**

#### **Procedures for Issuing Decisions to**

#### **Recognize Specially Assigned and Equipped Premises and Open Grounds as Temporary Storage Places**

1. A decision by the customs authority to recognize specially assigned and equipped premises and open grounds as temporary storage places shall be issued to the person who owns or disposes of the premises or open grounds.

2. In order to obtain a decision to recognize a temporary storage place, the owner of the specially assigned and equipped premises or open grounds shall submit an application, completed in an arbitrary format, to the Central Customs Authority, containing information regarding the name of the person and the location of the premises or grounds.

3. The following documents shall be attached to the application:

- 1) notary certified copies of constituent and registration documents of the owner of the premises or open grounds;
- 2) plans of the territory, or plans and drawings of the premises or open grounds intended for temporary storage;
- 3) notary certified documents confirming the right of ownership or disposal with respect to the premises or open grounds intended for temporary storage;

4) a copy of the registration card of a participant in foreign economic activity, certified by the personal numbered stamp of the customs official responsible for the registration of participants in foreign economic activity.

4. The application shall be considered by the Central Customs Authority within ten days of the day of receipt.

5. The customs authority shall refuse to issue a decision to recognize a temporary storage place in cases when the declared information, construction, or equipment of premises and open grounds does not comply with requirements for temporary storage places.

6. In case of the re-registration of a person, the decision to recognize a temporary storage place shall remain valid. In this case the owner of a temporary storage place shall be obliged to notify the Central Customs Authority of the re-registration. When necessary, the Central Customs Authority shall introduce changes into the decision to recognize a temporary storage place, indicating the date of re-registration.

### **Article 105**

#### **Obligations of Owners of Specially Assigned and Constructed Premises or Open Grounds**

The owners of temporary storage places shall be obliged to:

- 1) duly equip the premises or open grounds to ensure customs control;
- 2) preclude the possibility of taking goods and means of transport, which have been placed there for temporary storage, from the premises or open grounds, without customs control;
- 3) ensure the safety of goods and (or) means of transport stored on the premises (on open ground);
- 4) assist in conducting customs control;
- 5) register (using automated forms of control and registration) and submit to the customs authority records on goods and (or) means of transport received, stored and removed in compliance with the procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues;
- 6) preclude the possibility of access by unauthorized persons to goods and (or) means of transport without the permission of the customs authorities;
- 7) comply with the terms of the decision to recognize specially assigned and equipped premises or open grounds as temporary storage places, and comply with the requirements of the customs authorities, including those on providing access to stored goods and (or) means of transport to responsible customs officials upon their request;
- 8) pay customs duties and taxes in cases when goods are lost or transferred to other persons without the permission of the customs authority;
- 10) bear all expenses related to the procedure of termination of the validity of a decision to recognize a temporary storage place.

### **Article 106**

#### **Suspension of the Decision to Recognize Specially Assigned and Equipped Premises or Open Grounds as Temporary Storage Places**

1. The customs authority shall suspend the decision to recognize a temporary storage place:

- 1) based upon an application submitted by the owner of the temporary storage place, regarding performance of repair work to, or expansion or reduction of the territory of a temporary storage place, for the period of time specified by the owner of the temporary storage place;

2) in case of non-compliance by the owner of the temporary storage place with the requirements and obligations set forth by this Code for temporary storage places, for a period of up to one month.

2. The decision to recognize a temporary storage place shall be renewed on the assumption of its compliance with the established requirements.

#### **Article 107**

##### **Withdrawal of the Decision to Recognize Specially Assigned and Constructed Premises or Open Grounds as Temporary Storage Places**

1. The customs authority shall withdraw the decision to recognize a temporary storage place:

1) in case of repeated violations of the requirements and obligations set forth in this Code within six months;

2) When the reasons that caused the earlier suspension of such a decision have not been eliminated within the time limit set forth in Subparagraph 2), Paragraph 1 of Article 106 of this Code;

3) upon termination or modification of the property rights with respect to temporary storage places so that premises or open grounds cannot be used as temporary storage places;

4) based on an application submitted by the owner of the temporary storage place.

2. When the decision to recognize a temporary storage place is withdrawn, the owner of the temporary storage place shall forward the original of the decision to the customs authority not later than fifteen calendar days from the date the decision was withdrawn.

3. A repeat application to issue a decision may be considered by the customs authority in compliance with the established procedures, provided that the reasons that caused its previous withdrawal have been eliminated.

#### **Article 108**

##### **Termination of the Validity of a Decision to Recognize Specially Assigned and Constructed Premises or Open Grounds as Temporary Storage Places**

1. The validity of a decision to recognize a temporary storage place shall be terminated:

1) upon withdrawal of the decision;

2) upon the liquidation or re-organization of the person who is the owner of the temporary storage place.

2. A decision on the termination of the validity of a decision to recognize specially assigned and constructed premises or open grounds as temporary storage places shall be made in the form of an order signed by Head of the customs authority, indicating the grounds for termination.

3. In case of liquidation or re-organization of a person who is the owner of the temporary storage place, the decision to recognize specially assigned and constructed premises or open grounds as temporary storage places shall be returned to the customs authority within a 15-day period.

4. In case of termination of the decision to recognize a temporary storage place, the goods stored in that place shall be conveyed to a temporary storage warehouse within thirty calendar days of the day that the decision to terminate the validity of the decision was made.

#### **Article 109**

##### **Types of Temporary Storage Warehouses**

1. A specially equipped and constructed premise, territory or place intended for the temporary storage of goods shall be considered a temporary storage warehouse.

2. Temporary storage warehouses shall be warehouses of an open type, available for storage of all types of goods and for use by any persons, except in cases specified in Paragraph 4 of this Article.
3. Temporary storage warehouses established by the customs authorities shall be considered as warehouses of an open type.
4. Temporary storage warehouses of a closed type shall be used for storage of certain types of goods or goods belonging to certain persons. Temporary storage warehouses of a closed type shall be established by persons importing specific categories of goods which are limited in circulation and those which require special storage conditions, or when the establishment of a closed type of warehouse meets the requirements of the participants in foreign economic activity or transport organizations.

## **Article 110**

### **Obligations of the Owner of a Temporary Storage Warehouse**

The owner of a temporary storage warehouse shall be obliged to:

- 1) duly equip the warehouse to ensure customs control;
- 2) preclude the possibility of taking goods and means of transport, that were placed there for temporary storage, from the warehouse without customs control;
- 3) ensure the placement of goods and means of transport, which arrived outside of the business hours of the customs authority, into a warehouse or adjacent territory constituting a customs control zone;
- 4) ensure the safety of goods and means of transport stored at a temporary storage warehouse or adjacent territory constituting a customs control zone;
- 5) assist in conducting customs control procedures;
- 6) register (using automated forms of control and registration) and submit to the customs authority the records of goods and means of transport received, stored and removed from the temporary storage warehouse pursuant to procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues.
- 7) preclude the possibility of access by unauthorized persons (who are not warehouse staff and who are not authorized with regard to goods) to the stored goods and means of transport without the permission of the customs authorities;
- 8) comply with the requirements of the license regarding the establishment of a temporary storage warehouse, and meet the requirements of the customs authorities, including ensuring access to the stored goods and means of transport for customs officials, and providing them with premises, equipment and communication facilities at the temporary storage warehouse for the purpose of customs control and customs clearance, free of charge;
- 9) ensure compliance with special conditions for the storage of goods with respect to goods requiring special storage conditions;
- 10) ensure the possibility of performing the operations stipulated by Article 100 of this Code with regard to goods stored at the warehouse
- 11) pay customs duties and taxes in cases when goods are lost or transferred to other persons without the permission of the customs authority;
- 12) bear all expenses related to the procedure for the termination of operation of a temporary storage warehouse.

## **Article 111**

### **License to Establish a Temporary Storage Warehouse**

1. Temporary storage warehouses may be established by Kazakhstani persons upon obtaining a license from the Central Customs Authority.

2. This license shall not be required when customs authorities establish a temporary storage warehouse.
3. Relations regarding licensing and not specified in this Code shall be regulated by the legislation on licensing of the Republic of Kazakhstan.
- .
4. A license to establish a temporary storage warehouse shall not be transferred to any other person.
5. The Central Customs Authority shall ensure periodic publication of information on operating temporary storage warehouses, including through the use of information technologies.

## **Article 112**

### **Qualification Requirements for Establishing A Temporary Storage Warehouse**

1. A premise or a place designated for the establishment of a temporary storage warehouse, must comply with the following requirements:
  - 1) to be in the possession of the owner of the warehouse or to be rented by him/her for a period of not less than three years;
  - 2) the territory of a temporary storage warehouse, including the adjoining grounds for unloading (one or several storage facilities and grounds, provided they are located on the same territory and at the same address), shall be marked and enclosed along the perimeter, and shall have solid pavement ensuring safe movement of means of transport. The enclosure of the territory of a warehouse shall be a continuous construction of reinforced concrete, concrete, bricks, metal or a combination of these materials, not lower than 2.2 meters in height;
  - 3) buildings and constructions that are not part of the warehouse shall not be located on the territory of the warehouse;
  - 4) have available entrance and egress roads in good technical working order as well as covered examination areas;
  - 5) comply with the existing fire prevention requirements;
  - 6) comply with sanitary and technical standards;
  - 7) ensure the availability of the necessary loading and unloading equipment, which is in compliance with requirements regarding the safety and protection of labor;
  - 8) ensure the availability of certified weighing equipment, appropriate to the nature of the goods and means of transport placed into temporary storage;
- .

## **Article 113**

### **Documents Required to Obtain a License for Establishing a Temporary Storage Warehouse**

1. The following documents shall be required to obtain a license for establishing a temporary storage warehouse:
  - 1) an application to issue a license, completed according to the established format;
  - 2) notary certified copies of the constituent and registration documents;
  - 3) plans and drawings of premises and territories intended to be used as a temporary storage warehouse;
  - 4) documents confirming compliance with the existing fire-prevention requirements, with the sanitary and technical standards issued by the authorized bodies;
  - 5) documents confirming payment of the license fees;

- 6) documents confirming the right of ownership or disposal with regard to respective premises or places;
  - 7) documents confirming compliance with the qualification requirements set forth in Sub-paragraphs 7), 8) of Article 112 of this Code;
  - 8) a list of persons who will carry out storage of goods at a temporary storage warehouse of a closed type.
2. When the information specified in this Article and indicated in the application and the documents changes, the owner of the temporary storage warehouse shall notify the Central Customs Authority of these changes within a period of time not to exceed thirty calendar days from the date when the changes were introduced.
  3. Temporary storage warehouses must comply with the established requirements during the entire period of operation.

#### **Article 114**

##### **Suspension of a License for Establishing a Temporary Storage Warehouse**

1. When the owner of a temporary storage warehouse fails to meet the requirements and obligations stipulated by this Code, the customs authority shall make a decision to suspend the license for a period of up to 6 months, and shall indicate the reasons for suspension.
2. A decision to suspend a license shall be made by the Head of the Central Customs Authority in the form of an order indicating the grounds for making the decision.
3. The license shall be suspended from the date stated in the order. Goods shall not be placed into a temporary storage warehouse after suspension of a license. Goods placed into a temporary storage warehouse prior to suspension of a license may be placed under another customs regime.
4. After elimination of the reasons for which the license was suspended, the validity of the license shall be renewed starting on the date that the Central Customs Authority made the decision to renew the license.

#### **Article 115**

##### **Withdrawal of a License for Establishing a Temporary Storage Warehouse**

1. A license may be withdrawn by the Central Customs Authority when:
  - 1) it was issued based on unreliable information, and when provision of complete and reliable information would not be grounds for issuance of a license to the applicant, on the basis of established procedures;
  - 2) the licensee fails to meet the requirements specified in the license;
  - 3) the reasons, which caused a previous suspension of the license, have not been eliminated;
  - 4) the court prohibits the licensee to undertake activities providing temporary storage services;
2. The decision to withdraw a license shall be made by the Head of the Central Customs Authority in the form of an order indicating the grounds for the decision.
3. Withdrawal of a license shall become effective as of the date that the decision to withdraw it was made.
4. In case of withdrawal of a license, the owner of a temporary storage warehouse shall be obliged to return the original of the license to the Central Customs Authority within fifteen days of the receipt of the decision to withdraw.
5. A repeat application for the issuance of a license to establish a temporary storage warehouse may be considered, in compliance with the generally set procedures, provided that the reasons, which caused its withdrawal, have been eliminated.

## **Article 116**

### **Termination of the Validity of a License for Establishing a Temporary Storage Warehouse**

1. The validity of a license for establishing a temporary storage warehouse shall terminate based upon a decision by the Central Customs Authority in the following cases:
  - 1). the license is withdrawn;
  - 2) a legal person is re-organized or liquidated;
  - 3) the owner of the temporary storage warehouse ceases to provide services of temporary storage and submits a written application thereon to the Central Customs Authority;
2. The decision to terminate the validity of a license for establishing a temporary storage warehouse shall be made by the Head of the Central Customs Authority in the form of an order indicating the reasons for termination.
3. In case the owner of a temporary storage warehouse ceases to provide services of temporary storage, or in case of the re-organization or liquidation of a legal person, the owner of a temporary storage warehouse shall be obliged to return the license to the Central Customs Authority within a fifteen-day period.
4. In the case of termination of the validity of a license for establishing a temporary storage warehouse, the goods stored in the warehouse shall be moved to another temporary storage warehouse within thirty calendar days of the date that the decision to terminate the license was made.

## **Article 117**

### **Particular Features of the Establishment of Temporary Storage Warehouses by Customs Authorities**

1. A temporary storage warehouse shall be established by the customs authorities, without having to obtain a license, based upon a decision by the Central Customs Authority.
2. Storage of goods at temporary storage warehouses established by the customs authority shall be charged customs fees according to Article 322 of this Code.
3. The customs authority that established the temporary storage warehouse shall keep records of goods and means of transport.
4. The customs authority establishing a temporary storage warehouse shall develop and approve regulations on the use of the warehouse, based on the construction of the warehouse, the types of goods stored, the transport, the capacity of the warehouse and other factors influencing the operation of a particular warehouse. The regulations shall specify the:
  - 1) business hours of the temporary storage warehouse;
  - 2) time limits and procedures for placement into and registration of temporary storage of goods and means of transport at a temporary storage warehouse, and procedures for their release;
  - 3) size of customs fees for storage of goods at a temporary storage warehouse, as well as fees for loading and unloading of goods placed into such warehouses;
  - 4) specific conditions for storing certain categories of goods;
  - 5) other requirements and conditions related to the operation of a temporary storage warehouse;
5. The regulations on the use of a temporary storage warehouse shall be available to the public in places where the customs authorities are located, and on the premises of the warehouse.

## **Article 118**

### **Relations of the Owner of a Temporary Storage Warehouse with Persons Placing Goods into the Temporary Storage Warehouse**



1. Relations of the owner of a temporary storage warehouse with persons placing goods into the temporary storage warehouse shall be based upon contracts, except in cases stipulated by Paragraph 2 of this Article.

2. When storing goods at temporary storage warehouses established by the customs authorities, the relations of the customs authorities with persons placing goods into the warehouse shall be based upon this Code.

Acceptance of goods for storage by the customs authorities shall be certified by a document issued to the person who placed the goods into storage, according to a format determined by the Central Customs Authority.

The rights, obligations and responsibilities of the customs authorities relating to the storage of goods, ensue from the nature of obligations based upon the general provisions on storage, stipulated by the legislation of the Republic of Kazakhstan and by this Code.

### **Article 119**

#### **Responsibility for Non-Payment of Customs Duties and Taxes with Respect to Goods Stored at Temporary Storage Warehouses or in Other Places of Temporary Storage**

1. The owner of a temporary storage warehouse shall bear full responsibility for non-payment of customs duties and taxes with respect to goods and means of transport stored at the warehouse, when they are lost or transferred to other persons without the permission of the customs authority.

2. The responsibility for non-payment of customs duties and taxes with respect to goods and means of transport stored in other temporary storage places, when they are lost or transferred to other persons without permission of the customs authority, shall rest with the persons responsible for the safety of the goods in the other temporary storage places.

## **CHAPTER 15. CUSTOMS PROCEDURES APPLIED TO THE EXPORTATION OF GOODS AND MEANS OF TRANSPORT OUTSIDE THE CUSTOMS TERRITORY OF THE REPUBLIC OF KAZAKHSTAN**

### **Article 120**

#### **Exportation of Goods and Means of Transport Outside the Customs Territory of the Republic of Kazakhstan**

1. 'Exportation of goods and means of transport' shall mean actions undertaken to convey goods and means of transport outside the customs territory of the Republic of Kazakhstan.
2. Exportation of goods and means of transport outside the customs territory of the Republic of Kazakhstan shall be allowed after the release of goods in compliance with the declared customs regime applied to the exported goods, pursuant to Section VI of this Code.
3. When exporting goods and means of transport outside the customs territory of the Republic of Kazakhstan, customs procedures shall include the following customs operations:
  - 1) notification of the customs point of departure, by the person conveying the goods, of the intention to export them outside the customs territory of the Republic of Kazakhstan, through the submission of a customs declaration, documents and data;
  - 2) conducting customs clearance;
  - 3) delivery of goods and means of transport to a checkpoint on the customs border of the Republic of Kazakhstan;
  - 4) notification by the carrier of the customs point of destination through the submission of goods, means of transport and documents required for customs purposes;
  - 5) actual exportation of goods and means of transport outside the customs territory of the Republic of Kazakhstan.
4. Exportation of goods and means of transport outside the customs territory of the Republic of Kazakhstan shall be performed at the checkpoints located on the customs border of the Republic of Kazakhstan, the list of which is determined by the Government of the Republic of Kazakhstan.
5. Provisions of this Article shall not apply to goods transported by marine vessels, aircraft, or by electric power lines crossing the customs territory of the Republic of Kazakhstan without making a stop at a sea-, river-, or airport located on the territory of the Republic of Kazakhstan.
6. The procedure for performing customs operations, when exporting goods outside the customs territory of the Republic of Kazakhstan by pipelines and by electric power lines, shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

### **Article 121**

#### **Submission of Documents and Information**

1. When exporting goods and means of transport outside the customs territory of the Republic of Kazakhstan, the person conveying the goods shall provide the customs point of departure with the documents and information required for identification of the goods and means of transport in compliance with Article 403 of this Code, pursuant to the declared customs procedure.
2. When exporting goods and means of transport outside the customs territory of the Republic of Kazakhstan, the customs cargo declaration with the relevant stamp indicating the place and time limit for delivery of goods and means of transport shall be recognized as the control documents of the delivery of goods. The time limit shall be determined in compliance with Article 87 of this Code.

3. Submission of documents and conveyance of goods and means of transport placed under the customs transit procedure shall be performed pursuant to Chapters 13 and 28 of this Code, and shall not be regulated by Paragraph 2 of this Article.

#### **Article 122**

##### **Loading of Goods Being Exported outside the Customs Territory of the Republic of Kazakhstan on a Means of transport**

1. Loading of goods being exported outside the customs territory of the Republic of Kazakhstan on a means of transport shall be allowed after placing these goods under a certain customs regime, except in cases when the customs authority does not require presentation of goods for the purpose of customs clearance, or when goods may be placed under a certain customs regime only after loading, as well as when goods are conveyed pursuant to customs transit procedure.

2. Loading of goods on a means of transport shall be performed in places, the location of which has been agreed upon with the customs authorities, in the presence, when necessary, of a customs official, and with the completion of an act of customs examination.

3. Upon the request of a person, the customs authority shall have the right to permit loading of goods outside of the business hours of the customs authority, in compliance with Article 22 of this Code.

#### **Article 123**

##### **Requirements for Goods When They are Exported Outside the Customs Territory of the Republic of Kazakhstan**

1. Goods shall be de facto exported outside the customs territory of the Republic of Kazakhstan in the same quantities and state as they were at the moment of their placement under a specific customs regime, except for the quantitative and qualitative changes caused by natural wear or loss, or natural change in their properties under normal conditions of haulage, transportation and storage, or change in the quantity of goods owing to the presence of non-drainable residues in the means of transport; or change in the state of goods exported by pipelines due to the technological peculiarities of their transportation and the specific characteristics of the goods, in compliance with the norms and standards existing in the Republic of Kazakhstan.

2. The actual exportation of goods and means of transport outside the customs territory of the Republic of Kazakhstan shall be confirmed by customs stamps, certified by the personal numbered seal of a customs official from the customs point of destination, which are noted on the delivery control documents indicating the date of departure from the checkpoint.

3. The customs point of destination, within the shortest possible period of time, but in not more than fifteen days, shall inform the customs point of departure of the actual exportation of goods and means of transport outside the customs territory of the Republic of Kazakhstan with further submission of the delivery control documents which are grounds for the release of said goods from customs control.

4. Where goods and means of transport have not been actually been exported outside the customs territory of the Republic of Kazakhstan, the person conveying the goods, or the carrier, shall be responsible pursuant to the legislative acts of the Republic of Kazakhstan, except in cases of accident or force majeure.

## **SECTION VI. CUSTOMS PROCEDURES APPLICABLE TO GOODS**

### **CHAPTER 16. GENERAL PROVISIONS PERTAINING TO CUSTOMS PROCEDURES**

#### **Article 124 Types of Customs Procedures**

The following types of customs procedures have been established for the purpose of applying customs legislation:

- 1) release of goods for free circulation;
- 2) re-importation of goods;
- 3) bonded warehouse;
- 4) duty-free shop;
- 5) processing of goods on customs territory;
- 6) processing of goods for free circulation;
- 7) processing of goods outside of customs territory;
- 8) temporary admission of goods and means of transport;
- 9) temporary exportation of goods and means of transport;
- 10) exportation of goods;
- 11) re-exportation of goods;
- 12) transit of goods;
- 13) destruction of goods;
- 14) rejection of goods on behalf of the state;
- 15) free customs zone;
- 16) free warehouse;
- 17) special customs procedures.

#### **Article 125 Declaration and Placement of Goods Under Customs Regimes**

1. The date of registration of a customs declaration by the customs authority shall be regarded as the date of declaration of goods under a certain customs regime.
2. The date of release of goods by the customs authority, pursuant to procedures established by this Code, shall be regarded as the date of placement of the goods under a certain customs regime.

#### **Article 126 Responsibility for Noncompliance With the Terms of a Customs Regime**

1. The persons specified in this Section, shall be responsible for noncompliance with the terms and requirements of a customs regime.  
Persons shall not bear responsibility in cases when the terms and requirements of the customs regime are not complied with, due to the fact that the goods subject to customs control, prior to their release for free circulation or prior to their actual exportation outside the customs territory of the Republic of Kazakhstan, without violations of the terms and requirements established by this Code, have been irretrievably lost, damaged or destroyed as a result of accident or force majeure, as well as when the quantity or state of the goods have changed owing to natural wear or loss, or owing to the goods' natural properties under normal haulage, transportation, storage

and utilization (operation) conditions, provided said operations are permissible in compliance with the provisions of this Section upon the application of a certain customs regime.

2. Persons shall not bear responsibility for goods, or products resulting from the processing of them, exported outside the customs territory of the Republic of Kazakhstan, if said goods, or products resulting from the processing of them, were not returned due to their irretrievable loss or destruction as a result of accident or force majeure, natural wear or loss under normal conditions of transportation, storage and utilization, or as a result of their forfeiture due to actions undertaken by state bodies or officials of a foreign country.

3. The responsibility for confirming the circumstances, which caused the irretrievable loss, damage or destruction of goods, or change in their quantity and state, shall be placed on the persons envisaged by this Section. Consular offices of the Republic of Kazakhstan in foreign countries shall confirm circumstances, which occurred on the territory of foreign states.

#### **Article 127**

#### **Responsibility for Proving Compliance with the Terms of Placement of Goods under Customs Procedures and with the Requirements of Customs Regimes**

The responsibility for proving compliance with the terms of placement of goods under certain customs regimes shall be placed upon the declarant for proving compliance with the requirements of the customs regimes, upon the persons specified by this Section.

## **CHAPTER 17. RELEASE OF GOODS FOR FREE CIRCULATION**

### **Article 128**

#### **Purpose of the Customs Regime of Release of Goods for Free Circulation**

‘Release of goods for free circulation’ shall mean the customs regime intended for permanent use and consumption of goods imported onto the customs territory of the Republic of Kazakhstan.

### **Article 129**

#### **Terms of Placement of Goods under the Customs Regime of Release of Goods for Free Circulation**

Goods shall be released for free circulation provided:

- 1) customs duties and taxes are paid;
- 2) non-tariff regulatory measures are complied with;
- 3) other requirements stipulated by this Code and by other legislative acts of the Republic of Kazakhstan are met;
- 4) customs clearance has been performed.

## **CHAPTER 18. RE-IMPORT OF GOODS**

### **Article 130**

#### **Purpose of the Customs Regime for Re-import of Goods**

‘Re-import of goods’ shall mean the customs regime under which goods, previously exported outside the customs territory of the Republic of Kazakhstan, are imported back within the time limit set in Article 131 of this Code, exempt from customs duties and taxes, and without having non-tariff regulatory measures applied to them, except for requirements concerning the safety of the goods.

### **Article 131**

#### **Terms of Placement of Goods under the Re-Import Customs Regime**

1. To be placed under the re-import customs regime, goods must:

- 1) originate in Kazakhstan, when exported from the customs territory of the Republic of Kazakhstan;
- 2) have been declared under the re-import customs regime within three years of the date of their export;
- 3) remain in the same state, except for changes caused by natural wear or loss under normal transportation, storage or usage (operational) conditions.

2. Use of goods outside the territory of the Republic of Kazakhstan for commercial purposes, as well as for performing operations with goods which are required to preserve their safety, including minor repairs, technical maintenance and other operations needed for maintaining the goods in proper condition, shall not prevent the placement of goods under the re-import customs regime, except in cases when repair operations have resulted in an increase in the value of the goods as compared to the value effective at the moment of their export.

Also, the correlation of the value on the date of export to the value on the date of import shall be determined based upon the statistical value of the goods specified in the customs declaration.

3. The absence of change in the state of goods placed under the customs re-import regime for goods, which were exported in compliance with the export customs regime, the fact of their export, and the date of export, shall be confirmed by documents.

4. When the requirements set in Paragraph 1 of this Article are complied with, goods may be also placed under the re-import customs regime when only part of the exported goods are re-imported.

### **Article 132**

#### **Reimbursement of Customs Export Duties**

1. When re-importing goods, the customs authorities shall reimburse the previously paid customs duties to the person who re-imported them, when it has been established that, at the moment of crossing the customs border, the goods had defects, or they failed in some other way to comply with the requirements of a foreign economic transaction, as well as in cases when foreign economic transactions were not completed for reasons beyond the control of the person and, for these reasons, the goods were returned to the supplier or to another person nominated by the supplier, provided the following requirements have been met:

- 1) goods are imported by the same person who exported them, except in cases of legal assignment, as established by the legislation of the Republic of Kazakhstan;
  - 2) goods were not used or repaired outside the customs territory of the Republic of Kazakhstan, except in cases when the use of goods is required to reveal defects or other circumstances, which caused the return of these goods;
  - 3) goods are identifiable by the customs authorities;
  - 4) goods are re-imported within six months of the day following the date that they crossed the customs border of the Republic of Kazakhstan during export.
2. Export customs duties shall be reimbursed to the person who re-imported the goods, in compliance with Chapter 46 of this Code.

### **Article 133**

#### **Responsibility for Noncompliance with the Terms of the Re-Import Customs Regime**

Responsibility for noncompliance with the terms of the re-import customs regime shall rest with the person who placed the goods under the re-import customs regime, except in cases stipulated by Paragraph 3 of Article 425 of this Code.



## **CHAPTER 19. BONDED WAREHOUSE**

### **Article 134**

#### **Purpose of the Bonded Warehouse Customs Regime**

‘Bonded warehouse’ shall mean the customs regime under which imported goods are stored under customs control on special premises or territories which have the status of a bonded warehouse, without customs duties or taxes being charged, and without non-tariff regulatory measures being applied to them, except for requirements concerning the safety of the goods.

### **Article 135**

#### **Terms of Placement of Goods under the Bonded Warehouse Customs Regime**

1. All goods may be placed under the bonded warehouse customs regime, except goods specified by the Government of the Republic of Kazakhstan.
2. Goods, which may cause damage to other goods or goods requiring special storage conditions, shall be placed in bonded warehouses, which are equipped in compliance with the conditions required to store such goods.

### **Article 136**

#### **Time Limit for Storage of Goods at a Bonded Warehouse**

1. The time limit for storage of goods at a bonded warehouse shall be determined by the person who places the goods into the bonded warehouse, but shall not exceed three years.
2. Goods with time limits for storage, consumption and sale shall be declared under a different customs regime, and shall be removed from the bonded warehouse not later than sixty days prior to the expiration of the specified time limit.

### **Article 137**

#### **Worn Out, Spoilt or Damaged Goods Stored at a Bonded Warehouse**

Goods which were worn out, damaged or broken as a result of force majeure during the period of their storage at a bonded warehouse shall be placed under a customs regime chosen by the declarant, as if they were imported in a destroyed, damaged or broken state.

### **Article 138**

#### **Termination of the Bonded Warehouse Customs Regime**

1. The bonded warehouse customs regime shall be terminated when goods are placed under a different customs regime. Goods placed under the bonded warehouse customs regime may be declared under a different customs regime, in full or in part.
2. Goods placed under a different customs regime shall be removed from the bonded warehouse within three days.
3. Upon release from the bonded warehouse of goods, which were previously placed under the temporary import customs regime with a view to their further use on the customs territory of the Republic of Kazakhstan in compliance with this regime, the time limit for temporary import shall be resumed. When goods are released for free circulation, calculation of the amounts payable as customs duties and taxes shall be made in compliance with Chapter 39 of this Code.

**Article 139**  
**Bonded Warehouses and Types of Bonded Warehouses**

1. Any specially identified and constructed premise or place intended for the storage of goods in compliance with the bonded warehouse customs regime shall be recognized as a bonded warehouse.
2. Bonded warehouses may be of the open type, which are available for use by any persons authorized with regard to the goods, and of the closed type, which are intended for storage of goods belonging to the owner of the warehouse or to certain persons specified by the owner of the warehouse, when establishing the warehouse.
3. Bonded warehouses of the open and closed types may be used for storage of specific categories of goods requiring special storage conditions or capable of damaging other goods.
4. Bonded warehouses established by the customs authorities shall be considered as open-type warehouses.

**Article 140**  
**Qualification Requirements for the  
Operation of Bonded Warehouses**

1. The premise or the place intended for the establishment of a bonded warehouse must meet and comply with the following requirements:

- 1) to be in the possession of the owner of the bonded warehouse or to be rented by him/her for a period of not less than three years;
- 2) the territory of warehouse, including the adjoining unloading grounds (one or several storage facilities and grounds, provided they are located on the same territory and at the same address), shall be marked and enclosed along the entire perimeter. The enclosure of the territory of a bonded warehouse shall be a continuous construction made of reinforced concrete, concrete, bricks, metal or a combination of these materials, which is not lower than 2.2 meters in height;
- 3) buildings and constructions that are not part of the warehouse shall not be located on the territory of the warehouse;
- 4) have available entrance and egress roads in good technical working order as well as covered examination areas;
- 5) comply with the existing fire prevention requirements;
- 6) comply with sanitary and technical standards;
- 7) have available the necessary loading and unloading equipment, which is in compliance with the requirements regarding the safety and protection of labor;
- 8) have available certified weighing equipment, appropriate to the nature of the goods and means of transport placed into storage.

2. When the information indicated in the application and the documents and specified in this Article changes, the owner of the bonded warehouse shall notify the customs authority of these changes within a period of time not to exceed thirty calendar days from the date when the changes were introduced.

3. Bonded warehouses must comply with the established requirements during the entire period of operation.

## **Article 141**

### **Obligations of the Owner of a Bonded Warehouse**

The owner of a bonded warehouse shall be obliged to:

- 1) comply with the requirements established by this Code regarding the operation of a bonded warehouse;
- 2) preclude the possibility of goods being taken without customs control;
- 3) provide access for the customs authorities to record-keeping documents and to goods placed into the bonded warehouse;
- 4) comply with the requirements of the license regarding the establishment of a bonded warehouse, and meet the legal requirements of the customs authorities; provide them, free of charge, with premises, equipment and communication facilities at the bonded warehouse for customs clearance purposes, and assist in customs control;
- 5) keep records and submit to the customs authorities reports on the stored goods and on their circulation, pursuant to procedures established by Article 142 of this Code;
- 6) pay customs duties and taxes in cases stipulated by Paragraph 2 of Article 143 of this Code.

## **Article 142**

### **Record Keeping and Reporting on Goods Cleared Through a Bonded Warehouse**

1. Goods cleared through a bonded warehouse in compliance with the bonded warehouse customs regime shall be subject to record keeping.
2. When placing goods into a bonded warehouse, goods shall be recorded by the owner of the warehouse in warehouse records, which shall contain the following information:
  - 1) the date of placement of the goods into the warehouse;
  - 2) the name of the goods;
  - 3) the number of items and the gross weight (kg);
  - 4) the number of the document accompanying the commodity;
  - 5) the number of the cargo customs declaration and the date of issue.
3. The owners of bonded warehouses shall provide reports on goods stored at a bonded warehouse to the customs authorities in compliance with the format and procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues.
4. The record-keeping system shall also include:
  - 1) the registration book;
  - 2) the customs registration document.The cargo customs declaration may be used as a customs registration document.
5. The registration book shall be kept in compliance with the established format, apart from depending on of an automated accounting system.
6. The customs authorities shall be entitled to inventory goods and means of transport stored at a bonded warehouse.
7. Registration documents of goods and means of transport shall be kept at a bonded warehouse for five years.

## **Article 143**

### **Responsibility for Non-Payment of Customs Duties and Taxes With Respect to Goods Cleared Through a Bonded Warehouse**

1. The responsibility for non-payment of customs duties and taxes with respect to goods cleared through a bonded warehouse shall rest with the person who placed the goods under the bonded warehouse customs regime, unless otherwise established by this Code.

2. The owner of a bonded warehouse shall bear responsibility for the non-payment of customs duties and taxes in cases when goods are lost or released without the permission of the customs authority, except in cases when the customs authorities own a bonded warehouse.

#### **Article 144**

##### **Operations with Goods Stored at a Bonded Warehouse**

1. With the permission of the customs authorities, goods placed under the bonded warehouse customs regime may undergo the following operations:

1) to ensure the safety of goods;

2) to prepare goods for sale and transportation, such as division of goods into shipments, formation of shipment lots, sorting, packing, re-packing, marking (also with excise tax marks), as well as operations which may be required to improve the quality of the goods;

3) to take samples and specimens.

2. Any operations with goods stored at a bonded warehouse shall not change the characteristics (qualities) of these goods so as to require a change in the classification code under the foreign economic activity commodity nomenclature.

3. Transportation of goods from one bonded warehouse to another shall be allowed under customs control, in compliance with the procedures established by Chapter 13 of this Code. In doing so, the bonded warehouse regime shall not be interrupted or suspended.

#### **Article 145**

##### **Relations of the Owner of a Bonded Warehouse with Persons Placing Goods into the Bonded Warehouse**

1. Relations of the owner of a bonded warehouse with persons placing their goods into the bonded warehouse shall be based upon contracts.

2. When storing goods at bonded warehouses established by the customs authorities, the relations of the customs authorities with persons placing their goods into the bonded warehouse shall be established on the basis of this Code. Acceptance of goods for storage by the customs authorities shall be certified by a document issued to the person who placed his goods into the warehouse, in the format determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

3. Storage of goods at a bonded warehouse established by the customs authorities shall be charged for in compliance with Article 322 of this Code.

#### **Article 146**

##### **License for the Establishment of a Bonded Warehouse**

1. A bonded warehouse shall be established by a Kazakhstani person upon obtaining a license issued by the Central Customs Authority.

2. A license shall not be required when a bonded warehouse is established by the customs authorities based on a decision by the Central Customs Authority.

3. Relations concerning licensing, which are not covered in this Chapter, shall be regulated by the legislation on licensing.

4. The Central Customs Authority shall ensure periodic publication of information on operation of bonded warehouses.

## **Article 147**

### **Documents Required to Obtain a License for the Establishment of a Bonded Warehouse**

1. The following documents shall be required to obtain a license for the establishment of a bonded warehouse:
  - 1) an application for the issue of a license, completed according to the established format;
  - 2) notary certified copies of the registration documents;
  - 3) documents confirming compliance with the existing fire-prevention requirements, and with sanitary and technical standards;
  - 4) documents confirming payment of the license fee;
  - 5) documents confirming the right of ownership or disposal with regard to the respective premises or places;
  - 6) plans and drawings of the premises and territories intended to be used as a bonded warehouse;
  - 7) a list of available equipment for loading and unloading and for weighing which is certified by the stamp of the person who filed the application to issue the license;
  - 8) a list of persons who store goods at a bonded warehouse of the closed type.
2. When the information stated in the application and in the documents, that is specified in Sub-paragraphs 5)-6) of Paragraph 1 of this Article, changes, the licensee shall notify the Central Customs Authority of these changes within a period of time not to exceed thirty calendar days following the date that the changes were introduced.

## **Article 148**

### **Suspension of a License for the Establishment of a Bonded Warehouse**

1. When the owner of a bonded warehouse fails to meet the requirements and obligations set forth in this Code, the Central Customs Authority shall make a decision to suspend the license for a period of up to six months, and shall indicate the reasons for suspension.
2. A license may be suspended based upon a reasoned application by the owner of the bonded warehouse.
3. The decision to suspend a license shall be made by the Central Customs Authority in the form of an order and shall indicate the grounds for making the decision.
4. When a license is suspended, goods shall not be placed into a bonded warehouse. Goods placed into a bonded warehouse prior to suspension of the license must be transported under customs control to a different bonded warehouse or be placed under different customs regimes.
5. After elimination of the reasons for which the license was suspended, the validity of the license shall be renewed starting on the date when the Head of the Central Customs Authority made the decision to renew the license.

## **Article 149**

### **Withdrawal of a Bonded Warehouse License**

1. A license may be withdrawn by the Central Customs Authority in the following cases:
  - 1) when it was issued based upon incomplete or unreliable information, and when provision of complete and reliable information would not be grounds for issuance of a license to the applicant, pursuant to established procedures;
  - 2) the licensee fails to meet the requirements specified in the license;

- 3) the reasons, which caused previous suspension of the license have not been eliminated;
2. The decision to withdraw a license shall be made by the Head of the Central Customs Authority in the form of an order and shall indicate the grounds for making the decision.
3. Withdrawal of a license shall become effective as of the date that the decision to withdraw was made.
4. In case of withdrawal of a license, the owner of a bonded warehouse shall be obliged to return the original of the license to the Central Customs Authority within a period not to exceed fifteen calendar days from receipt of the decision to withdraw.
5. A repeat application for the issue of a license to establish a bonded warehouse may be considered upon the expiration of two years after the date that the decision to withdraw the license was made provided the reasons, which caused its withdrawal, have been eliminated.

#### **Article 150**

##### **Termination of the Validity of a License for the Establishment of a Bonded Warehouse**

1. The validity of a license to establish a bonded warehouse shall terminate upon a decision by the Central Customs Authority in the following cases:
  - 1) the license has been withdrawn;
  - 2) the owner of a bonded warehouse ceases to provide bonded warehouse services and submits a written application thereon to the Central Customs Authority;
  - 3) the legal person holding the license for the establishment of a bonded warehouse is reorganized or liquidated.
2. The decision to terminate the validity of a license for the establishment of a bonded warehouse shall be made by the Head of the Central Customs Authority in the form of an order and shall indicate the reasons for termination.
3. In case the owner of a bonded warehouse ceases to provide bonded warehouse services, or in case of the re-organization or liquidation of a legal person, the owner of the bonded warehouse shall be obliged to return the license to the Central Customs Authority within a fifteen day period.
4. In case of termination of activity providing bonded warehouse services, goods placed under the bonded warehouse regime prior to making the decision to terminate the validity of the license may be transported to a different bonded warehouse, pursuant to procedures established by Chapter 13 of this Code or, with respect to such goods, the bonded warehouse regime must be terminated within thirty calendar days following the date that the decision to terminate the validity of the license was made.
5. When releasing goods due to termination of activity providing bonded warehouse services, the customs authority which established the warehouse shall reimburse, to the person who placed goods into storage, that part of the customs fees calculated by comparing the actual period of storage to the period of time set for storage at the moment that the goods were placed into storage.
6. The customs authorities shall not reimburse to the person expenses, which occurred due to termination of activity providing bonded warehouse services.

#### **Article 151**

##### **Responsibility for Noncompliance with the Terms of the Bonded Warehouse Customs Regime**

Responsibility for noncompliance with the terms of the bonded warehouse customs regime shall rest with the person who placed the goods under the bonded warehouse customs regime, except in cases specified by Paragraph 3 of Article 425 of this Code and, when the right to dispose of

the goods stored at a bonded warehouse is transferred to another person, the responsibility shall rest with the person authorized with respect to such goods.

## **CHAPTER 20. DUTY-FREE SHOP**

### **Article 152**

#### **Purpose of the Duty-Free Shop Customs Regime**

1. 'Duty-free shop' shall mean the customs regime under which foreign goods, imported onto the customs territory of the Republic of Kazakhstan, or Kazakhstani goods are sold directly to natural persons in duty-free shops without payment of customs duties or taxes, and without non-tariff regulatory measures being applied to them, except for requirements concerning the safety of goods, provided such goods will be subsequently exported outside the customs territory of the Republic of Kazakhstan.
2. Goods in duty-free shops shall be sold under customs control on the customs territory of the Republic of Kazakhstan, or at checkpoints on the customs border of the Republic of Kazakhstan.
3. Places designated for performing sales operations, as well as for performing operations to ensure the safety of goods and to prepare goods for sale (unpacking, package removal and other) must be available on the territory of the duty-free shop.

### **Article 153**

#### **Terms for Placing Goods under the Duty-Free Shop Customs Regime**

1. All goods may be placed under the duty-free shop customs regime, except goods prohibited for import to and export from the Republic of Kazakhstan, goods withdrawn from civil circulation on the territory of the Republic of Kazakhstan, and other goods specified by the Government of the Republic of Kazakhstan.
2. Goods subject to sales restrictions on the territory of the Republic of Kazakhstan shall be sold under the duty-free shop customs regime provided the requirements established by the legislation of the Republic of Kazakhstan are complied with.
3. Goods used to ensure the operation of a duty-free shop shall not be subject to placement under the duty-free shop customs regime.

### **Article 154**

#### **Sale of Goods in a Duty-Free Shop**

1. Goods placed under the duty-free shop customs regime shall be sold to natural persons who are leaving the customs territory of the Republic of Kazakhstan, with the mandatory use of cash registers with fiscal memory.
2. Goods sold in a duty-free shop shall have special markings, which are agreed upon with the Central Customs Authority, and shall be packed in advance for sale.

### **Article 155**

#### **Record Keeping and Reports on Goods Placed into and Sold in a Duty-Free Shop**

1. Goods placed under the duty-free shop customs regime shall be subject to record keeping by the owner of the duty-free shop.
2. The format for record keeping of goods placed into and sold in a duty-free shop shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues. In doing so, the record-keeping system shall include:
  - 1) the registration book;
  - 2) a customs registration document.

A cargo customs declaration may be used as a customs registration document.

3. In addition to the registration book kept by the owner of a duty-free shop, other record-keeping systems, including automated ones, shall be used.
4. The customs authority shall be entitled to inventory goods placed into sales areas, backrooms and into the warehouse of a duty-free shop.

## **Article 156**

### **Qualification Requirements for the Operation of a Duty-Free Shop**

1. A premise intended for the establishment of a duty-free shop must comply with the following requirements:
  - 1) to be in the possession of the owner of the shop or to be rented by him/her for a period of not less than three years.
  - 2) the sales area shall be located outside the area intended for customs clearance of goods exported by natural persons when crossing the customs border of the Republic of Kazakhstan;
  - 3) comply with the existing fire prevention requirements;
  - 4) comply with sanitary and technical standards.

## **Article 157**

### **License for the Establishment of a Duty-Free Shop**

1. A duty-free shop shall be established by its owner upon obtaining a license issued by the Central Customs Authority.
2. Relations concerning licensing, which are not covered in this Chapter, shall be regulated by the legislation on licensing.

## **Article 158**

### **Documents Required to Obtain a License for the Establishment of a Duty-Free Shop**

1. The following documents shall be required to obtain a license for the establishment of a duty-free shop:
  - 1) an application for the issue of a license, completed according to the established format;
  - 2) notary certified copies of the registration documents;
  - 3) documents confirming compliance with the existing fire prevention requirements, and with sanitary and technical standards;
  - 4) documents confirming payment of the license fee;
  - 5) documents confirming the right of ownership or disposal with regard to the respective premises;



6) plans and drawings of the premises intended for use as a duty-free shop.

2. When information stated in the application and in the documents, specified in Sub-paragraphs 5) and 6) of Paragraph 1 of this Article, changes, the licensee shall notify the customs authority of these changes within a period of time not to exceed thirty calendar days following the date that the changes were introduced.

#### **Article 159**

##### **Suspension of a License for the Establishment of a Duty-Free Shop**

1. When the owner of a duty-free shop fails to fulfill their duties and to meet the qualification requirements for the operation of a duty-free shop, the license may be suspended upon a decision by the Central Customs Authority for a period of up to six months, with an indication of the reasons for the suspension.

2. The decision to suspend a license shall be made by the Head of the Central Customs Authority in the form of an order and shall indicate the grounds for making the decision.

3. A license shall be suspended as of the date that the relevant decision was made. When a license is suspended, goods shall not be placed into the duty-free shop. Goods placed under the duty-free shop customs regime prior to suspension of the license must be placed under a different customs regime.

4. After elimination of the reasons for which the license was suspended, the validity of the license shall be renewed by an order from the Central Customs Authority starting on the date that the decision to renew the license was made.

#### **Article 160**

##### **Withdrawal of a License for the Establishment of a Duty-Free Shop**

1. A license may be withdrawn by the Central Customs Authority in the following cases:

1) when it was issued based upon unreliable information, and when provision of complete and reliable information would not be grounds for issuance of the license to the applicant, pursuant to the established procedures;

2) the licensee fails to meet the requirements specified in the license;

3) the reasons, which caused the previous suspension of the license, have not been eliminated;

2. The decision to withdraw a license shall be made by the Head of the Central Customs Authority in the form of an order and shall indicate the grounds for making the decision.

3. Withdrawal of a license shall become effective as of the date that the decision to withdraw was made.

4. In case of withdrawal of a license, the owner of a duty-free shop shall be obliged to return the license to the Central Customs Authority not later than fifteen calendar days after receipt of the decision to withdraw.

5. A repeat application for the issue of a license for the establishment of a duty-free shop may be considered upon the expiration of two years from the date when the decision to withdraw the license was made, provided the reasons which caused its withdrawal have been eliminated.

#### **Article 161**

##### **Termination of the Validity of a License for the Establishment of a Duty-Free Shop**

1. The validity of a license for the establishment of a duty-free shop shall terminate upon a decision by the Central Customs Authority in the following cases:

- 1) the license is withdrawn;
  - 2) the owner of a duty-free shop ceases operations and submits a written application thereon to the Central Customs Authority;
  - 3) the legal person holding the license for the establishment of a duty-free shop is re-organized or liquidated.
2. A decision to terminate the validity of a license for the establishment of a duty-free shop shall be made by the Central Customs Authority in the form of an order and shall indicate the reasons for termination.
3. When a duty-free shop terminates operations or a legal person is re-organized or liquidated, the owner of the duty-free shop shall be obliged to return the license to the Central Customs Authority within fifteen days.
4. When a duty-free shop terminates operations, goods placed under the duty-free shop customs regime prior to the decision made with regard to termination of the license must be placed under a different customs regime within thirty calendar days of the date that the decision with regard to termination of the license was made.
5. Within three days of the date of notification of the termination of duty-free shop operations, the owner of the duty-free shop shall be obliged to submit to the customs authority a report on goods stored at the warehouse, pursuant to procedures stipulated by Article 155 of this Code.
6. When a duty-free shop ceases operations, the customs authority shall inventory the goods within a period of time not to exceed seven days.

## **Article 162**

### **Obligations and Responsibilities of the Owner of a Duty-Free Shop**

1. The owner of a duty-free shop shall be obliged to:
- 1) comply with the qualification requirements for the operation of a duty free shop;
  - 2) ensure the safety of goods stored on the premises of the duty-free shop, also preclude the possibility of taking goods placed under the duty-free shop customs regime without customs control;
  - 3) preclude access to goods stored in the warehouse and in the auxiliary areas by unauthorized persons;
  - 4) ensure access to sales areas only by natural persons leaving the territory of the Republic of Kazakhstan;
  - 5) keep records and submit to the customs authorities reports on goods placed and sold, pursuant to the procedures established by Article 155 of this Code;
  - 6) comply with the requirements established by the legislation of the Republic of Kazakhstan.
2. The owner of a duty-free shop shall bear responsibility for non-payment of customs duties and taxes when foreign goods are lost or used for purposes other than sale in a duty-free shop, pursuant to the requirements and terms established by this Chapter.

## **CHAPTER 21. PROCESSING OF GOODS ON CUSTOMS TERRITORY**

### **Article 163**

#### **Purpose of the Regime for Processing Goods on Customs Territory**

1. 'Processing of goods on customs territory' shall mean the customs regime assigned to the use of foreign goods for processing on the customs territory of the Republic of Kazakhstan without non-tariff regulatory measures being applied to them, and levying of customs duties and taxes upon the further export of processed products outside the customs territory of the Republic of Kazakhstan.
2. In cases specified in this Chapter, foreign goods placed under the regime for processing on customs territory may be replaced.

### **Article 164**

#### **Terms of Placement of Goods under the Regime for Processing on Customs Territory**

1. Goods shall be placed under the regime for processing on customs territory, provided the following requirements are complied with:
  - 1) a conclusion by the authorized body on the expediency of processing goods on customs territory, pursuant to procedures determined by Article 168 of this Code is submitted and such a conclusion shall not be required when the purpose of processing is to effect repairs;
  - 2) foreign goods in the processed products can be identified by the customs authorities, except when the customs regime terminates with the export of the processed products, which were obtained as a result of the processing of goods equivalent to their foreign analogues, as stipulated by Article 171 of this Code.
2. The regime for processing on customs territory shall not be used when goods are prohibited from being placed under the regime for processing on customs territory according to a list formulated by the Government of the Republic of Kazakhstan.
3. The regime for processing on customs territory may be declared by the person acting as the declarant, in compliance with Article 400 of this Code.
4. Kazakhstani goods may be used when carrying out operations for the processing of foreign goods.

### **Article 165**

#### **Identification of Foreign Goods in Processed Products**

1. For the purpose of establishing the fact of actual processing of imported goods, the latter shall be identified in the processed products through the use of one of the following methods:
  - 1) putting customs securities, such as seals, onto the storage facilities, or on parts of the technological production lines which carry out particular technological operations, with the purpose of preventing the use of goods, not specified in the Conclusion issued by the authorized body, in the process of producing goods;
  - 2) putting, by the declarant, processor or customs officials, of seals, stamps, numbers or other markings onto the original foreign and (or) Kazakhstani goods intended for processing;
  - 3) describing goods intended for processing, including information on the raw materials, materials and components used in the production process;
  - 4) taking photographs or images, to scale, of goods intended for processing;
  - 5) matching of samples or specimens of goods, taken in advance, against the processed products;
  - 6) using markings already available on goods, such as factory numbers (e.g. on engines, parts of car bodies, and others).

2. Identification of goods in the processed products shall not be required when:
- 1) a technological process involving continuous production cycles is used for processing;
  - 2) the processor uses a unique technological process, which precludes production of similar processed products on the territory of the Republic of Kazakhstan.
- The appropriate authorized body shall formulate a list of these technological processes.

## **Article 166**

### **Operations for the Processing of Goods**

Operations for the processing of goods shall include:

- 1) reworking or working of goods during which foreign goods lose their individual characteristics but retain, in the processed products, characteristics which allow the identification of imported goods in the processed products, when identification is an obligatory condition of processing;
- 2) manufacture of goods, including mounting, assembly and adjustment, during which imported goods preserve their basic characteristics;
- 3) repair of goods, including restoration, putting in order, or replacement of components;
- 4) use of goods as raw materials, which facilitate or simplify the production of processed products, even when these goods are wholly or partially used in the course of processing. This operation shall be performed along with one of those specified in Sub-paragraphs 1)-3) of this Article.

## **Article 167**

### **Time Limit for Processing on Customs Territory**

1. Processing on customs territory shall be carried out within the time limit set in compliance with Paragraph 2 of this Article, but shall not exceed three years from the date when the goods were placed under the customs regime.
2. The time limit for processing on customs territory shall be determined by the customs authority and shall include:
  - 1) the time required for customs clearance of goods imported for processing on customs territory;
  - 2) the duration of the production process for reworking goods;
  - 3) the time required for actual export of processed products.
3. To extend the time limit for processing beyond three years, the declarant shall, one month prior to the expiration of the time limit, file an application with the controlling customs authority regarding the necessity for the extension along with the Conclusion by the authorized body on the expediency of extending the time limit for processing.
4. The time limit for considering the application for extension of the time limit for processing cannot exceed ten calendar days from the date that the application was filed.
5. The application for extension of the time limit for processing may be declined if the customs authority recognizes it not to be expedient, and if the declarant commits violations of customs rules.
6. The decision of the customs authority on the extension of the time limit for processing on customs territory shall be brought to the attention of the applicant in writing.
7. In case an application for extension of the time limit for processing is declined, goods placed under the regime for processing on customs territory shall be subject to a different customs regime.

## **Article 168**

### **Conclusion by the Authorized Body on the Expediency of Processing on Customs Territory**

1. To obtain a conclusion by the authorized body, the declarant shall be obliged to submit the following documents to the authorized body:

- 1). a written application;
- 2) a notary certified copy of the state registration certificate;
- 3) a processing agreement (contract), testifying that the goods are being imported for processing purposes;
- 4) a contract with the person who performs the processing;
- 5) a technical and economic assessment of the processing procedure stating the volume of annual production, the volume of products planned to be processed, the terms for return of the processed products with calculations of their prices and the value of processing operations, as well as current technological documentation;
- 6) other information and documents, specified by the authorized body.

The documents required to obtain a Conclusion by the authorized body shall be submitted and the Conclusion shall be issued pursuant to procedures determined by the authorized body.

2. A Conclusion by the authorized body should include the following information:

- 1) the name and classification code of goods and processed products under the foreign economic activity commodity nomenclature, and their quantity and value;
- 2) the date and number of the processing agreement (contract), the time limit for the production process;
- 3) the yield norms for processed products;
- 4) the nature of the processing;
- 5) the methods of identification;
- 6) information on the declarant and the person who performs the processing;
- 7) the possibility of using residues and wastes.

When using Kazakhstani goods, export of which is subject to non-tariff regulatory measures and (or) customs duties, a conclusion by the authorized body concerning the expediency of processing on customs territory should specify their names, the classification codes of the goods under the foreign economic activity commodity nomenclature, and the quantity and value of the goods.

The format of the conclusion on the expediency of processing on customs territory shall be established by the Central Customs Authority in coordination with the appropriate authorized body.

## **Article 169**

### **Yield Norms for Processed Products**

1. Yield norms shall mean the quantity of processed products resulting in accordance with the production process, from a single unit of the quantity of goods used for processing, in absolute terms or in terms of a percentage.

2. Yield norms for processed products resulting from processing of imported goods on customs territory shall be determined pursuant to procedures established by the authorized body.

## **Article 170**

### **Residues and Wastes Resulting from Processing**

Residues of unprocessed imported foreign goods and wastes resulting from processing shall be subject to a different customs regime, except when these residues and wastes have been processed into a state where they can no longer be used.

## **Article 171**

### **Equivalent Goods**

1. Upon a reasoned request by a person and with the permission of the Central Customs Authority, foreign goods, which were placed under the regime for processing on customs territory, may be replaced with equivalent goods.
2. Equivalent goods shall mean Kazakhstani goods, which are identical in description, quality and technical characteristics to the foreign goods.
3. Products resulting from the processing of equivalent goods shall be regarded as processed products resulting from the processing of foreign goods, in compliance with the provisions of this Chapter.
4. Equivalent goods shall have the status of foreign goods, whereas the goods they replace shall have the status of Kazakhstani goods.

## **Article 172**

### **Particular Features of Customs Control of Goods under Processing on Customs Territory**

1. Control over the application of the regime for processing on customs territory shall be executed by the customs authority in whose area of activity the processing on customs territory is performed.
2. The person who placed goods under the regime for processing on customs territory shall be obliged to submit to the customs authority a full report on the application of the regime for processing on customs territory within twenty calendar days of the expiration of the processing time limit. The format for reporting shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues.
3. Industrial losses resulting from the manufacture of processed products shall not be subject to customs clearance.

## **Article 173**

### **Termination of Security of Customs Duties and Taxes**

Security of customs duties and taxes shall terminate at the moment that goods imported for processing are re-exported or processed products are exported, and not later than at the expiration of the processing time limit established in compliance with Article 167 of this Code, provided the actual export of the imported goods or processed products outside the Republic of Kazakhstan has been verified.

## **Article 174**

### **Application of Customs Duties, Taxes and Non-Tariff Regulatory Measures to Processed Products**

Products processed from foreign goods shall be exempt from export customs duties. Non-tariff regulatory measures shall not apply to these products.  
When processed products are placed under the customs regime for release into free circulation, they shall be subject to customs duties and taxes, as well as to non-tariff regulatory measures.

## **Article 175**

### **Termination of the Regime for Processing on Customs Territory**

1. Processed products shall be exported outside the customs territory of the Republic of Kazakhstan or shall be placed under a different customs regime not later than at the expiration of the processing time limit established in compliance with Article 167 of this Code.
2. Processed products exported outside the customs territory of the Republic of Kazakhstan shall be cleared pursuant to procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues.
3. When processed products are exported outside the customs territory in several lots, final verification of the quantity of processed products may be conducted on a periodic basis after the export of the processed products, but not less than once a quarter, and not later than thirty calendar days from the date that the last lot of goods was exported.
4. Foreign goods declared under the regime for processing on customs territory, including processed products, may be placed under a different customs regime, provided that the terms of this regime have been complied with. The regime for processing on customs territory shall terminate in compliance with this Code.

## **Article 176**

### **Responsibility for Noncompliance with the Terms of the Regime for Processing on Customs Territory**

The responsibility for noncompliance with the terms of the customs regime shall rest with the person who placed the goods under the regime for processing on customs territory, except in cases specified by Paragraph 3 of Article 425 of this Code.

## **CHAPTER 22. PROCESSING FOR FREE CIRCULATION**

### **Article 177**

#### **Purpose of the Customs Regime for Processing for Free Circulation**

‘Processing of goods for free circulation’ shall mean the customs regime under which foreign goods undergo processing on customs territory under customs control without payment of customs duties or taxes and without non-tariff regulatory measures being applied to them, with subsequent placement of the processed products under the customs regime for release into free circulation.

### **Article 178**

#### **Terms of Placement of Goods under the Customs Regime for Processing for Free Circulation**

1. Goods shall be placed under the customs regime for processing for free circulation, provided the following requirements are complied with:
  - 1) the submission of a conclusion by the authorized body on the expediency of processing goods for free circulation pursuant to procedures established by Article 181 of this Code;
  - 2) the identification by the customs authorities of foreign goods in the processed products;
  - 3) ensuring compliance with the requirements of the customs legislation, to include precluding the possibility of taking goods and processed products without customs control, creating proper conditions for conducting customs control, providing the customs authorities with access to goods, record-keeping for goods and of performing operations with them, as well as submission of reports;
  - 4) the impossibility of restoring processed products to their original state using an economically sound method;
  - 5) the import of goods for processing purposes by the person who directly performs processing operations.
2. The customs regime for processing for free circulation may be declared by the person acting as the declarant, in compliance with Article 396 of this Code.
3. Foreign goods previously placed under other customs regimes may be placed under the customs regime for processing for free circulation.
4. The Government of the Republic of Kazakhstan shall formulate a list of goods prohibited from being placed under the customs regime for processing for free circulation.

### **Article 179**

#### **Identification of Foreign Goods in Processed Products**

1. For the purpose of establishing the fact of actual processing of imported goods, the latter shall be identified in the processed products through the use of one of the following methods:
  - 1) putting customs securities, such as seals, onto storage facilities, or onto parts of the technological production lines, which carry out certain technological operations, for the purpose of preventing a use of goods, which is not specified in the Conclusion issued by the authorized body, in the process of production of the goods;
  - 2) putting, by the declarant, processor or customs officials, of seals, stamps, numbers or other markings onto the original foreign and Kazakhstani goods intended for processing;



- 3) describing goods intended for processing, including information on raw materials, materials and components used in the production process;
- 4) taking photographs or images, to scale, of goods intended for processing;
- 5) matching of samples or specimens of goods, taken in advance, against the processed products;
- 6) use of markings already available on goods, such as factory numbers (e.g. of engines, parts of car bodies, and others).

2. Identification of goods in the processed products shall not be required when:

- 1) the technological process used for processing involves continuous production cycles;
- 2) the processor uses a unique technological process, which precludes production of similar products on the territory of the Republic of Kazakhstan.

The appropriate authorized body shall formulate a list of these technological processes.

## **Article 180**

### **Operations for the Processing of Goods**

Operations for the processing of goods shall include:

- 1) processing or working, which results in foreign goods losing their individual characteristics but which preserves characteristics in the processed products which allow identification of the imported goods in the processed products, when identification is an obligatory condition of processing;
- 2) manufacture of goods, including mounting, assembly and adjustment, when the imported goods preserve their basic characteristics;
- 3) use as raw materials of goods, which facilitate or simplify the production of processed products, even when these goods are wholly or partially used in the course of processing. This operation shall be performed along with one of those specified in Sub-paragraphs 1), 2) of this Article.

## **Article 181**

### **A Conclusion by the Authorized Body on the Expediency of Processing on Customs Territory**

1. To obtain a conclusion by the authorized body, the declarant shall be obliged to submit to the authorized body the following documents:

- 1) a written application;
- 2) notary certified copies of the constituent and registration documents;
- 3) an agreement (contract) for processing, testifying that the goods are being imported for processing purposes;
- 4) a technical and economic assessment of the processing procedure, specifying the volume of production, the volume of products planned to be processed, the terms for return of the processed products with calculations of their prices and the value of processing operations, as well as current technological documentation;
- 5) other information and documents specified by the authorized body.

The documents required to obtain a Conclusion by the authorized body shall be submitted, and the Conclusion shall be issued, pursuant to procedures determined by the authorized body.

2. A Conclusion by the authorized body should include the following information:

- 1) the name and classification code of goods and processed products under the foreign economic activity commodity nomenclature, and their quantity and value;
- 2) the date and number of the processing agreement (contract), the time limit for processing;
- 3) the yield norms for processed products;
- 4) the nature of the processing;
- 5) methods of identification;
- 6) information on the declarant and the person who performs the processing.

The format of the conclusion on the expediency of processing of goods for free circulation shall be established by the Central Customs Authority in coordination with the appropriate authorized body.

3. A Conclusion by the authorized body shall be issued within thirty calendar days of the date of submission of the documents specified in Paragraph 1 of this Article.

## **Article 182**

### **Yield Norms for Processed Products**

1. Yield norms shall mean the quantity of processed products resulting in accordance with the production process, from a single unit of the quantity of goods used for processing, in absolute terms or in terms of a percentage.

2. Yield norms for processed products resulting from the processing of goods for free circulation shall be determined pursuant to procedures established by the authorized body.

## **Article 183**

### **Time Limit for Processing for Free Circulation**

1. Processing for free circulation shall be carried out within the time limit set in compliance with Paragraph 2 of this Article, but shall not exceed one year from the date when the goods were placed under the customs regime.

2. The time limit for processing shall be determined by the customs authority and shall include:

1) the time required for customs clearance of goods imported for processing of goods for free circulation;

2) the duration of the production process for processing goods, established by the authorized body;

3) the time required for placement of the processed products under the customs regime for release of goods into free circulation.

3. To extend the time limit for processing beyond a one-year period, the declarant shall, one month prior to the expiration of the time limit, file an application with the customs authority on the necessity for the extension, attaching verifying documents.

4. The time limit for considering the application for extension of the time limit for processing cannot exceed thirty calendar days from the date that the application was filed.

5. A decision by the customs authority on the extension of the time limit for processing for free circulation shall be brought to the attention of the applicant in writing.

6. If the application for the extension of the time limit for processing is declined, goods placed under the customs regime for processing for free circulation shall be subject to a different customs regime, and the resulting processed products shall be subject to placement under the customs regime for release into free circulation.

## **Article 184**

### **Residues and Wastes Resulting from Processing**

The residues of unprocessed foreign goods, as well as the wastes resulting from processing, shall be subject to customs control and customs clearance as foreign goods, imported onto the customs territory of the Republic of Kazakhstan in this state, except when these residues and wastes have been processed into a state where they can no longer be used.

## **Article 185**

### **Termination of the Customs Regime for Processing for Free Circulation**

The customs regime for processing for free circulation shall be terminated when processed products are placed under the customs regime for release into free circulation. When processed products are released into free circulation, customs duties and taxes shall be calculated based upon the rates applicable to the processed products. The value and quantity of processed products shall be calculated on the date of declaration under the customs regime for release into free circulation.

## **Article 186**

### **Responsibility for Noncompliance with the Terms of the Customs Regime for Processing for Free Circulation**

Responsibility for noncompliance with the terms of the customs regime shall rest with the person who placed the goods under the customs regime for processing for free circulation, except in cases specified by Paragraph 3 of Article 425 of this Code.

## **CHAPTER 23. PROCESSING OF GOODS OUTSIDE OF CUSTOMS TERRITORY**

### **Article 187**

#### **Purpose of the Customs Regime for Processing Outside of Customs Territory**

‘Processing outside of customs territory’ shall mean the customs regime assigned to exporting and using Kazakhstani goods outside the customs territory of the Republic of Kazakhstan for the purpose of processing and subsequent importing of processed products onto the customs territory of the Republic of Kazakhstan, with full or partial exemption from customs duties and taxes, and without non-tariff regulatory measures being applied to them.

In cases specified in this Chapter, processed products resulting from the processing of Kazakhstani goods, which are placed under the customs regime for processing outside of customs territory, shall be replaced by foreign goods.

### **Article 188**

#### **Terms of Placement of Goods under the Regime for Processing Outside of Customs Territory**

1. Goods shall be placed under the customs regime for processing outside of customs territory, provided the following requirements are complied with:

- 1) submission of a conclusion by an authorized body on the expediency of processing the goods outside of customs territory, pursuant to procedures established by Article 191 of this Code and this conclusion shall not be required when the purpose of processing is to repair;
- 2) identification by the customs authorities of Kazakhstani goods in processed products, in compliance with Article 195 of this Code, except in cases stipulated by Articles 193-194 of this Code;

3) payment of export customs duties is ensured.

2. The customs regime for processing outside of customs territory may be declared by the person acting as the declarant, in compliance with Article 400 of this Code.

3. The customs regime for processing outside of customs territory shall not be used in the following cases:

1) with respect to goods previously released into free circulation with exemption from customs duties or taxes, and with the obligation to comply with the established restrictions, requirements or terms until the moment of expiration of the restrictions, except in cases when goods are exported for repair;

2) when goods are exported for processing under a sales contract;

3) when it is impossible to establish that processed products resulted from the processing of exported goods, except in cases stipulated by Articles 193-194 of this Code.

### **Article 189**

#### **Operations for the Processing of Goods Outside of Customs Territory**

1. Operations for the processing of goods shall include:

1) actual processing of the goods, when Kazakhstani goods lose their individual characteristics but preserve, in the processed products, characteristics which allow the identification of the exported goods in the processed products, when identification is an obligatory condition of processing;

2) manufacture (working) of other goods, including mounting, assembly and adjustment, when exported goods preserve their basic characteristics;

3) repair of goods, including restoration, when damaged or worn out goods intended for processing are restored or replaced; elimination of defects through a claim.

2. The Government of the Republic of Kazakhstan shall be entitled to introduce restrictions on certain operations for processing outside of customs territory.

### **Article 190**

#### **Time Limit for Processing Outside of Customs Territory**

1. Processing outside of customs territory shall be carried out within the time limit set in compliance with Paragraph 2 of this Article, but shall not exceed two years from the date that the goods were placed under the customs regime.

2. The time limit for processing outside of customs territory shall be determined by the customs authority and shall include:

1) the time required for customs clearance of goods exported for processing outside of customs territory;

2) the duration of the production process, as determined by the authorized body;

3) the time required for actual import of processed products onto the customs territory of the Republic of Kazakhstan.

3. To extend the time limit for processing beyond the two-year period, the declarant shall, one month prior to the expiration of the time limit, file an application with the customs authority regarding the necessity for an extension, and attaching verifying documents.

4. The time limit for considering the application for extension of the time limit for processing cannot exceed thirty calendar days from the date that the application was filed.

5. A decision by the customs authority on the extension of the time limit for processing outside of customs territory shall be brought to the attention of the applicant in writing.

6. If an application for extension of the time limit for processing is declined, goods placed under the customs regime for processing outside of customs territory shall be subject to a different customs regime.

## **Article 191**

### **A Conclusion by the Authorized Body on the Expediency of Processing Outside of Customs Territory**

1. To obtain a conclusion by the authorized body, the declarant shall be obliged to submit the following documents to the authorized body:

- 1) a written application;
- 2) a notary certified copy of the state registration certificate;
- 3) a processing agreement (contract), testifying that the goods are being exported for processing purposes;
- 4) a contract with the person who performs processing;
- 5) a technical and economic assessment of the processing procedure, specifying the volume of annual production, the volume of products planned for processing, the terms for return of the processed products with a calculation of their price and the value of processing operations, as well as current technological documentation;
- 6) other information and documents specified by the authorized body.

The documents required to obtain a Conclusion by the authorized body shall be submitted and this Conclusion shall be issued pursuant to procedures determined by the authorized body.

2. A Conclusion by the authorized body shall include the following information:

- 1) the name and classification code of the goods and processed products under the foreign economic activity commodity nomenclature, and their quantity and value;
- 2) the date and number of the processing agreement (contract), and the time limit for processing;
- 3) the yield norms for processed products;
- 4) the nature of the processing;
- 5) methods of identification;
- 6) information on the declarant and the person who performs the processing.

The Central Customs Authority in coordination with the appropriate authorized body shall establish the format of the Conclusion on the expediency of processing of goods outside of customs territory.

## **Article 192**

### **Yield Norms for Processed Products**

1. Yield norms shall mean the quantity of processed products resulting in accordance with the production process from a single unit of the quantity of goods used for processing, in absolute terms or in terms of a percentage.

2. Yield norms for processed products resulting from the processing of exported goods outside of customs territory shall be determined pursuant to procedures established by the authorized body.

## **Article 193**

### **Replacement of Processed Products by Foreign Goods**

Upon a reasoned request by a person, and with the permission of the Central Customs Authority, foreign goods may replace processed products, provided that they are identical in description, quality and technical characteristics to the processed products.

## **Article 194**

### **Procedures for Replacing Processed Products in the Course of Repairing Goods under the Customs Regime for Processing Outside of Customs Territory**

1. Processed products may be replaced in the course of repairing goods, provided that the substituting goods are identical or similar to the goods intended for repair, in compliance with the customs regime for processing outside of customs territory. In doing so, substituting goods may be either new or used.
2. Processed products shall not be replaced in the course of repair, when such repair adds qualities to the resulting products, which significantly differentiate them from the original ones.
3. The appropriate provisions of the agreement (contract) and guarantee obligations of the person who performs the repair of goods shall serve as grounds for the replacement of processed products in the course of repair.

## **Article 195**

### **Identification of Exported Goods in Processed Products**

1. For the purpose of establishing the fact of actual processing of exported goods, the latter shall be identified in the processed products through the use of one of the following methods:
  - 1) putting, by a declarant, processor or customs officials, of seals, stamps, numerical and (or) other markings on initial goods exported for processing;
  - 2) description of goods for processing;
  - 3) taking a photograph or image, to scale, of goods for processing;
  - 4) matching of initially taken samples or specimens of goods against the processed products;
  - 5) use of available markings on goods, such as factory numbers (e.g. of engines, parts of car bodies, etc.).
2. Identification of goods in the processed products shall not be required when the technological process used in processing involves continuous production cycles.

## **Article 196**

### **Goods Prohibited from Being Placed under the Customs Regime for Processing Outside of Customs Territory**

Goods generating the following processed products shall be prohibited from being placed under the customs regime for processing outside of customs territory:

- alcoholic drinks classified under Headings 2203-2206, or 2208 under the foreign economic activity commodity nomenclature;
- tobacco products classified under Headings 2402-2403 under the foreign economic activity commodity nomenclature;
- goods of natural leather classified under Group 42 under the foreign economic activity commodity nomenclature;
- jewelry, gold and silver ware classified under Headings 7113-7116 under the foreign economic activity commodity nomenclature.

The Government of the Republic of Kazakhstan shall be entitled to formulate an additional list of goods prohibited from being placed under the customs regime for processing outside of customs territory.

## **Article 197**

### **Application of Customs Duties and Taxes**

Processed products shall be fully exempt from customs duties and taxes when the purpose of processing is repair under warranty (free of charge) of exported goods.

Partial exemption from customs duties and taxes shall be granted in case of free-of-charge repair of exported goods or in case of other processing operations.

When the ad valorem rates of customs duties and taxes are applied for calculation purposes, the cost of operations for processing (repairing) shall be used as the basis for determining the customs value of imported processed products.

In case of the application of specific rates of customs duties and taxes, the quantity of processed products, expressed in units pro rated to the cost of processing (repairing) operations on the goods, shall be the basis for calculation purposes.

The amount of customs duties and taxes shall be determined based on the rates of customs duties and taxes applied to processed products.

## **Article 198**

### **Termination of Security of Export Customs Duties**

1. The security of customs payments and taxes shall terminate at the moment that processed products are imported onto the customs territory of the Republic of Kazakhstan, provided that the provisions of this Customs Code are complied with.

2. When processed products are not returned to the customs territory of the Republic of Kazakhstan, export customs duties shall be charged in compliance with the generally established procedures.

## **Article 199**

### **Particular Features of Customs Control of Goods under Processing Outside of Customs Territory**

1. Control over the application of the customs regime for processing outside of customs territory shall be executed by the customs authority that performed customs clearance of the goods exported for purposes of processing outside of customs territory.

For customs control purposes, the customs authority that executes control over the application of the customs regime for processing outside of customs territory shall open a file containing all materials and documents concerning an application for the customs regime for processing outside of customs territory.

3. The person who placed the goods under the customs regime for processing outside of customs territory shall be obliged to submit, to the customs authority that executes control over application of the customs regime for processing outside of customs territory, a full report on application of the customs regime for processing outside of customs territory, within ten calendar days from the expiration of the processing time limit, together with copies of Cargo Customs declarations. The format for reporting shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues.

## **Article 200**

### **Non-Return of Goods Exported For Processing Purposes, or of Processed Products, Due to Destruction, Loss, Natural Shortage or the Actions of Bodies or Officials of a Foreign State**

Non-return of goods exported for processing purposes, or of processed products, within the established time limit shall be possible only provided that consular institutions of the Republic of Kazakhstan abroad confirm the fact of destruction or irretrievable loss of the goods or processed products, due to accident or force-majeure, shortage resulting from natural deterioration or loss under normal conditions of transportation and storage, or alienation as a result of the actions of bodies or officials of a foreign state, and also when the customs regime for processing outside of customs territory is changed to the export regime, in compliance with the procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

#### **Article 201**

##### **Termination of the Customs Regime for Processing Outside of Customs Territory**

1. Prior to the expiration of the processing time limit established in compliance with Article 190 of this Code, processed products shall be imported onto the Customs territory of the Republic of Kazakhstan, or shall be placed under the customs export regime. The procedures for customs clearance shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.
2. Change of the customs regime for processing outside of customs territory to the export customs regime shall be allowed without actual presentation of the goods to the customs authority.

#### **Article 202**

##### **Responsibility for Noncompliance with the Terms of the Customs Regime for Processing Outside of Customs Territory**

Responsibility for noncompliance with the terms of the customs regime, as well for non-payment of customs duties and taxes in compliance with Articles 197-198 of this Customs Code, shall rest with the person who placed the goods under the customs regime for processing outside of customs territory, except in cases specified by Paragraph 3 of Article 425 of this Customs Code.



## **CHAPTER 24. TEMPORARY IMPORT OF GOODS AND MEANS OF TRANSPORT**

### **Article 203**

#### **Purpose of the Customs Regime for Temporary Import of Goods and Means of Transport**

‘Temporary import of goods and means of transport’ shall mean the customs regime under which foreign goods and means of transport are used on the customs territory of the Republic of Kazakhstan with full or partial exemption from import customs duties and taxes, and without non-tariff regulatory measures being applied to them, except for the requirements concerning the safety of goods, and with subsequent export of the goods outside the customs territory of the Republic of Kazakhstan.

### **Article 204**

#### **Terms of Placement of Goods under the Customs Regime for Temporary Import of Goods and Means of Transport**

1. Goods shall be placed under the customs regime for temporary import of goods and means of transport, provided the following requirements are complied with:

- 1) identification of the goods is ensured;
- 2) submission of a commitment to export goods and means of transport outside the Republic of Kazakhstan within the established time limit. The format and procedure for submission of the commitment shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues;
- 3) payment of customs duties and taxes on the basis of Article 206 of this Code.

2. The following goods shall not be admitted for placement under the customs regime for temporary import of goods and means of transport:

- 1) expended materials and samples, raw materials, semi-finished products, spare parts and components (if they are not intended for temporarily imported means of transport), except for the temporary import of a single copy for advertising and/or demonstrational purposes;
- 2) food stuffs, beverages including alcohol, tobacco goods except for temporary import of a single specimen for advertising and/or demonstrational purposes;
- 3) industrial wastes;
- 4) goods prohibited from being imported to the customs territory of the Republic of Kazakhstan.

### **Article 205**

#### **Restrictions on the Use and Disposal of Temporarily Imported Goods**

1. The right of use and/or disposal of temporarily imported goods may be transferred or assigned to any other Kazakhstani person on the customs territory of the Republic of Kazakhstan prior to termination of the customs regime for temporary import, provided that this person assumes the obligations of the person that declared the customs regime.

2. Temporarily imported goods shall remain in their original state, except for changes due to natural wear or loss under normal conditions of haulage (transportation), storage and use (operation). Operations required to ensure their safety shall be allowed, including minor repairs, technical maintenance and other operations required to preserve the goods in proper order,

provided conditions are created to ensure identification of the goods by the customs authority upon re-export.

## **Article 206**

### **Application of Customs Duties and Taxes**

1. A list of goods temporarily imported with full exemption from customs duties and taxes shall be formulated by the Government of the Republic of Kazakhstan.
2. Objects being leased, which are included in the list approved by the Government of the Republic of Kazakhstan, shall be fully exempted from customs duties and taxes, provided that the requirements of the legislation of the Republic of Kazakhstan on financial leasing are complied with.
3. Goods not included in the lists specified by Paragraphs 1 and 2 of this Article, shall be subject to partial exemption from customs duties and taxes. Goods, which are partially exempted from customs duties and taxes, shall be subject to fees for each full or partial calendar month of their stay on the customs territory of the Republic of Kazakhstan, equivalent to 3 per cent of the amount payable if goods were released into free circulation.
4. Customs duties and taxes payable on partially exempted goods shall be calculated in the currency specified in the contract on the date the customs declaration is accepted. The declarant shall determine payment of customs duties and taxes on a periodic basis. In doing so, the specific time periods for payment of customs duties and taxes shall be determined based upon the fact that these amounts should be paid prior to the beginning of the respective time period.
5. When temporarily imported goods are placed under the customs regime for release into free circulation, the amount of customs duties and taxes paid during partial exemption from customs duties and taxes shall be applied towards the amounts of customs duties and taxes payable in compliance with the customs regime for release into free circulation.
6. In the case specified in Paragraph 1 of Article 205 of this Customs Code, the amounts of customs duties and taxes paid in compliance with Paragraph 3 of this Article shall be considered as having been paid by the person who is the assignee with respect to the temporarily imported goods.
7. The total amount of customs duties and taxes charged when goods are temporarily imported with partial exemption from customs duties and taxes shall not exceed the amount of customs duties and taxes payable at the moment the goods are placed under the temporary import regime, if these goods had been released into free circulation.
8. When goods are placed under other customs regimes, customs duties and taxes paid during partial exemption of goods from customs duties and taxes shall not be refunded.

## **Article 207**

### **Time Limit for Temporary Import**

1. The time limit for temporary import shall be established by the customs authority in accordance with the purpose and circumstances of the import, and shall not exceed three years from the date that the goods were imported onto the customs territory of the Republic of Kazakhstan, except in cases stipulated by this Article.  
Changes in the time limit stipulated by part 1 of this Paragraph, and extensions of the deadlines for temporary import of goods shall be implemented in compliance with procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues.  
Customs fees for customs clearance shall not be charged and a customs declaration shall not be filed when the time limit for temporary import of goods has been extended.

2. In cases specified in Paragraph 1 of Article 205 of this Customs Code, the period for temporary import shall commence from the moment of actual import of goods onto the customs territory of the Republic of Kazakhstan.

3. With respect to objects of leasing included in the list approved by the Government of the Republic of Kazakhstan, the time limit for temporary import shall be established based on the terms of the leasing contract. The time limit for temporary import of the objects of leasing in question shall be changed by the customs authority at the request of the person who temporarily imported the object of leasing, based on changes introduced into the leasing contract, provided that the requirements of the legislation of the Republic of Kazakhstan on financial leasing are complied with.

4. Goods imported for official and personal use by foreign diplomatic representative offices and representative offices equated with them, as well as by staff members, and including family members living with them, may be temporarily imported into the Republic of Kazakhstan for the entire period of their accreditation in the Republic of Kazakhstan.

## **Article 208**

### **Particular features of Customs Control of Temporarily Imported Goods**

1. Control over application of the customs regime for temporary import of goods and means of transport shall be executed by the customs authority that performs customs clearance of temporarily imported goods.

2. When temporarily imported goods are going to be moved from the area of activity of the customs authority that performed customs clearance of the temporarily imported goods to the area of activity of another customs authority for a period of three months or more, the person who temporarily imported the goods shall notify the customs authority that performed customs clearance of the temporarily imported goods of the intention to move them to the area of activity of another customs authority.

Notification shall be made in an arbitrary written format and shall indicate the destination and the period the goods will stay outside of the area of activity of the customs authority that performed customs clearance of the temporarily imported goods. Similar notification shall be submitted to the customs authority in the area of activity to which the temporarily imported goods are going to be moved.

3. If temporarily imported goods are exported from the Republic of Kazakhstan, and customs formalities with regard to such export are performed outside the area of activity of the customs authority that conducted customs clearance of the temporarily imported goods then, after completion of the customs clearance procedures and export of the goods from the Republic of Kazakhstan, the customs authority that performed the customs formalities shall notify the customs authority that conducted customs clearance of the temporarily imported goods.

4. In cases specified in Paragraph 1 of Article 205 of this Code, a new customs declaration shall be completed by the person who is the assignee with respect to the temporarily imported goods, by the customs authority, in the area of activity in which the goods are located at the moment of clearance. A mandatory condition of this clearance shall be confirmation by the customs authority that conducted customs clearance of the temporarily imported goods, that there are no debts involving customs duties and taxes with respect to the temporarily imported goods.

The customs authority that completed the new customs declaration shall forward a copy of it to the customs authority that conducted customs clearance of the temporarily imported goods, so that they can be taken out from under the customs control of the former, and the latter shall execute this control independently in the future.

**Article 209**  
**Termination and Suspension of the Customs Regime for Temporary**  
**Import of Goods and Means of Transport**

1. Goods shall be exported outside the customs territory of the Republic of Kazakhstan or declared under a different customs regime, in compliance with this Code, prior to expiration of the time limit for temporary import established by the customs authority. Temporarily imported goods may be re-exported or declared under a different customs regime in one or several lots.
2. When the customs regime for temporary import of goods and means of transport terminates through the export of the temporarily imported goods, the delivery control document, confirming the actual export of the temporarily imported goods outside the customs territory of the Republic of Kazakhstan, shall serve as confirmation of the termination.
3. The customs regime for temporary import of goods and means of transport may be terminated through placement of the goods under the customs regime for release into free circulation. In the process, customs duties and taxes shall be calculated in the currency specified in the contract. When goods are released into free circulation, the customs value and quantity shall apply as of the date of their declaration under the customs regime for temporary import, whereas the rates of customs duties and taxes shall apply as of the date that the customs declarations was filed, in compliance with the requirements of the customs regime for release into free circulation.
4. The customs regime for temporary import of goods and means of transport shall be suspended when:
  - 1) temporarily imported goods are arrested or seized in compliance with the legislation of the Republic of Kazakhstan;
  - 2) temporarily imported goods are placed into a bonded warehouse in compliance with the terms of the bonded warehouse customs regime.

**Article 210**  
**Particular Features of Placement of Means of Transport under the**  
**Customs Regime for**  
**Temporary Import of**  
**Goods and Means of Transport**

The particular features of placement of means of transport under the customs regime for temporary import of goods and means of transport, restrictions in use and disposal of temporarily imported means of transport, the application of customs duties, the time limit for temporary import, the particular features of customs control and customs clearance of means of transport, as well as termination of the customs regime, shall be determined by Chapter 34 of this Code.

**Article 211**  
**Non-Export of Temporarily Imported Goods**  
**and Means of Transport**

Non-export of temporarily imported goods and means of transport within the established time limit is possible only in the event of the destruction or irretrievable loss of the goods, due to accident or force majeure, or withdrawal from disposal as a result of the illegal actions of state bodies or officials of the Republic of Kazakhstan. The declarant shall submit corroborating documents issued by an authorized body.

**Article 212**  
**Responsibility for Noncompliance with the Terms of the**  
**Customs Regime for Temporary Import**

Responsibility for noncompliance with the terms of the customs regime, as well as for non-payment of customs duties and taxes, shall rest with the person who placed the goods and means of transport under the customs regime for temporary import of goods and means of transport, except in cases specified by Paragraph 3 of Article 425 of this Code.

## **CHAPTER 25. TEMPORARY EXPORT OF GOODS AND MEANS OF TRANSPORT**

### **Article 213**

#### **Purpose of the Customs Regime for Temporary Export of Goods and Means of Transport**

‘Temporary export of goods and means of transport’ shall mean the customs regime under which Kazakhstani goods and means of transport are used outside the customs territory of the Republic of Kazakhstan with full or partial exemption from export customs duties, without non-tariff regulatory measures being applied to them, and with subsequent import of the goods onto the customs territory of the Republic of Kazakhstan.

### **Article 214**

#### **Terms of Placement of Goods under the Customs Regime for Temporary Export of Goods and Means of Transport**

1. Goods shall be placed under the customs regime for temporary export of goods and means of transport, provided the following requirements are complied with:

- 1) identification of goods is ensured;
- 2) submission of a commitment regarding the re-import of the goods and means of transport. The format of the commitment and the procedure for its submission shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.
- 3) payment of customs duties on the basis of Article 216 of this Code.

2. The following goods shall not be admitted for placement under the customs regime for temporary export of goods and means of transport:

- 1) expended materials and samples, raw materials, semi-finished products, spare parts and components (if they are not intended for temporarily exported means of transport), except for temporary export of a single specimen for advertising and (or) demonstrational purposes;
- 2) food products, beverages including alcohol, and tobacco goods, except for the temporary export of a single specimen for advertising and (or) demonstrational purposes;
- 3) goods prohibited from being exported outside the customs territory of the Republic of Kazakhstan.

3. Provisions of Sub-paragraph 1 of Paragraph 2 of this Article shall not extend to cases of temporary export of initial and fissionable radioactive materials, when the criteria for equivalence preservation, confirmed by the authorized state body which regulates the field of atomic energy, to determine the state of inalterability shall apply.

### **Article 215**

#### **Restrictions Regarding the Use and Disposal of Temporarily Exported Goods**

1. The right of use may be transferred to, or temporarily exported goods may be assigned to, any other Kazakhstani person prior to termination of the customs regime for temporary export of goods and means of transport, provided that this person assumes the obligations of the person who declared the customs regime for temporary export of the goods and means of transport.

2. Temporarily exported goods shall remain unaltered, except for changes due to natural wear or loss under normal conditions of haulage (transportation), storage or use (operation).

### **Article 216**

## **Application of Customs Duties Regarding Temporary Export of Goods and Means of Transport**

1. A list of types of goods, which may be temporarily exported with full exemption from customs duties, shall be formulated by the Government of the Republic of Kazakhstan.
2. Types of goods not specified in Paragraph 1 of this Article, as well as when the terms of full exemption from customs duties are not complied with, shall be subject to partial exemption from customs duties. Goods, which are partially exempted from customs duties, shall be subject to fees for each full and partial calendar month of their stay outside the customs territory of the Republic of Kazakhstan, equivalent to 3 per cent of the amount payable if the goods were exported.
3. Customs duties payable upon partial exemption of goods shall be calculated in the currency specified in the contract. Customs duties shall be paid either at the moment of placing the goods under the customs regime for temporary export of goods and means of transport, or on a periodic basis, at the option of the declarant. In the process, the specific terms of payment of customs duties shall be determined based upon the fact that they are to be paid prior to the beginning of the respective time period. In regard to periodic payments of customs duties, foreign currency shall be converted into the national currency of the Republic of Kazakhstan based upon the exchange rate effective on the date of payment.
4. When temporarily exported goods are placed under the export customs regime, the amount of customs duties paid during partial exemption from customs duties shall be applied toward the amount of customs duties payable in compliance with the export customs regime.
5. In cases specified in Paragraph 1 of Article 215 of this Code, the amounts of customs duties paid in compliance with Paragraph 3 of this Article shall be considered as having been paid by the person who is the assignee with respect to the temporarily exported goods. The total amount of customs duties charged when goods are temporarily exported with partial exemption from customs duties shall not exceed the amount of customs duties payable at the moment of placing the goods under the temporary export regime, if these goods had been exported.

### **Article 217 Time Limit for Temporary Export**

The time limit for temporary export shall be established by the customs authority, based upon the purpose and circumstances of the export, and shall not exceed three years from the date that the goods were exported outside the customs territory of the Republic of Kazakhstan.

Based upon a well-grounded application by the declarant, the time limit for temporary export may be extended by the customs authority. To extend the time limit for temporary export of goods, the declarant shall, one month prior to the expiration of the time limit, file an application with the customs authority regarding the necessity for an extension, and attaching verifying documents.

Customs fees for customs clearance shall not be charged and a customs declaration shall not be filed when the time limit for temporary export of goods is extended.

**Article 218**  
**Particular Features of Customs Control of Temporarily Exported Goods**

1. Control over the application of the temporary export customs regime for goods and means of transport shall be executed by the customs authority, which performs customs clearance.
2. When temporarily exported goods are re-imported onto the customs territory of the Republic of Kazakhstan, and customs formalities with regard to such re-import are performed outside the area of activity of the customs authority that conducted customs clearance of the temporarily exported goods, the customs authority that performed the customs formalities shall notify the customs authority specified in Paragraph 1 of this Article thereof, after completion of the customs clearance procedures.

**Article 219**  
**Termination of the Customs Temporary Export Regime  
of Goods and Means of Transport**

1. Temporarily exported goods shall be subject to re-import to the customs territory of the Republic of Kazakhstan or shall be subject to placement under a different customs regime approved by the customs authority prior to the expiration of the time limit for temporary export.
2. When the rights of ownership with regard to temporarily exported goods have been transferred to a foreign person, the person who temporarily exported the goods shall be obliged to change the temporary export customs regime for goods and means of transport to the export customs regime, pursuant to procedures established by this Code, except in the event that, in compliance with the legislation of the Republic of Kazakhstan, temporarily exported goods are subject to mandatory re-import.
3. When the temporary export customs regime for goods and means of transport is changed to the export customs regime, customs duties shall be calculated in the currency specified in the contract. When goods are exported, the customs value and quantity of goods shall apply as of the date of placing them under the temporary export customs regime for goods and means of transport, whereas the rates of customs duties shall apply as of the date of filing the customs declaration in compliance with the requirements of the export customs regime.
4. A change in the temporary export customs regime for goods and means of transport to the export customs regime shall be allowed without actual presentation of the goods to the customs authority.

**Article 220**  
**Particular features of the Placement of Means of Transport under the  
Temporary Export Customs Regime  
for Goods and Means of Transport**

The terms of placement of the means of transport under the temporary export customs regime for goods and means of transport, restrictions regarding the use and disposal of temporarily exported goods, the application of customs duties, the time limit for temporary export, particular features of customs control and customs clearance of means of transport, as well as termination of the customs regime, shall be determined by Chapter 34 of this Code.

**Article 221**  
**Non-Return of Temporarily Exported Goods and Means of Transport**



Non-return of temporarily exported goods within the established time limit shall be possible only in the event of the destruction or irretrievable loss of goods due to accident or force majeure, or withdrawal from disposal as a result of the unlawful actions of state bodies or officials of the state where the goods are located. The declarant shall submit documents, confirmed by consular offices of the Republic of Kazakhstan abroad, which verify the specified facts.

#### **Article 222**

#### **Responsibility for Noncompliance with the Terms of the Temporary Export Customs Regime for Goods and Means of Transport**

Responsibility for noncompliance with the terms of the customs regime, as well as for non-payment of customs duties, shall rest with the person who placed the goods and means of transport under the temporary export customs regime for of goods and means of transport, except in cases specified by Paragraph 3 of Article 425 of this Code.

## **CHAPTER 26. EXPORT OF GOODS**

### **Article 223**

#### **Purpose of the Export Customs Regime for Goods**

'**Export of goods**' shall mean the customs regime under which goods are exported outside the customs territory of the Republic of Kazakhstan with the purpose of remaining permanently or being consumed outside this territory.

### **Article 224**

#### **Terms of Placement of Goods under the Export Customs Regime**

Goods shall be exported under the following conditions:

- 1) payment of export customs duties has been made;
- 2) non-tariff regulatory measures have been complied with;
- 3) the requirements and terms established by the legislation of the Republic of Kazakhstan have been complied with.

### **Article 225**

#### **Release For Export**

1. Goods released for export shall be subject to actual export outside the customs territory of the Republic of Kazakhstan. During the process, they shall remain in the same state as they were on the date of acceptance of the customs declaration, except for changes due to natural wear or loss under normal conditions of transportation and storage.
2. Responsibility for non-export of goods released for export outside the customs territory of the Republic of Kazakhstan shall rest with the person who is transporting the goods.
3. Goods shall be exported outside the customs territory of the Republic of Kazakhstan in compliance with Chapter 15 of this Code.

### **Article 226**

#### **Responsibility for Noncompliance with the Terms of the Export Customs Regime**

Responsibility for noncompliance with the terms of the export customs regime shall rest with the person who placed the goods under the customs regime, except in cases specified in Paragraph 3 of Article 425 and in Paragraph 2 of Article 225 of this Code.

## **CHAPTER 27. RE-EXPORT OF GOODS**

### **Article 227**

#### **Purpose of the Re-Export Customs Regime for Goods**

‘Re-export of goods’ shall mean the customs regime under which goods that were previously imported onto the customs territory of the Republic of Kazakhstan are exported from this territory, exempt from or with reimbursement of the customs import duties and taxes that were paid, and without non-tariff regulatory measures being applied to them, except for requirements regarding the safety of goods.

### **Article 228**

#### **Terms of Placement of Goods under the Re-Export Customs Regime**

1. Goods shall be re-exported under the following conditions:
  - 1) export of goods located at temporary storage places, prior to their placement under a definite customs regime;
  - 2) export of goods previously declared under the customs regime for release into free circulation, in compliance with the terms specified in Article 230 of this Code.
  - 3) export of foreign goods, which have not undergone processing operations and which were previously placed under the customs regimes for processing on customs territory and processing for free circulation.
2. Re-export of goods shall be allowed in cases, which are determined by the legislation of the Republic of Kazakhstan. The procedures for customs clearance of re-exported goods shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues.
3. Excise goods shall be re-exported provided that payment has been secured for import customs duties and taxes, and customs escort. The import customs duties and taxes secured shall be reimbursed after the actual export of the goods outside the customs territory of the Republic of Kazakhstan has been verified.

### **Article 229**

#### **Application of Customs Duties and Taxes in the Course of Re-Export of Goods**

Goods declared as being directly and exclusively intended for re-export purposes, as well as goods located at temporary storage places, as specified in Sub-paragraphs 1 and 2 of Paragraph 1 of Article 228 of this Code, shall be exempted from customs duties and taxes.

When goods are re-exported, export customs duties and taxes shall not be paid, except in cases when goods are actually exported with an infringement of the time limit for the actual export of the goods or with an infringement of other requirements of the re-export customs regime.

### **Article 230**

#### **Application of the Re-Export Customs Regime with Respect to Goods Released into Free Circulation**

1. Goods released into free circulation may be re-exported when it has been established that, at the moment the consignee received the goods, they had defects or failed in some other way to comply with the terms of the foreign economic transaction and, for these reasons, the goods are being returned to the supplier or to another person designated by the supplier, provided the following requirements have been complied with:

- 1) goods are exported within six months from the date of their release;
- 2) goods may be identified by the customs authorities;
- 3) goods were not used in the Republic of Kazakhstan, except in cases when the use of the goods was required in order to reveal the defects or other circumstances, which led to the return of the goods.

2. When goods are re-exported in compliance with Paragraph 1 of this Article, the amounts of customs duties and taxes that were paid shall be reimbursed.

### **Article 231**

#### **Responsibility for Noncompliance with the Terms of the Re-Export Customs Regime**

Responsibility for noncompliance with the terms of the customs regime shall rest with the person who placed the goods under the re-export customs regime, except in cases specified by Paragraph 3 of Article 425 of this Code.

## **CHAPTER 28. TRANSIT OF GOODS**

### **Article 232**

#### **Purpose of the Transit Customs Regime for Goods**

‘Transit of goods’ shall mean the customs regime under which:

- 1) foreign goods are moved under customs control through the customs territory of the Republic of Kazakhstan between the point of entry onto the customs territory of the Republic of Kazakhstan and their exit from this territory, exempt from customs duties and taxes, and without non-tariff regulatory measures being applied to them, except for requirements regarding the safety of goods;
- 2) Kazakhstani goods are moved through the territory of a foreign state between the point of exit from the customs territory of the Republic of Kazakhstan and the point of entry onto the customs territory of the Republic of Kazakhstan, exempt from customs duties, and without non-tariff regulatory measures being applied to them, except for requirements regarding the safety of goods.

### **Article 233**

#### **Terms of Placement of Goods under the Transit Customs Regime for Goods**

All goods may be placed under the transit customs regime under the following conditions:

- 1) these goods are not included in the list of goods prohibited from being imported to the Republic of Kazakhstan and exported from the Republic of Kazakhstan;
- 2) these goods shall be transported by routes and transit ways if the Government of the Republic of Kazakhstan establishes them;
- 3) goods are transported within the time limit established by the customs authority in compliance with the normal time limit for delivery depending upon the capacities of the means of transport, the planned route and other transportation requirements;
- 4) goods are delivered unaltered, except for changes due to natural wear or loss under normal conditions of transportation and storage.

### **Article 234**

#### **Transit through the Customs Territory of the Republic of Kazakhstan**

1. Transit regimes for foreign goods through the customs territory of the Republic of Kazakhstan shall be determined in compliance with Chapter 13 of this Code, except for provisions established by this Chapter.
2. The Government of the Republic of Kazakhstan shall formulate a list of goods, which may transit through the customs territory of the Republic of Kazakhstan only upon the condition that payment of customs duties and taxes is guaranteed.

### **Article 235**

#### **Goods Accompanying Documents to be Submitted to the Customs Point of Destination**

Documents accompanying goods, to be submitted to the customs point of destination, shall be delivered in compliance with the same procedures as the goods to which they relate.

**Article 236**  
**Transloading and Other Operations with Goods Transferred through the Customs Territory of the Republic of Kazakhstan**

1. Goods shall be transloaded in compliance with the transit customs regime from the means of transport on which the goods were imported onto the customs territory of the Republic of Kazakhstan, to the means of transport on which the goods are to be exported outside the territory, based upon the written permission of the customs authority in the area of activity in which the transloading is taking place.

2. When the means of transport performing the transportation of transit goods is damaged, the goods shall be temporarily stored on the customs territory of the Republic of Kazakhstan. Goods shall be temporarily stored at a temporary storage warehouse established by the customs authority and, in the absence of one, in other temporary storage places, in compliance with the terms and requirements regarding the temporary storage of goods established by this Code.

The time limit for temporary storage shall be determined by the carrier, depending on the time required for repair and restoration work, and shall not exceed the time limit established for temporary storage of goods.

The customs authority in the area of activity in which goods are placed into temporary storage shall notify the customs points of departure and destination of the time limit and circumstances under which the means of transport was damaged, for the purpose of extending the delivery time limit.

3. Any operations with goods under the transit customs regime, which are not specified in Paragraphs 1 and, 2 of this Article shall be possible only when the operations are made necessary by a real threat of destruction, irretrievable loss or significant damage to the goods and means of transport.

4. Upon the request of a person, the customs authority shall be entitled to permit cargo operations with goods outside of the official business hours of the customs authority.

**Article 237**  
**Termination of the Transit Customs Regime**

The transit customs regime shall be terminated at the moment that the goods are actually exported outside the Republic of Kazakhstan or placed under a different customs regime when:

- 1) the carrier cannot ensure compliance with the terms and requirements of Chapter 13 of this Code due to accident, fire or force majeure, which makes it impossible or unreasonable to transport transit goods further;
- 2) the persons who own the goods, the buyers, or persons acting in any other capacity, change their intentions.

**Article 238**  
**Particular Features of Application of the Transit Customs Regime**

1. When the point of destination of goods and means of transport on the customs territory of the Republic of Kazakhstan coincides with the point of departure from the territory, the transit customs regime shall be conducted under simplified procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

2. When goods are transloaded at the point specified in Paragraph 1 of this Article, from the means of transport used upon arrival of the goods to the means of transport used upon departure, transloading of the goods is allowed provided that the documents and information stipulated by

Article 235 of this Code are submitted, except in the event that this type of cargo operation makes further customs control over the goods impossible.

### **Article 239**

#### **International Mail Transit**

Customs clearance shall not be conducted on international mail transiting through the customs territory of the Republic of Kazakhstan.

### **Article 240**

#### **Transit of Goods Transported by Pipelines and Electric Power Lines**

Customs clearance of transit goods transported by pipelines and electric power lines shall be conducted under simplified procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

Changes in the state of transit goods transported through the customs territory of the Republic of Kazakhstan by pipelines are allowed when they are due to the technological particulars of transportation and the specific characteristics of the goods, in compliance with norms and standards existing in the Republic of Kazakhstan.

## **CHAPTER 29. DESTRUCTION OF GOODS**

### **Article 241**

#### **Purpose of the Customs Regime for Destruction of Goods**

‘Destruction of goods’ shall mean the customs regime under which foreign goods are destroyed or brought into a state making them unusable, under customs control, without payment of customs duties and taxes and without non-tariff regulatory measures being applied to them.

### **Article 242**

#### **Terms of Placement of Goods under the Customs Regime for Destruction of Goods**

1. Goods shall be placed under the customs regime for destruction with the permission of the customs authority, based upon a conclusion, by the authorized body on environmental protection issues, which specifies the method of destruction.
2. The following shall not be placed under the customs regime for destruction:
  - 1) goods that can be used in the capacity of articles and (or) materials, except for medicines and foodstuffs recognized as unusable, or goods that may cause damage to the health of people, or to the environment, animals and plants;
  - 2) goods with cultural, archeological, or historical value;
  - 3) endangered species of animals and plants, or parts and derivatives thereof, except in cases when their destruction is required to prevent epidemics and epizootics;
  - 4) goods and means of transport accepted by the customs authorities as a pledge until the termination of pledge relations;
  - 5) confiscated goods or seized goods, including goods serving as material evidence, in compliance with the legislative acts of the Republic of Kazakhstan;
  - 6) other goods specified by the Government of the Republic of Kazakhstan.
3. Goods shall be destroyed at the expense of the person who declared the customs regime and shall not incur any expenses on the part of the customs authorities and other state bodies of the Republic of Kazakhstan.
4. Destruction shall be permitted when goods declared under the customs regime for destruction cannot be restored to their original state through an economically sound method.
5. Goods stored at a bonded warehouse may be declared under the customs regime for destruction by the owner of the bonded warehouse in coordination with the person who placed the goods into the bonded warehouse.

### **Article 243**

#### **Time Limit for Destruction of Goods**

Goods shall be destroyed under customs control, within the time limit determined by the customs authority for actual destruction of the goods, depending upon the method and place of destruction.



**Article 244**  
**Procedures for the Destruction of Goods**

1. Destruction shall be performed:

- 1) by way of thermal, chemical, mechanical or other influence (incineration, demolition, burial etc.) resulting in full destruction of the goods and means of transport;
- 2) by way of dismantling, taking to pieces, mechanical damage including making holes, tearing, or causing damage in other ways, provided such damages preclude the subsequent restoration and possible use of the goods and means of transport.

With respect to goods which cannot be taken from storage places and used, destruction shall be considered as having been performed based upon a conclusion by an authorized body on the impossibility of taking the goods from their storage places and using them further.

2. When it is possible to use them further, the person who declared the customs regime for destruction must place the wastes (residues) resulting from the destruction of the goods under the customs regime for foreign goods subject to customs control.

3. The customs authority shall determine the place of customs clearance for wastes (residues).

The customs authority shall be entitled to determine whether wastes (residues) are to be placed into temporary storage places.

4. Procedures for the destruction of goods shall be determined by the Government of the Republic of Kazakhstan.

**Article 245**  
**Responsibility for Noncompliance with the Terms of the**  
**Customs Regime for Destruction of Goods**

Responsibility for noncompliance with the terms of the customs regime shall rest with the person who placed the goods under the customs regime for destruction, except in cases specified in Paragraph 3 of Article 425 of this Code.

## **CHAPTER 30. REFUSAL OF GOODS IN FAVOR OF THE STATE**

### **Article 246**

#### **Purpose of the Customs Regime for Refusal of Goods in Favor of the State**

‘Refusal of goods in favor of the state’ shall mean the customs regime under which foreign goods are transferred free of charge to state ownership without payment of customs duties and taxes and without non-tariff regulatory measures being applied to them, except for requirements regarding the safety of goods.

### **Article 247**

#### **Terms of Placement of Goods under the Customs Regime for Refusal in Favor of the State**

1. Refusal of goods in favor of the state shall not entail any expenses on the part of the customs authorities.
2. After the termination of customs clearance, the person who placed the goods under the customs regime for refusal in favor of the state shall not be entitled to change the indicated customs regime to a different one.
3. The following shall not be placed under the customs regime for refusal in favor of the state:
  - 1) armaments, ammunition thereto, military equipment, spare parts, components and devices thereto;
  - 2) special equipment for personnel of military organizations, or regulatory and technical documentation required for its production and use;
  - 3) explosives, means of explosion;
  - 4) missile and space complexes, systems of communication and administration for military purposes, regulatory and technical documentation required for their production and use;
  - 5) all types of missile fuel, as well as special materials and special equipment for their production;
  - 6) poisonous military substances, means of protection there from, regulatory and technical documentation for their production and use;
  - 7) uranium, other fissionable materials and articles made thereof;
  - 8) the results of scientific research and project work, as well as fundamental exploratory research on the creation of armaments and military equipment;
  - 9) cryptographic equipment, regulatory and technical documentation for its production and use;
  - 10) narcotic substances, psychotropic, potent, or toxic agents, as well as their precursors;
  - 11) wastes of radioactive materials;
  - 12) wastes of explosive substances;
  - 13) industrial wastes;
  - 14) electrical, thermal and other types of energy;
  - 15) goods with an expired period for consumption, as well as goods which do not comply with established state standards, in compliance with the legislation of the Republic of Kazakhstan.

#### **Article 248**

##### **Termination of the Customs Regime for Refusal of Goods in Favor of the State**

1. The customs regime for refusal of goods in favor of the state shall terminate through customs clearance pursuant to the procedures and terms set forth in this Code. Here, after completion of customs clearance, a change of the stated customs regime shall not be allowed.
2. After the completion of customs clearance, goods placed under the customs regime for refusal in favor of the state shall be transferred to state ownership in compliance with Chapter 71 of this Code.

#### **Article 249**

##### **Additional Provisions**

When goods are transferred into state ownership, the customs duties and taxes security shall terminate, in compliance with the provisions of this Chapter.

#### **Article 250**

##### **Responsibility for Noncompliance with the Terms of the Customs Regime for Refusal in Favor of the State**

The responsibility for noncompliance with the terms of the customs regime shall rest with the person who declared the customs regime for refusal in favor of the state, except in cases specified in Paragraph 3 of Article 425 of this Code.

## **CHAPTER 31. FREE CUSTOMS ZONE**

### **Article 251**

#### **Purpose of the Free Customs Zone Customs Regime**

‘Free customs zone’ shall mean the customs regime under which foreign and Kazakhstani goods are placed and used within the relevant territorial borders of a special economic zone without being charged customs duties and taxes, except for excise duties for imported goods, and without non-tariff regulatory measures being applied to them, except for requirements regarding the safety of goods.

### **Article 252**

#### **Goods Allowed to be Placed Under the Free Customs Zone Customs Regime**

Goods required to establish a special economic zone shall be placed under the free customs zone customs regime on the territory of the special economic zone.

A list of goods required to establish a special economic zone shall be specified in the regulations on special economic zones, which are approved in compliance with the legislative acts of the Republic of Kazakhstan.

### **Article 253**

#### **Operations with Goods Placed under the Free Customs Zone Customs Regime**

The following operations with goods placed under the free customs zone customs regime shall be allowed on the territory of a special economic zone:

- 1) ensuring the safety of the goods;
- 2) processing, except for operations for the processing of goods used for the production of alcohol products.

An additional list of operations with goods placed under the free customs zone customs regime on the territory of special economic zones shall be specified in the regulations on special economic zones, which are approved in compliance with the legislative acts of the Republic of Kazakhstan.

### **Article 254**

#### **Time Limit for Goods to Remain Under the Free Customs Zone Customs Regime**

Goods may remain under the free customs zone customs regime without time limitations, provided the special economic zone is operating.

When a special economic zone is abolished, goods that were previously placed under the free customs zone customs regime shall be declared under a different customs regime within the time limit designated by the legislation of the Republic of Kazakhstan for the abolishment of a special economic zone.

**Article 255**  
**Measures to Ensure Compliance with the Customs Legislation**  
**of the Republic of Kazakhstan for Special Economic Zones**

The customs authorities of the Republic of Kazakhstan shall execute customs control over goods placed under the free customs zone customs regime and which are located on the territory of a special economic zone.

**Article 256**  
**Accounting for Goods Located in Special Economic Zones**

Persons carrying out activity in special economic zones shall keep accounts of imported, exported, stored, manufactured, processed, purchased and sold goods, and provide the customs authorities with reports on these goods in compliance with the procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

**Article 257**  
**Charging Customs Duties and Taxes, and the Application of**  
**Non-tariff Regulatory Measures**

1. When foreign goods are placed under the free customs zone customs regime, customs duties and taxes shall not be charged, except for excise on imported goods, and non-tariff regulatory measures shall not be applied, except for requirements regarding the safety of goods. When exporting these goods from the territory of special economic zones to the rest of the customs territory of the Republic of Kazakhstan, customs duties and taxes shall be charged, and non-tariff regulatory measures shall be applied, in compliance with the terms of the declared customs regime.
2. When Kazakhstani goods are imported onto the territory of special economic zones from the rest of the customs territory of the Republic of Kazakhstan, in compliance with the terms and requirements of the free customs zone customs regime, as well as when they are exported from the territory of a special economic zone to the rest of the customs territory of the Republic of Kazakhstan, customs duties and taxes shall not be charged, and non-tariff regulatory measures shall not be applied. These goods shall be exported outside the customs territory of the Republic of Kazakhstan in compliance with the terms of the selected customs regime.
3. A certificate of origin shall confirm goods as having originated from the territory of special economic zones. When such a certificate is not available, the goods shall be regarded:
  - 1) when exported outside the Republic of Kazakhstan - as Kazakhstani goods, for the purposes of charging export customs duties and the application of non-tariff regulatory measures;
  - 2) when imported onto the rest of the customs territory of the Republic of Kazakhstan - as foreign goods for the purposes of charging import customs duties and taxes, and the application of non-tariff regulatory measures.

**Article 258**  
**Particular Features of Customs Clearance of Goods**

1. Goods imported onto the territory of a special economic zone and placed under the free customs zone customs regime shall be subject to customs clearance in compliance with procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

2. When the free customs zone customs regime is changed to a different customs regime, foreign goods shall be cleared, non-tariff regulatory measures shall be applied, and customs duties and taxes shall be paid in compliance with the terms and requirements of the selected customs regime. During the process, the customs value of the goods shall be determined taking into account the wear and tear on goods while being kept under the free customs zone customs regime.

3. When goods placed under the free customs zone customs regime are declared under a different customs regime, except for the bonded warehouse and free warehouse customs regimes, the goods shall be cleared by the customs authority that performed customs clearance of the goods under the free customs zone customs regime.

When goods previously cleared under the free customs zone customs regime are declared under the bonded warehouse or free warehouse customs regimes, and are located in the area of activity of a different customs authority, or when goods are moved to the territory of another special economic zone, customs clearance of the goods shall be performed in compliance with the selected customs regime by the customs authority in the area of activity in which the bonded warehouses or free warehouses are located. During the process, goods shall be transported in compliance with the requirements set for the delivery of goods under customs control.

The following shall be considered grounds for taking goods that were previously placed under the free customs zone customs regime out of customs control:

- 1) written notification made by the customs authority that performed the customs clearance;
- 2) a copy of the cargo customs declaration completed in compliance with the bonded warehouse, free warehouse or free customs zone customs regime, certified by the personal numbered seal of a customs official.

### **Article 259**

#### **Responsibility For Noncompliance with the Terms of the Free Customs Zone Customs Regime**

Responsibility for noncompliance with the terms of the customs regime shall rest with the person who declared the free customs zone customs regime, except in cases specified in Paragraph 3 of Article 420 of this Code.

## **CHAPTER 32. FREE WAREHOUSE**

### **Article 260**

#### **Purpose of the Free Warehouse Customs Regime**

**‘Free warehouse’** shall mean the customs regime under which foreign goods are placed and used in specialized rooms (places) recognized as free warehouses, without being charged customs duties or taxes and without having non-tariff regulatory measures applied to them, except for requirements regarding the safety of the goods.

### **Article 261**

#### **Goods to be Placed into a Free Warehouse**

Goods intended for processing and use shall be placed into a free warehouse. The Government of the Republic of Kazakhstan may specify a list of goods prohibited from being placed into a free warehouse.

### **Article 262**

#### **Operations with Goods at Free Warehouses**

1. The following operations shall be performed at free warehouses:

1) operations to ensure the safety of goods:

2) cleaning, airing, drying (including inflow of heat), creation of optimal temperature storage conditions (cooling, freezing, heating), placement into protective packaging, coating with protective lubricants and preservatives, anticorrosive coating, introduction of protective additives;

3) pre-sale and pre-transport operations:

- division of goods into shipments, formation of shipment lots, sorting of goods, packaging, re-packaging, marking, loading, unloading, re-loading, simple operations connected with bringing up to strength or bringing into working order, movement of goods within the warehouse with the purpose of their rational placement, placement of goods on demonstration stands, testing;

4) processing operations:

- manufacturing (working) a different product, including mounting, assembly and adjustment, when imported goods preserve their basic characteristics; actual processing of goods when foreign goods lose their individual nature but preserve, in the processed products, characteristics which allow the identification of the imported goods in the processed products, when identification is a mandatory condition of processing; repair of goods, including reconstruction; use of several goods intended to facilitate the production of processed products through their full or partial use in the course of processing;

5) operations including:

- use of goods as technological equipment and spare parts thereof; use of goods as loading and unloading equipment; other technical means used at a free warehouse; holding exhibitions.

2. Operations with goods placed into a free warehouse, which are specified in Sub-paragraphs 1 and 2 of Paragraph 1 of this Article, shall be performed upon notification of the customs authority and shall not change the classification code of the goods under the foreign economic activity commodity nomenclature.

Goods temporarily stored at a free warehouse may undergo the operations specified in Sub-paragraph 1 of Paragraph 1 of this Article.

When performing operations for processing foreign goods at a free warehouse, Kazakhstani goods may be used as additives or additional components for manufacturing processed products.

For the purpose of ensuring compliance with the legislation of the Republic of Kazakhstan and executing customs control, the Government of the Republic of Kazakhstan shall be entitled to establish certain prohibitions and restrictions with regard to operations with goods at free warehouses.

### **Article 263**

#### **Time Limit for Storing Goods at Free Warehouses**

Goods may be stored at free warehouses without time limitations, provided the free warehouses are operating.

### **Article 264**

#### **Measures to Ensure Compliance with the Customs Legislation of the Republic of Kazakhstan at Free Warehouses**

The customs authorities shall execute control over goods located at free warehouses.

The customs authorities shall use those forms of customs control, which are sufficient to ensure compliance with the legislation of the Republic of Kazakhstan.

Customs clearance of goods placed into free warehouses, as well goods removed from free warehouses, shall be performed in compliance with the procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

### **Article 265**

#### **Record-Keeping for Goods Stored at Free Warehouses**

1. Owners of free warehouses shall keep records of imported, exported, stored, manufactured, processed, purchased and sold goods, and shall provide the customs authorities with reports on these goods in compliance with the procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues. Any changes in regard to goods that take place within the territories of free warehouses must be reflected in the accounting documents.

2. Documents used for record-keeping and reporting purposes, in compliance with the legislation of the Republic of Kazakhstan, shall be used for the purpose of recording goods which are stored, manufactured and processed at a free warehouse, under the condition that these documents contain the name and identification characteristics of the goods, their quantity, data on movement of goods and means of transport within the free warehouse, and on any changes taking place with these goods at the free warehouse.

### **Article 266**

#### **Obligations of Owners of Free Warehouses**

The owner of a free warehouse shall be obliged to:

- 1) comply with the qualification requirements regarding construction of the premise or place intended for establishment of a free warehouse, as determined by Article 140 of this Code;
- 2) ensure that the goods stored at the free warehouse cannot be taken without customs control;
- 3) comply with the terms of the license for establishment of a free warehouse, meet the requirements of the customs authorities, ensure that customs officials have access to goods which are stored at the free warehouse, and that these officials are provided with premises,



equipment and means of communication free of charge at the free warehouse, in order to perform customs control and customs clearance.

**Article 267**  
**Charging of Customs Duties and Taxes, and Application**  
**of Non-Tariff Regulatory Measures**

When foreign and Kazakhstani goods are placed into free warehouses, customs duties and taxes shall not be charged, and non-tariff regulatory measures shall not be applied, except for requirements regarding the safety of the goods. When goods are removed from free warehouses onto the rest of the customs territory of the Republic of Kazakhstan, customs duties and taxes shall be charged, and non-tariff regulatory measures shall be applied in compliance with the terms of the declared customs regime, except for the import of Kazakhstani goods.

When goods are removed from free warehouses and exported outside the Republic of Kazakhstan, customs duties shall not be charged, and non-tariff regulatory measures of an economic nature shall not be applied, in regard to the following:

- 1) goods, which are of foreign origin;
- 2) goods, which were manufactured at free warehouses;
- 3) goods, which underwent processing at, free warehouses.

A certificate of origin shall confirm the origin of goods from free warehouses. When such a certificate is not available, goods shall be regarded:

- 1) when exported outside the Republic of Kazakhstan - as Kazakhstani goods, for the purposes of charging export customs duties, and applying non-tariff regulatory measures;
- 2) when imported onto the rest of the customs territory of the Republic of Kazakhstan - as foreign goods, for the purposes of charging import customs duties and taxes, and applying non-tariff regulatory measures.

**Article 268**  
**Responsibility for Noncompliance with the Terms**  
**of the Free Warehouse Customs Regime**

Responsibility for noncompliance with the terms of the customs regime shall rest with the person who declared the free warehouse customs regime, except in cases specified in Paragraph 3 of Article 425 of this Code.

**Article 269**  
**Qualification Requirements to Operating of a Free Warehouse**

The qualification requirements for operating a free warehouse shall be determined pursuant to Article 140 of this Code.

**Article 270**  
**License for Establishing a Free Warehouse**

1. A free warehouse shall be established after obtaining a license from the Central Customs Authority. The license shall be issued to the Kazakhstani resident who owns the premises intended for the establishment of a free warehouse, or who is authorized to dispose of them, based on ownership or operating rights.

2. Relations concerning licensing, which are not covered in this Chapter, shall be regulated by the law on licensing.
3. The Central Customs Authority shall ensure periodic publication of information on free warehouses that have been established and are operating.
4. A license for establishing a free warehouse shall not be transferred to another person.

#### **Article 271**

##### **Documents Required to Obtain a License for Establishing a Free Warehouse**

1. The following documents shall be required to obtain a license:
  - 1) an application to issue a license, completed according to the established format;
  - 2) documents confirming compliance with the existing fire prevention requirements, and with sanitary and technical standards;
  - 3) notary certified copies of the registration documents;
  - 4) documents confirming payment of the license fees;
  - 5) documents confirming the right of ownership, possession or disposal with regard to the respective premises or places;
  - 6) plans and drawings of the premises and territories intended to be used as a free warehouse.
2. When the information stated in the application and in the documents specified in Sub-paragraphs 5)-6) of Paragraph 1 of this Article changes, the licensee shall notify the Central Customs Authority of these changes within a period of time not to exceed thirty calendar days following the date that the changes were introduced.

#### **Article 272**

##### **Suspension of a License for Establishing a Free Warehouse**

1. When the owner of a free warehouse fails to meet the requirements and terms stipulated by this Code, the Central Customs Authority shall make a decision to suspend the license for a period of up to six months, and shall indicate the reasons for suspension.
2. The decision to suspend the license shall be made by the Central Customs Authority in the form of an order, and shall indicate the grounds for making the decision.
3. The license shall be suspended from the day that the decision was made. When a license is suspended, goods shall not be placed into a free warehouse. Goods placed into a free warehouse prior to suspension of the license shall be subject to placement under customs control at a different free warehouse or to placement under a different customs regime.
4. After elimination of the reasons for which the license was suspended, the validity of the license shall be renewed starting on the date that the Central Customs Authority made the decision to renew the license.

#### **Article 273**

##### **Withdrawal of a License for Establishing a Free Warehouse**

1. A license may be withdrawn by the Central Customs Authority in the following cases:
  - 1) when it was issued based on incomplete or unreliable information, and when provision of complete and reliable information would not be grounds for issuance of a license to the applicant, pursuant to established procedures;
  - 2) the licensee fails to comply with the requirements specified in the license;
  - 4) the reasons that caused the previous suspension of the license have not been eliminated;

2. The decision to withdraw a license shall be made by the Central Customs Authority in the form of an order, and shall indicate the grounds for making the decision.
3. Withdrawal of the license shall become effective as of the date that the decision on withdrawal was made.
4. In case of the withdrawal of a license, the owner of the free warehouse shall be obliged to return the original of the license to the Central Customs Authority within a period of time not to exceed fifteen calendar days after receipt of the decision on withdrawal.
5. A repeat application for the issuance of a license for establishing a free warehouse may be considered upon the expiration of two years after the date that the decision on withdrawal was made, provided that the reasons, which caused its withdrawal, were eliminated.

**Article 274**  
**Termination of the Validity of a License for**  
**Establishing a Free Warehouse**

1. The validity of a license for establishing a free warehouse shall terminate upon a decision by the Central Customs Authority in the following cases:
  - 1) the license is withdrawn;
  - 2) the owner of the free warehouse submits a written application to the Central Customs Authority for termination of free warehouse operations;
  - 3) a legal person, who is the holder of a free warehouse license, is re-organized or liquidated.
2. The decision to terminate the validity of a license for establishing a free warehouse shall be made by the Central Customs Authority in the form of an order, and shall indicate the reasons for the termination.
3. When a free warehouse terminates operations or, in the event that a legal person re-organizes or is liquidated, the owner of the free warehouse shall be obliged to return the license to the Central Customs Authority within a fifteen day period.
4. When a free warehouse terminates operations, goods which were placed under the free warehouse customs regime prior to when the decision to terminate the validity of the license was made may be moved to a different free warehouse, pursuant to procedures determined by Chapter 13 of this Code or, in regard to these goods, the validity of the free warehouse customs regime must terminate within thirty calendar days following the day that the decision to terminate the license was made.

When goods stored at a free warehouse undergo processing operations, the customs authority shall inform the person who placed those goods into the free warehouse of its liquidation. In the process, the customs free warehouse regime shall be valid with respect to those goods until the final processing operation is completed.

## **CHAPTER 33. THE SPECIAL CUSTOMS REGIME**

### **Article 275**

#### **Purpose of the Special Customs Regime**

**‘Special customs regime’** shall mean the customs regime under which certain categories of goods shall be transferred across the customs border of the Republic of Kazakhstan, exempt from customs duties and taxes, and without having non-tariff regulatory measures applied to them.

### **Article 276**

#### **Goods to Be Placed Under the Special Customs Regime**

The following goods, when transferred across the customs border of the Republic of Kazakhstan, shall be placed under the special customs regime:

- 1) goods exported outside the customs territory of the Republic of Kazakhstan and intended for ensuring the operations of embassies, consular offices, and representative offices accredited to international organizations, and other official representations of the Republic of Kazakhstan abroad;
- 2) goods transferred across the customs border between military units of the Republic of Kazakhstan, and located on the customs territory of the Republic of Kazakhstan and beyond its boundaries;
- 3) stocks of goods, products and appliances placed onboard maritime, air and railway means of transport, and intended for ensuring normal operations and technical servicing of these means of transport, and for ensuring the vital activities of their crews and passengers;
- 4) goods transferred across the customs border and intended for prevention and liquidation of natural calamities and other emergency situations, including goods intended for free distribution among persons who have suffered as a result of extraordinary situations or for transfer to non-commercial charity organizations for the same purposes, goods required to carry out emergency and rescue operations, and other urgent activities and vital functions of emergency and rescue units;
- 5) samples of raw materials or industrial products transferred across the customs border of the Republic of Kazakhstan, intended for conducting research (certification) with the purpose of determining possible demand for this raw material or industrial product. In doing so, ‘sample’ shall mean the minimum quantity of the raw material or industrial product, which has no commercial value and which is sufficient to conduct such research.

### **Article 277**

#### **Responsibility for Noncompliance with the Terms Of the Special Customs Regime**

Responsibility for noncompliance with the terms of the customs regime shall rest with the person who declared the special customs regime, except in cases specified in Paragraph 3 of Article 425 of this Code.



## **SECTION VII. SPECIAL CUSTOMS PROCEDURES**

### **CHAPTER 34. CONVEYANCE OF MEANS OF TRANSPORT**

#### **Article 278**

##### **Customs Regimes Applicable to Means of Transport**

Means of transport (including empty ones) conveyed across the customs border of the Republic of Kazakhstan shall be subject to the simplified customs procedures stipulated by this Chapter, in compliance with the temporary import and temporary export regimes, with full exemption from customs duties and taxes, and without application of non-tariff regulatory measures, except in cases stipulated by Articles 287 and 295 of this Code.

#### **Article 279**

##### **Procedures of Conveyance of Means of Transport**

1. Means of transport crossing the customs border of the Republic of Kazakhstan shall be conveyed only through the checkpoints specified by the Government of the Republic of Kazakhstan, and shall be subject to being stopped and parked at these points in order to undergo customs formalities specified by this Code.
2. The duration of the stop of the means of transport specified in Paragraph 1 of this Article must be minimal and shall not exceed, for rail transport, the time limit specified by the Central Customs Authority in coordination with the national railway company and, for motor and marine transport, twenty four hours, except in cases when customs procedures cannot be started or terminated due to reasons not dependent upon the customs authorities.
3. Means of transport shall depart the stopping places upon termination of the customs procedures specified in Chapter 11 of this Article, when entering the customs territory of the Republic of Kazakhstan and, in Chapter 15 of this Code, when departing the customs territory of the Republic of Kazakhstan.

#### **Article 280**

##### **Customs Formalities with Regard to Temporary Import and Temporary Export of Means of Transport under Simplified Procedures**

1. Means of transport shall be declared by the carrier upon the actual arrival of the means of transport at the checkpoint on the customs border of the Republic of Kazakhstan, by submission to the customs authority by the carrier of the transport documents stipulated by international agreements concerning transportation issues, and ratified by the Republic of Kazakhstan, provided they contain data on the route and means of transport.
2. Customs formalities with regard to temporary import or temporary export of means of transport shall be carried out by the customs authority by making the appropriate notations on the carrier transport document.

#### **Article 281**

##### **Particular Features of Customs Clearance with Regard to Means of Transport**

1. When temporarily importing an empty means of transport, the customs authority shall draw up a certificate for importing an empty foreign means of transport, the format and procedures for completion of which shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.
2. When re-exporting a means of transport from the customs territory of the Republic of Kazakhstan, the documents verifying temporary import of the means of transport onto the customs territory of the Republic of Kazakhstan must be submitted to the customs authority.

## **Article 282**

### **Operations with Temporarily Imported and Temporarily Exported Means of Transport**

1. Regular technical maintenance and repair operations that are required in the course of their stay on the territory of a foreign country, or in the course of their use on the territory of the Republic of Kazakhstan, shall be allowed with regard to temporarily imported and temporarily exported means of transport.
2. When the repair of temporarily exported means of transport involves the replacement of a part of the means of transport which is subject to record-keeping with the authorized bodies of the Republic of Kazakhstan, the replaced part shall be subject to customs formalities under general procedures, except in cases of repairs performed free of charge under the repair contract signed in compliance with the civil legislation of the Republic of Kazakhstan, or in cases when the repair operations are caused by the need to restore this means of transport following damage incurred as a result of accident or force majeure outside the customs territory of the Republic of Kazakhstan. The particular features of customs clearance procedures with regard to aircraft parts replaced in the course of technical maintenance or repair shall be determined by the Central Customs Authority in coordination with the authorized body on transport issues.
3. Replaced spare parts and equipment for temporarily imported means of transport that were not exported outside the customs territory of the Republic of Kazakhstan, as well as replaced spare parts and equipment for temporarily exported means of transport that were not imported onto the customs territory of the Republic of Kazakhstan, shall be subject to customs clearance under the general procedures stipulated by this Code.
4. When property rights, the right of ownership, or the right of disposal with regard to a temporarily imported means of transport was transferred to a Kazakhstani person or, with regard to a temporarily exported means of transport, to a foreign person, the person who actually conveyed the means of transport across the customs border of the Republic of Kazakhstan shall be obliged to declare the appropriate customs regime intended for conveyance of goods.

## **Article 283**

### **Time Limits for Temporary Import and Temporary Export of Means of Transport**

1. A temporarily imported means of transport must be re-exported immediately after termination of the transportation operations for which the means of transport was imported to the customs territory of the Republic of Kazakhstan, taking into account the time limit set for the delivery of goods and means of transport, stipulated by Article 87 of this Code.  
When it is impossible to export a temporarily imported means of transport within the established time period, due to reasons that do not depend on the person who imported it, the time limit for re-export of the means of transport may be extended by the customs authority, without the right to operate being granted until actual export from the customs territory of the Republic of

Kazakhstan. The total period for temporary import of a means of transport, including extensions, must not exceed one year.

2. A temporarily exported means of transport shall be re-imported within a period of time not to exceed one year from the moment of actual export from the customs territory of the Republic of Kazakhstan.

#### **Article 284**

##### **Re-Import and Re-Export of Means of Transport**

1. Prior to the expiration of the time limit specified by Article 283 of this Code, a temporarily exported means of transport must be returned to the customs territory of the Republic of Kazakhstan, and temporarily imported means of transport must be exported outside the customs territory of the Republic of Kazakhstan, or must be declared under one of the customs regimes designated for goods.

In the process, the declaration of the export customs regime for goods, or the temporary export of goods, shall be allowed without the actual presentation of the temporarily exported means of transport to the customs authority.

2. Re-export and re-import of means of transport shall be performed under simplified procedures with full exemption from customs duties and taxes, and without application of non-tariff regulatory measures.

#### **Article 285**

##### **Conveyance Across the Customs Border of Marine Vessels and Aircraft, Which Are Not Used for International Transportation**

1. Marine vessels which are temporarily exported from the customs territory of the Republic of Kazakhstan for use in developing marine biological resources; for exploring and developing mineral and other inorganic resources from the seabed and sea subsoil; for pilot navigation; for search, rescue and towing operations; for lifting of sunken property; for hydro-technical, subsurface and similar operations; for sanitary, quarantine and other types of control; for protection and preservation of the marine environment; for conducting marine scientific research; for training, sports and cultural purposes; as well as for other purposes related to merchant marine navigation, shall be conveyed across the customs border of the Republic of Kazakhstan under temporary import, and re-exported in compliance with the procedures and terms specified in this Chapter, except for means of transport which are conveyed by natural persons.

2. When temporarily exported and re-imported aircraft, except for military aircraft, are not used for international transportation of goods and passengers, they shall be conveyed across the customs border of the Republic of Kazakhstan in compliance with the procedures specified in this Chapter.

#### **Article 286**

##### **Conveyance of Means of Transport as Goods**

1. Means of transport, imported onto the customs territory of the Republic of Kazakhstan for the purpose of transfer for temporary or permanent use, possession, or disposal to a Kazakhstani person, or exported from the customs territory of the Republic of Kazakhstan for the purpose of transfer for temporary or permanent use, possession, or disposal to a foreign person, shall be subject to customs control and customs formalities in compliance with the customs procedures applied with regard to goods.

2. Means of transport, conveyed across the customs border of the Republic of Kazakhstan in transit for the purpose of transfer for temporary or permanent use, possession, or disposal from



one foreign person to another foreign person, shall be subject to customs formalities and customs control in compliance with the transit customs regime for goods.

3. Means of transport, imported onto the customs territory of the Republic of Kazakhstan for domestic transportation purposes (transportation between the loading and unloading points of goods, or boarding and deplaning of passengers located on the customs territory of the Republic of Kazakhstan), as well as means of transport conveyed across the customs border for processing purposes, shall be subject to customs control and customs formalities in compliance with the customs regimes applied with regard to goods.

### **Article 287**

#### **Responsibility for Compliance with the Terms of Conveyance of Means of Transport**

The responsibility for compliance with the time limits for temporary import and temporary export of means of transport, as well as with other terms stipulated by this Chapter, shall rest with the person who conveys the means of transport across the customs border of the Republic of Kazakhstan during initial import or export, respectively, except in cases when compliance with the established requirements is impossible due to force majeure.

## CHAPTER 35. CONVEYANCE OF GOODS AND MEANS OF TRANSPORT BY NATURAL PERSONS

### Article 288 Terms Used in this Chapter

The following terms are used for the purposes of this Chapter:

- 1) **‘Goods not intended for industrial or other commercial activity’** shall mean goods that will not be used by a natural person for making profit, and that do not conform to the nature of conveyance on a periodical basis across the customs border of the Republic of Kazakhstan, in terms of quantity and other criteria established by the Government of the Republic of Kazakhstan.
- 2) **‘Accompanied baggage’** shall mean goods that are actually conveyed by a natural person when crossing the customs border of the Republic of Kazakhstan;
- 3) **‘Unaccompanied baggage’** shall mean goods that are conveyed by a carrier across the customs border of the Republic of Kazakhstan under a conveyance contract (under a baggage ticket, way bill, bill of lading and other documents) concluded with the natural person who conveys the goods;
- 4) **‘Means of transport’** shall mean vehicular or motor transport, trailer, marine vessel or aircraft along with spare parts thereto; with the usual accessories and equipment; and with the fuels and lubricants contained in their usual tanks, which is in the possession or at the temporary disposal of the natural person who conveys the means of transport across the customs border of the Republic of Kazakhstan;
- 5) **‘Negative declaration’** shall mean actions undertaken by natural persons confirming that no goods subject to mandatory written declaration are contained in their hand luggage and accompanied baggage.

### Article 289 The Procedure for Conveyance of Goods by Natural Persons

1. Goods, except for those prohibited from import to or export from the Republic of Kazakhstan, not intended for industrial or other commercial activity, shall be conveyed by natural persons across the customs border of the Republic of Kazakhstan under the preferential procedures stipulated by this Chapter, provided that the terms and standards established by the Government of the Republic of Kazakhstan are complied with.
2. Goods that comply with the weight and cost standards established by the Government of the Republic of Kazakhstan, which are not granted preferential procedures, may be conveyed by natural persons across the customs border of the Republic of Kazakhstan under the simplified procedures stipulated by this Chapter.
3. Upon termination of work in foreign offices of the Republic of Kazakhstan, diplomatic service staff of the Republic of Kazakhstan who remain in a foreign country for an uninterrupted period of more than six months, shall be entitled to import goods designated for personal use exempt from customs duties in an amount equivalent to the amount of salary received during the entire period of work outside the customs territory of the Republic of Kazakhstan.
4. Goods not granted the application of preferential or simplified procedures when conveyed across the customs border of the Republic of Kazakhstan shall be subject to the general customs procedures stipulated by this Code.

### Article 290 Mandatory Written Declaration of Goods by Natural Persons

1. When a natural person, crossing the customs border of the Republic of Kazakhstan, conveys goods subject to a mandatory written declaration, it shall be carried out by means of filling out a passenger customs declaration, except in cases when goods are subject to customs formalities under the general procedures stipulated by this Code.

2. The following goods shall be subject to mandatory written declaration:

- 1) weapons, ammunition and explosives;
- 2) narcotics, psychotropic substances and their precursors;
- 3) exported articles of antiquity and art, which are of historic, artistic, scientific or cultural value to the state;
- 4) poisonous and potent substances;
- 5) radioactive materials;
- 6) imported high frequency radio-electronic devices and means of communication, the use of which on the territory of the Republic of Kazakhstan is subject to control by state bodies of the Republic of Kazakhstan;
- 7) rare collections and specimens of flora and fauna, or parts and derivatives thereof;
- 8) currency and securities subject to restrictions or conditions stipulated by the currency legislation of the Republic of Kazakhstan for import into the Republic of Kazakhstan or export from the Republic of Kazakhstan;
- 9) precious metals and stones, except for personal jewelry, for which the Government of the Republic of Kazakhstan has established preferential procedures for conveyance across the customs border;
- 10) excise goods imported onto the territory of the Republic of Kazakhstan, in excess of the quotas specified by the Government of the Republic of Kazakhstan;
- 11) goods intended for industrial or other commercial activity;
- 12) goods not intended for industrial or other commercial activity, the quantity or cost of which exceed the standards specified by the Government of the Republic of Kazakhstan;
- 13) goods conveyed in unaccompanied baggage;
- 14) temporarily imported (exported) goods for which preferential procedures are not established in regard to import and export;
- 15) means of transport;
- 16) goods conveyed across the customs border of the Republic of Kazakhstan in connection with the immigration from a foreign state of a natural person to the Republic of Kazakhstan for permanent residency, or to a foreign state from the Republic of Kazakhstan.

3. The form and method for filling out the customs passenger declaration shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

4. A written declaration of goods conveyed by a person under the age of sixteen shall be executed by the person accompanying him.

5. When goods are imported onto the customs territory of the Republic of Kazakhstan, the declaration of goods conveyed in unaccompanied baggage shall be submitted within a period of fifteen days beginning on the day that the goods were presented to the customs authority and, when exported, along with the goods when they are presented to the customs authority.

6. Goods conveyed in unaccompanied baggage may be declared by the persons conveying the goods, or by any other person acting under a power of attorney for the persons conveying the goods. The responsibility for the reliability of the information declared to the customs authority shall rest with the person who declares the goods.

7. Goods conveyed in the unaccompanied baggage of a person under the age of sixteen shall be subject to declaration by his parents or guardians, or by persons acting under a power of attorney for the parents or guardians.

**Article 291**  
**Temporary Import and Temporary Export of**  
**Goods by Natural Persons**

1. Goods included in the list specified by the Government of the Republic of Kazakhstan may be temporarily exported by natural persons permanently residing on the territory of the Republic of Kazakhstan, for the period of their temporary stay in a foreign state, with full exemption from customs duties and taxes, and without application of non-tariff regulatory measures.
2. Goods included in the list specified by the Government of the Republic of Kazakhstan may be temporarily imported by natural persons permanently residing outside the territory of the Republic of Kazakhstan, for the period of their temporary stay in the Republic of Kazakhstan, with full exemption from customs duties and taxes, and without application of non-tariff regulatory measures.
3. The Government of the Republic of Kazakhstan may specify time limits for temporary import under preferential procedures with regard to certain categories of goods temporarily imported by natural persons onto the customs territory of the Republic of Kazakhstan.
4. Goods temporarily imported and temporarily exported under preferential procedures shall be declared in writing by filling out a passenger customs declaration, except in cases when the goods being conveyed are subject to oral declaration.
5. Temporarily imported and temporarily exported goods shall be subject to re-export and re-import in an unaltered state, except for changes due to natural wear and tear or loss.
6. Goods may be re-exported and re-imported through any customs authority.
7. Re-exported and re-imported goods shall be exempt from customs duties and taxes, and application of non-tariff regulatory measures, provided the information on these goods is stated in the passenger customs declaration which was filled out during the course of import and export, respectively.

**Article 292**  
**Temporary Import and Temporary Export of**  
**Means of Transport by Natural Persons**

1. Natural persons permanently residing on the territory of the Republic of Kazakhstan shall be entitled to temporarily export and re-import means of transport that are owned by them or transferred to them for temporary use or disposal, and that are registered in the Republic of Kazakhstan, with full exemption from customs duties and taxes, and without application of non-tariff regulatory measures.
2. Natural persons permanently residing outside the territory of the Republic of Kazakhstan shall be entitled to temporarily import and re-export means of transport that are owned by them or transferred to them for temporary use or disposal, and that are registered in foreign states, with full exemption from customs duties and taxes, and without application of non-tariff regulatory measures.
3. The time limit for temporary export of means of transport under preferential procedures must not exceed the time limit for the temporary stay in a foreign state of the person who exported the means of transport.  
The time limit for temporary import of means of transport under preferential procedures must not exceed six months within any consecutive twelve-month period.  
When it is impossible to export a means of transport within the established time period, due to reasons which are not dependent on the person who imported it, the customs authority may extend the time limit up to one month, without the right to operate the means of transport, until its actual export from the territory of the Republic of Kazakhstan.

4. Prior to expiration of the established time limit, temporarily imported means of transport must be exported outside the customs territory of the Republic of Kazakhstan or declared under one of the customs regimes stipulated with regard to goods.
5. Means of transport may be re-exported and re-imported through any customs authority.
6. Upon the re-export of temporarily imported means of transport, the “Obligation to Re-export Means of Transport” shall remain with the customs authority through which the means of transport is exported.
7. When the provisions of Paragraph 4 of this Article are complied with, the customs authority that carries out formalities with regard to the means of transport under the customs regime stipulated with regard to goods, or the customs authority through which the means of transport is exported, shall notify the customs authority that drew up the “Obligation to Re-export Means of Transport” of the fact of customs clearance or of the fact of export of the means of transport from the customs territory of the Republic of Kazakhstan.

### **Article 293**

#### **Declaration of Means of Transport Temporarily Imported and Temporarily Exported by Natural Persons under Preferential Procedures**

1. Means of transport temporarily imported and temporarily exported under preferential procedures shall be declared by filling out a passenger customs declaration and by submitting, to the customs authority, documents that identify the means of transport and confirm the right of ownership or possession of the means of transport, as well as documents confirming the country of permanent residency of the person conveying the means of transport.
2. When declaring temporary import of a means of transport, the customs authorities shall draw up the “Obligation to Re-export Means of Transport”. The format and procedures for completion of the obligation shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.
3. Means of transport temporarily imported under preferential procedures shall not be alienated, or transferred for use or disposal to another person, without being declared under one of the customs regimes stipulated by this Code with regard to goods.

## **CHAPTER 36. CONVEYANCE OF GOODS BY NATURAL PERSONS UNDER PREFERENTIAL AND SIMPLIFIED PROCEDURES**

### **Article 294**

#### **Conveyance of Goods by Natural Persons under Preferential Procedures**

Preferential procedures for conveyance of goods across the customs border of the Republic of Kazakhstan shall stipulate full exemption from customs duties and taxes, and non-application of non-tariff regulatory measures, except for measures stipulated by this Article.

Declaration of goods conveyed under preferential procedures shall be carried out by natural persons, by means of an oral or negative declaration when crossing the customs border of the Republic of Kazakhstan along with submission of the goods to the customs authority, except in cases stipulated by Article 290 of this Code.

The method for declaring goods, which are conveyed by persons under the age of sixteen, shall be chosen by the person who accompanies him/her.

3. When importing goods onto the customs territory of the Republic of Kazakhstan in unaccompanied baggage, submission to the customs authority of the passenger customs declaration, attesting to the entry of a natural person into the Republic of Kazakhstan, shall be a mandatory condition for applying preferential transport procedures .4. During an oral declaration, a natural person shall declare the absence of goods subject to a written declaration in his/her hand luggage or in accompanied baggage.

A natural person shall be entitled to declare in writing, upon his/her own wish, goods conveyed across the customs border of the Republic of Kazakhstan, which are not subject to mandatory written declaration.

6. For the purpose of ensuring the possibility of declaring goods according to a negative declaration, places designated for passage of natural persons shall be established at checkpoints on the customs border of the Republic of Kazakhstan, which shall be marked in such a way that a person may make a deliberate choice for the declaration of goods.

Requirements for the construction of such places shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

7. The passage of natural persons through places especially designated for passage of persons, who do not have in their hand luggage or in accompanied baggage, goods that are subject to written declaration, shall be considered as a statement to the customs authority that the person has no goods subject to written declaration.

8. In exceptional cases, the Central Customs Authority shall be entitled to establish restrictions concerning the application of a negative declaration. This decision shall be made taking into account the operational situation at the checkpoint, the particular features of the category of persons crossing the customs border of the Republic of Kazakhstan, the specific features of the country from which goods may be imported or to which goods may be exported, which are prohibited from being imported to the Republic of Kazakhstan or exported from the Republic of Kazakhstan, in compliance with the legislation of the Republic of Kazakhstan.

9. Goods specified in Subparagraphs 1)-9) of Paragraph 2 of Article 290 of this Code shall be conveyed across the customs border of the Republic of Kazakhstan, provided that authorizing documentation issued by the appropriate authorized bodies and stipulated by the legislation of the Republic of Kazakhstan is available.

10. Goods conveyed under preferential procedures shall be subject to selective customs inspection.

11. The customs authority shall be entitled to request the person conveying the goods to present documents, which confirm compliance with the terms under which the preferences were granted.

12. When goods are conveyed by natural persons under preferential procedures, the customs authorities shall provide the means to undergo customs formalities without exiting the means of transport, except in cases when it is required to comply with the customs legislation of the Republic of Kazakhstan.

## **Article 295**

### **Conveyance of Goods by Natural Persons under Simplified Procedures**

1. Simplified procedures for conveyance of goods across the customs border of the Republic of Kazakhstan shall mean exemption from the application of customs procedures stipulated by the general procedures for customs clearance of goods under this Code, and without exemption from customs duties and taxes, or from the application of non-tariff regulatory measures.

2. Goods conveyed under simplified procedures shall be declared along with presentation of the goods to the customs authority, by means of filling out a passenger customs declaration and by submission of documents verifying the identity of the person conveying the goods, the value of the goods, the country of origin, and compliance with non-tariff regulatory measures.

3. When declaring goods under simplified procedures, the customs value of goods shall be determined based on information about the cost of the goods, stated in receipts, bills and other documents used in retail trade.

4. When importing goods onto the customs territory of the Republic of Kazakhstan in unaccompanied baggage, expenses for delivery of goods to the airport, seaport or other place of entry onto the customs territory of the Republic of Kazakhstan shall be included in the customs value of the goods.

5. When documents verifying the cost of goods are absent, the customs authority shall use the customs value of goods stated in the passenger customs declaration as the basis for calculating customs duties and taxes.

6. If there are grounds to believe that the declared customs value is not reliable, the customs authority may independently determine the customs value of goods, in compliance with Chapter 41 of this Code.

7. With regard to goods conveyed under simplified procedures customs duties and taxes shall apply, subject to conveyance of goods under procedures stipulated by Article 315 of this Code.

8. Labels, tags, and certificates on products and other accompanying documents shall be regarded as documents verifying the origin of the goods, provided they contain information on the country of origin of goods.

9. When documents verifying the origin of goods are absent, goods conveyed under simplified procedures shall be subject to the tariff and non-tariff regulatory measures stipulated by this Code.

10. Customs duties and taxes shall be paid by natural persons immediately upon declaring the goods. In the process, the customs official shall draw up a customs receipt voucher. The form of and the procedures for filling out and accounting for the voucher shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

11. When customs clearance of imported goods cannot be immediately completed due to the inability of a natural person to pay customs duties and taxes, or due to the absence of documents verifying compliance with non-tariff regulatory measures, the goods, at the wish of the person conveying them, may be:

- 1) immediately returned by him/her outside the boundaries of the customs territory of the Republic of Kazakhstan;
- 2) placed into temporary storage warehouses;

3) delivered to the customs body of destination in compliance with the terms of delivery of goods under the domestic customs transit procedure, for the purpose of further customs clearance at the customs body of destination.

12. Goods conveyed across the customs border of the Republic of Kazakhstan under simplified procedures shall be declared exclusively under the customs regimes for release into free circulation, export of goods, or transit of goods.

13. Natural persons shall be entitled to refuse application of the simplified procedures for conveyance of goods and means of transport across the customs border. In this case, general procedures for conveyance of goods across the customs border of the Republic of Kazakhstan shall apply, in compliance with this Code.



## CHAPTER 37. CONVEYANCE OF GOODS BY INTERNATIONAL MAIL

### Article 296

#### Basic Terms Used in This Chapter

The following basic terms are used in this Chapter:

- 1) **‘International mail’** shall mean items of mail conveyed across the customs border of the Republic of Kazakhstan;
- 2) **‘Authorized international postal service organization’** shall mean a legal person who provides postal services in compliance with the legislation on postal services of the Republic of Kazakhstan and World Postal Union regulations.
- 3) **‘Place of international postal exchange’** shall mean a unit of the post office, the functions of which include the processing of incoming and outgoing international mail and of the international accompanying documents which are required for customs clearance procedures.

### Article 297

#### General Provisions Relating to International Mail

1. The provisions of this Chapter shall regulate the procedures for customs control and customs clearance of goods conveyed across the customs border of the Republic of Kazakhstan by international mail.
2. International mail shall include:
  - 1) letters - ordinary, registered, registered with a statement of value;
  - 2) postcards - ordinary, registered;
  - 3) parcels and special «M» bags - ordinary, registered;
  - 4) sekograms - ordinary, registered;
  - 5) small packages- registered;
  - 6) parcels - ordinary, with a statement of value;
  - 7) international express mail (speeded up acceptance, processing, delivery of international mail under the EMS system in compliance with World Postal Union regulations).
3. International mail must be accompanied by documents stipulated by World Postal Union regulations.
4. The authorized international postal service organization of the Republic of Kazakhstan shall specify locations for international postal exchange in coordination with the Central Customs Authority.
5. The authorized postal service organization of the Republic of Kazakhstan must provide the customs authorities, on a contractual basis, with offices in international postal exchange locations for exercising customs control.

### Article 298

#### Particular Features of Conveyance of Goods by International Mail

1. The following goods shall not be conveyed by international mail:
  - 1) Goods prohibited from being imported to and exported from the customs territory of the Republic of Kazakhstan;
  - 2) Goods prohibited from being conveyed, in compliance with World Postal Union regulations.
2. Goods restricted for import to and export from the customs territory of the Republic of Kazakhstan, in compliance with the legislation of the Republic of Kazakhstan, shall be subject to non-tariff regulatory measures.
3. Goods mailed to the address of a natural person and not intended for industrial or other commercial activity shall be conveyed across the customs border of the Republic of Kazakhstan

with full exemption from customs duties and taxes and without application of non-tariff regulatory measures, provided the terms and standards established by the Government of the Republic of Kazakhstan are complied with.

4. Postal service organizations shall present international mail for customs examination and search, except for letters, postcards and sekograms for blind people.

5. International mail may not be released by the postal service organizations of the Republic of Kazakhstan to consignees, or sent outside the customs territory of the Republic of Kazakhstan, without the permission of the customs authorities.

6. Letters with a statement of value shall be subject to customs control without accompanying documents having to be subjected to customs clearance, by making notes directly on the postal dispatches.

7. Goods prohibited from being imported to and exported from the Republic of Kazakhstan shall be seized by the customs authorities, in compliance with procedures established by the legislation of the Republic of Kazakhstan.

8. When international mail is lost or released to the consignee without the permission of the customs authorities, the postal service organization of the Republic of Kazakhstan shall bear responsibility, in compliance with the legislative acts of the Republic of Kazakhstan.

## **Article 299**

### **Customs Clearance of International Mail**

1. Customs clearance of international mail shall begin with verification of documents and information, an inspection performed through the use of technical means of control and, when appropriate, a customs examination in the course of which the postal operator opens the package on the examination counter and presents the contents of the package to the customs official.

2. Customs clearance of goods with regard to which the Government of the Republic of Kazakhstan provides preferential procedures for conveyance across the customs border of the Republic of Kazakhstan shall be conducted by the customs authority, in the area of activity where the international postal exchange location is located.

3. Customs clearance of goods with regard to which it is required to file a customs cargo declaration shall be conducted by the customs authority in the area of activity where the unit of the post office, which was the last point of delivery or is the first point of departure of international mail, is located.

4. International express mail shall be subject to customs clearance under priority procedures and within the shortest possible period of time.

5. Audio and video recordings and information on magnetic and other media shall be cleared after undergoing customs control procedures through the use of technical means of control, provided that the data on the type of computer and on the operational system that were used to produce the recordings is available. When this data is not available, the consignee shall be given an opportunity to decipher the information. When deciphering is impossible, the data medium shall be returned to the shipper.

6. The remains of the deceased shall be cleared under simplified procedures, provided that the medical certificate and documents issued by the authorized bodies, which verify the fact of death, are available. The customs official shall seal the container with the remains of the deceased with a mandatory statement verifying the absence of other enclosures.

7. State awards (honors, medals, badges, objects with inscriptions) shall be allowed to be conveyed across the customs border of the Republic of Kazakhstan only under documents verifying the right of ownership of the person conveying the goods by international mail.

## **Article 300**

### **Declaration of International Mail**

1. When all data required by the customs authorities is stated in the accompanying documents, as stipulated by World Postal Union regulations, a customs cargo declaration shall not be required, except in cases stipulated by Paragraph 2 of this Article.
2. A declaration of goods by filing a customs cargo declaration shall be required when:
  - 1) international mail is sent by legal persons;
  - 2) the customs value of the goods exceeds the limits established by the Government of the Republic of Kazakhstan for conveyance of goods by natural persons through the international mail;
  - 3) goods are intended for industrial and other commercial activity in compliance with the criteria specified by the Government of the Republic of Kazakhstan for determining the designation of goods, and are conveyed by a natural person from the customs territory of the Republic of Kazakhstan, or onto the customs territory of the Republic of Kazakhstan, to the consignee's address.

### **Article 301**

#### **Customs Control with Regard to International Mail**

1. All goods conveyed by international mail across the customs border of the Republic of Kazakhstan shall be subject to customs control.
2. When importing goods by international mail onto the territory of the Republic of Kazakhstan, customs control shall start at the moment that the international mail crosses the customs border of the Republic of Kazakhstan, and shall terminate at the moment that the goods are released.
3. When exporting goods by international mail outside the territory of the Republic of Kazakhstan, customs control shall start at the moment that the goods are presented to the customs authorities, and shall terminate at the moment that they cross the customs border of the Republic of Kazakhstan.
4. Control over delivery of international mail to the postal office of destination shall be exercised by the customs authorities in compliance with the procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues and with the authorized postal service organization of the Republic of Kazakhstan.
5. When examining and searching international mail, the customs authorities shall make maximum use of technical means of control.
6. International mail delivered to international postal exchange location in a damaged state, with discrepancies in weight, with damaged enclosures, or without the required accompanying documents, shall be presented to the customs authorities along with a statement thereon, issued by the postal service organization of the Republic of Kazakhstan.
7. When customs examination of international mail reveals discrepancies in the weight and in the contents of the mail, a customs official and a postal service organization official shall draw up a statement thereon.

## CHAPTER 38. CONVEYANCE OF GOODS BY INDIVIDUAL CATEGORIES OF FOREIGN PERSONS

### Article 302

#### Sphere of Application of This Chapter

The provisions of this Chapter shall regulate the procedures for customs control with regard to goods conveyed across the customs border of the Republic of Kazakhstan by diplomatic, consular and other official representatives of foreign states, or by international organizations, employees of those representatives and organizations, and with regard to the property and personal baggage of certain categories of foreign persons who are granted customs privileges on the territory of the Republic of Kazakhstan, in compliance with international agreements ratified by the Republic of Kazakhstan.

### Article 303

#### Terms Used in This Chapter

1. Basic terms used in this Chapter:
  - 1) **‘Diplomatic representative office’** shall mean the representative office of a foreign state, the staff of which is accredited in the Republic of Kazakhstan;
  - 2) **‘Consular office’** shall mean any consulate general, consulate, vice consulate or consular agency, the staff of which is accredited in the Republic of Kazakhstan;
  - 3) **‘Diplomatic staff members’** shall mean the head of the representative office and members of the representative office staff;
  - 4) **‘Members of the diplomatic representative office’** shall mean members of diplomatic, administrative, technical and attending staff of the representative office;
  - 5) **‘Consular official’** shall mean a person, including the head of the consular office, who is authorized to perform consular duties;
  - 6) **‘Consular office personnel’** shall mean consular officials, consular employees (persons performing administrative and technical duties) and attending staff members;
  - 7) **‘Representative offices equated with diplomatic representative offices’** shall mean representative offices of international organizations, the staff of which is accredited in the Republic of Kazakhstan;
  - 8) **‘Diplomatic mail’** shall mean a type of communication between the state and its diplomatic or consular representative offices abroad;
  - 9) **‘Consular valise’** shall mean a type of communication between consular offices;
  - 10) **‘Diplomatic courier’** shall mean a person authorized to transport diplomatic mail across the customs border of the Republic of Kazakhstan;
  - 11) **‘Consular courier’** shall mean a person authorized to transport a consular valise across the customs border of the Republic of Kazakhstan.

### Article 304

#### Conveyance of Goods by Diplomatic Representative Offices of Foreign States

Diplomatic representative offices of foreign states on the territory of the Republic of Kazakhstan may import to the Republic of Kazakhstan and export from the Republic of Kazakhstan goods intended for official use by the representative offices, with exemption from customs duties and

taxes, except for customs fees for customs clearance of goods, payable for customs formalities performed outside of locations designated for those purposes, and outside of the official business hours of the customs authorities and, also, excepting fees paid for storage of goods at temporary storage warehouses or bonded warehouses owned by the customs authorities, and without the application of non-tariff regulatory measures.

#### **Article 305**

#### **Conveyance of Goods by the Head of a Foreign State Diplomatic Representative Office and by Diplomatic Staff Members**

1. The head of a diplomatic representative office of a foreign state and diplomatic representative office staff members, including family members living with them, unless they are citizens of the Republic of Kazakhstan, may import goods intended for personal use to the Republic of Kazakhstan, including primary need goods, and export goods intended for personal use from the Republic of Kazakhstan, with exemption from customs duties and taxes, except for customs fees for customs clearance of goods, payable for customs formalities performed outside of locations designated for those purposes, and outside of the official business hours of the customs authorities and, also, excepting fees paid for storage of goods at temporary storage warehouses or bonded warehouses owned by the customs authorities, and without the application of non-tariff regulatory measures.
2. Personal baggage belonging to the head of a diplomatic representative office of a foreign state, to diplomatic representative office staff members, or to family members living with them, unless they are citizens of the Republic of Kazakhstan, shall not be subject to customs examination, unless there are serious grounds to believe that it contains goods which are not intended for personal use, or goods either prohibited from being imported or exported, or subject to the quarantine regulations of the Republic of Kazakhstan. Such an examination of goods shall be conducted only in the presence of this person or his/her authorized representative.

#### **Article 306**

#### **Conveyance of Goods by Administrative and Technical Staff of a Diplomatic Representative Office of a Foreign State**

Members of the administrative and technical staff of a diplomatic representative office of a foreign state, and family members living with them, unless they are citizens of the Republic of Kazakhstan, may import goods to the Republic of Kazakhstan and export goods from the Republic of Kazakhstan intended for personal use, including primary need goods, with exemption from customs duties and taxes, except for customs fees for customs clearance of goods, payable for customs formalities performed outside of locations designated for those purposes, and outside of the official business hours of the customs authorities and, also, excepting fees paid for storage of goods at temporary storage warehouses or bonded warehouses owned by the customs authorities, and without the application of non-tariff regulatory measures.

#### **Article 307**

#### **Conveyance of Goods by Attending Staff Members of a Diplomatic Representative Office of a Foreign State**

Based on a ratified international agreement signed with a foreign state and proceeding from the reciprocity principle regarding each separate foreign state, the customs privileges stipulated by this Code with regard to the staff members of a diplomatic representative office of a foreign state may also be applied with regard to the attending staff members of the diplomatic representative office, including family members, unless they are citizens of the Republic of Kazakhstan.

**Article 308**  
**Conveyance of Goods by Consular Offices and Staff of Foreign States**

1. Consular offices of foreign states, consular officials, including the head of the consular office, and consular employees, as well as family members, unless they are citizens of the Republic of Kazakhstan, shall be granted the customs privileges stipulated by this Code with regard to members of the diplomatic, administrative and technical staff of a diplomatic representative office of a foreign state.
2. Based on a ratified international agreement signed with a foreign state and proceeding from the reciprocity principle regarding each separate foreign state, the customs privileges stipulated by this Code with regard to the attending staff of a diplomatic representative office of a foreign state, may be applied with regard to the attending staff members of a consular office, including family members, unless they are citizens of the Republic of Kazakhstan.

**Article 309**  
**Conveyance of Diplomatic Mail and Consular Valises of Foreign States Across the Customs Border of the Republic of Kazakhstan**

1. Diplomatic mail of foreign states, conveyed across the customs border of the Republic of Kazakhstan, shall be neither opened nor seized by the customs authorities, and shall be subject only to external examination. All items regarded as diplomatic mail must have visible external signs indicating their nature, and must contain only diplomatic documents and items intended exclusively for official use.
2. A consular valise of foreign states, conveyed across the customs border of the Republic of Kazakhstan, shall be neither opened nor seized by the customs authorities, and shall be subject only to external examination. All packages constituting a consular valise must have visible external signs indicating their nature, and must contain only official correspondence and documents or items intended exclusively for official use.  
However, when there are serious grounds to believe that a consular valise contains items not intended exclusively for official use, the customs authority shall be entitled to demand that authorized persons representing the foreign state, in the presence of customs officials, open the valise. If the authorities representing the state refuse to open it, the consular valise shall be returned to the point of departure.
3. Diplomatic mail and consular valises may be entrusted to the captain of a vessel or to the commander of a civil airplane, going to a port or airport, arrival at which is permitted. The captain of a vessel or the commander of a civil airplane must be issued official documents which state the number of items contained in the mail and valise, but he/she shall not be considered as a diplomatic or consular courier.
4. A diplomatic representative office or a consular office may send one of their officials to receive mail or a valise, directly and unimpeded, from the captain of a vessel or from the commander of an airplane.
5. When diplomatic mail or a consular valise is delivered by a vehicle belonging to a foreign state, directly to a representative office that is located in the area of activity of a different customs authority, the mail and valise shall be cleared by the Border Customs Authority.

**Article 310**  
**Conveyance of Goods by Foreign Diplomatic and Consular Couriers**

1. Foreign diplomatic and consular couriers may import goods to the Republic of Kazakhstan and export goods from the Republic of Kazakhstan, intended for personal use, with exemption from customs duties and taxes, except for customs fees for customs clearance of

goods, payable for customs formalities performed outside of locations designated for these purposes, and outside of the official business hours of the customs authorities and, also, excepting fees paid for storage of goods at temporary storage warehouses or bonded warehouses owned by the customs authorities, and without application of non-tariff regulatory measures.

2. Diplomatic and consular couriers must be issued an official courier document, stating his/her status and the number of items regarded as diplomatic mail and a consular valise. The courier document shall be signed and sealed with the official stamp of the office that is sending this mail and valise.

3. Diplomatic mail and a consular valise may also be entrusted to a temporary diplomatic or consular courier, who is authorized to convey only this specific diplomatic mail or consular valise, and who is issued the official courier document.

4. A temporary diplomatic or consular courier shall be granted the customs privileges stipulated in Paragraph 1 of this Article. Such privileges shall terminate as of the moment that this specific diplomatic mail and consular valise are delivered to the destination point.

### **Article 311**

#### **Conveyance of Goods by Representatives and Members of Foreign State Delegations**

Representatives of foreign states, members of parliamentary and governmental delegations, as well as, based on the principle of reciprocity, officials of foreign state delegations who arrive in the Republic of Kazakhstan to participate in intergovernmental negotiations, international conferences and meetings, or for other official missions, shall be granted the customs privileges stipulated by this Code for the diplomatic staff of a representative office of a foreign state. Such privileges shall also be granted to family members accompanying them.

### **Article 312**

#### **Conveyance of Goods by Diplomatic Staff Members, Consular Officials, Representatives, and Members of Foreign State Delegations Transiting Through the Customs Territory of the Republic of Kazakhstan**

1. Diplomatic staff members and consular officials of a foreign state, family members, and persons specified in the aforementioned Article of this Code, who are transiting through the customs territory of the Republic of Kazakhstan, shall be granted the customs privileges stipulated by this Code for diplomatic staff members of representative offices of a foreign state.

2. The baggage of these persons and the baggage of family members shall be exempt from customs examination if there are not serious grounds to believe that it contains goods which are prohibited by legislation from being imported or exported, or are subject to quarantine regulations of the Republic of Kazakhstan. Such examination of goods must be conducted only in the presence of this person or his/her authorized representatives.

### **Article 313**

#### **Procedures for Customs Clearance of Goods Conveyed by Diplomatic Representative Offices, and Representative Offices Equated with Them, by Consular Offices and Staff Members**

1. Goods intended for official use by diplomatic representative offices and by representative offices equated with them, or by consular offices, shall be subject to customs clearance by filing a cargo customs declaration with the customs authorities, in compliance with the customs regime chosen.

2. Personal unaccompanied baggage belonging to the diplomatic staff members of representative offices, to persons equated with them, and to officers of the consular office, as well as to family members residing with them, shall be subject to customs clearance by filing a customs declaration with the customs authorities, in compliance with the chosen customs regime.

#### **Article 314**

##### **Particular Features of Customs Clearance of Specific Categories of Goods**

1. The following categories of goods, intended for official and personal use by persons accredited in the Republic of Kazakhstan, shall be subject to mandatory customs clearance and record-keeping with the customs authorities, in compliance with the declared customs regime, with further export of these goods upon expiration of the accreditation period in the Republic of Kazakhstan:

- 1) all types of means of transport;
- 2) personal computers and accessories thereto;
- 3) television, radio and video devices with satellite accessories;
- 4) movie-cameras and film projectors with developed slides and films;
- 5) all types of furniture;
- 6) electrical household appliances, sports accessories, and musical instruments, with a cost exceeding 100 monthly calculation indices;
- 7) personal jewelry made of precious metals and precious stones.

2. Transfer of property rights for the goods listed above to a different person who is not granted customs privileges on the territory of the Republic of Kazakhstan, shall be subject to mandatory repeat clearance, with payment of all payable customs duties and taxes, in compliance with the legislation of the Republic of Kazakhstan.

3. Diplomatic representative offices, representative offices equated with them, and consular offices may import, for their official use, without the application of non-tariff regulatory measures, 5000 pieces of various tobacco products (cigars, cigarettes, etc.), and 100 liters of wine and other alcoholic beverages per quarter, to the Republic of Kazakhstan.

4. Foreign goods with cultural and historical value, and documents thereto, shall be presented to the customs authority for customs clearance and control.

5. Goods with cultural and historic value, which were purchased in the Republic of Kazakhstan, may be exported outside the territory of the Republic of Kazakhstan only with permission issued by the authorized body.



## **SECTION VIII. CUSTOMS PAYMENTS AND TAXES**

### **CHAPTER 39. GENERAL PROVISIONS**

#### **Article 315 Customs Payments and Taxes**

1. The following customs payments shall be effective in the Republic of Kazakhstan:
  - 1) customs duties;
  - 2) antidumping duties;
  - 3) protective duties;
  - 4) countervailing duties;
  - 5) customs fees;
  - 6) fees
2. This Code shall specify payers, procedures for calculation, payment, reimbursement and levying of customs payments, as well as customs exemptions.
3. Procedures for application, calculation and payment, as well as the validity of the time limit for antidumping, protective, and countervailing duties, shall be determined in compliance with the legislation of the Republic of Kazakhstan on antidumping measures, measures for domestic market protection when importing goods, and for subsidizing and countervailing measures.
4. Taxpayers, and tax calculation and payment procedures, shall be determined in compliance with the tax legislation of the Republic of Kazakhstan.
5. When goods are conveyed by natural persons under simplified procedures, customs payments and taxes may be paid as combined customs payments, as established by the Government of the Republic of Kazakhstan.

#### **Article 316 Types of Customs Payments Rates**

Rates of customs payments shall be divided into:

- 1) ad valorem rates, which are calculated in terms of a percentage of the customs value of goods subject to customs payments;
- 2) specific rates that are calculated as a fixed amount per unit of goods subject to customs payments;
- 3) Combined rates that combine the two types of customs payments rates mentioned above.

#### **Article 317 Customs Duties**

1. When goods are declared under customs procedures, which require payment of customs duties, customs duties shall be paid in compliance with the Customs Tariff of the Republic of Kazakhstan.
2. The Customs Tariff of the Republic of Kazakhstan is the list of rates of customs duties which are applied to goods conveyed across the customs border of the Republic of Kazakhstan, and which are systematized in compliance with the foreign economic activity commodity nomenclature.
3. Rates of customs duties shall be determined by the Government of the Republic of Kazakhstan, and shall come into force thirty calendar days after their official publication.

## **Article 318**

### **Customs Fees**

1. The following shall be regarded as customs fees:
  - 1) Fees for customs clearance;
  - 2) Fees for customs escort;
  - 3) Fees for making a preliminary decision;
  - 4) Fees for storage of goods;
2. The costs to the customs authorities for performing specified actions shall serve as the basis for calculating the amounts of customs fees.

## **Article 319**

### **Customs Fees for Customs Clearance**

1. Fees for customs clearance shall be charged in the course of the main customs clearance procedures in the amount determined by the Government of the Republic of Kazakhstan.
2. Doubled fees shall be charged for customs clearance procedures conducted outside of the locations designated for those purposes, and (or) outside of the official business hours of the customs authorities.

## **Article 320**

### **Customs Fees for Customs Escort**

Fees for customs escort shall be charged by the customs authorities in the amount determined by the Government of the Republic of Kazakhstan.

## **Article 321**

### **Customs Fees for Making a Preliminary Decision**

For making a preliminary decision with regard to classification, customs valuation methodology, and origin of goods, customs fees shall be charged in the amounts established by the Government of the Republic of Kazakhstan.

## **Article 322**

### **Customs Fees for Storage of Goods**

For storage of goods at bonded warehouses and temporary storage warehouses belonging to the customs authorities, customs fees shall be charged in the amounts established by the Government of the Republic of Kazakhstan

## **Article 323**

### **Fees**

1. Fees charged by the customs authorities shall include:
  - 1) licensing fees;
  - 2) fees for issuance of a qualification certificate to a customs clearance specialist.
2. The amounts of fees specified in Paragraph 1 of this Article shall be established by the Government of the Republic of Kazakhstan.

## **Article 324**

### **Licensing Fees**

Licensing fees shall be charged for:

- 1) establishment of a bonded warehouse;
- 2) establishment of a duty-free shop;
- 3) establishment of a free warehouse;
- 4) establishment of a temporary storage warehouse;
- 5) performing activity as a customs carrier;
- 6) performing activity as a customs broker.

## **CHAPTER 40. CALCULATION OF CUSTOMS PAYMENTS AND TAXES**

### **Article 325**

#### **The Basis for Levying Customs Duties**

1. The customs value of goods shall serve as the basis for levying customs duties, except in cases stipulated by Paragraph 2 of this Article.
2. The natural volume of goods shall serve as the basis for levying customs duties with regard to goods subject to specific rates of customs duties.

### **Article 326**

#### **Procedures for Calculation of Customs Payments and Taxes**

1. Customs payments and taxes shall be calculated by payers of customs payments and taxes independently, except in cases stipulated by Article 296 of this Code by and Paragraph 2 of this Article.
2. When a violation in the sphere of customs activity is revealed, calculation of customs payments and taxes payable shall be made by the customs authority.
3. Calculation of customs payments and taxes shall be made in the national currency of the Republic of Kazakhstan, except in cases stipulated by this Code and by other legislative acts.

### **Article 327**

#### **Application of Rates of Customs Payments and Taxes**

1. To calculate customs payments and taxes, the rates effective on the day of registration of the customs declaration by the customs authority shall be used, except in cases stipulated by Paragraph 1 of Article 329 and by Article 413 of this Code.
2. To calculate customs duties and taxes, rates shall be used in compliance with the Customs Tariff of the Republic of Kazakhstan and the tax legislation of the Republic of Kazakhstan, which correspond to the commodity code under the foreign economic activity commodity nomenclature, and to the commodity name, except in cases stipulated by Paragraph 5 of Article 315 of this Code.

### **Article 328**

#### **Conversion of Foreign Currency for the Purposes of Calculation of Customs Payments and Taxes**

When conversion of foreign currency is required to calculate customs payments and taxes and to determine the customs value of goods, the official exchange rate of the foreign currency versus the national currency of the Republic of Kazakhstan shall be used, effective on the date of registration of the customs declaration by the customs authority or on the day of the customs payment is made, for payments which are not related to customs clearance of goods.

### **Article 329**

#### **Calculation of Customs Payments and Taxes in Case of a Violation in the Sphere of Customs activity**

1. With regard to goods imported onto the customs territory of the Republic of Kazakhstan or exported from this territory with a violation in the sphere of customs activity, customs payments and taxes shall be calculated based on the customs payments and tax rates, which are effective respectively:

- 1) on the day of crossing the customs border of the Republic of Kazakhstan;
- 2) if it is impossible to determine the date, then on the day the violation is revealed.

The basis for levying customs payments and taxes shall be determined on the date of application of customs payments and taxes rates.

2. When conditionally released goods are used for purposes other than those for which full or partial exemption from customs payments and taxes was granted, customs payments and tax rates effective on the date of registration of the customs declaration by the customs authority shall be used to calculate customs payments and taxes to be paid.

3. When the time limit for payment of customs duties and taxes is violated, customs payments and taxes shall be calculated with the addition of penalties charged for the untimely payment of customs payments and taxes, in compliance with Article 375 of this Code.

## **CHAPTER 41. DETERMINATION OF THE CUSTOMS VALUE OF GOODS**

### **Article 330**

#### **Customs Value of goods**

‘Customs value of goods’ shall mean the value of goods conveyed across the customs border of the Republic of Kazakhstan, which is calculated in compliance with this Chapter and is used for the purposes of:

- 1) levying customs payments and taxes on goods;
- 2) applying other measures on state regulation of the foreign economic activity of the Republic of Kazakhstan.

### **Article 331**

#### **Determination of Customs Value for Exported Goods**

1. The customs value of goods, which are exported from the customs territory of the Republic of Kazakhstan, shall be determined based on the transaction value paid or payable during the sale of goods for export.

2. When determining the customs value of goods, the following expenditures shall be included in the transaction value, if they were not included previously:

1) expenditures related to the delivery of goods to the airport, port or any other place of export of goods from the customs territory of the Republic of Kazakhstan:

- cost of transportation;
- expenditures relating to loading, unloading, transloading, and transshipping of goods;

2) cost of insurance,

3) expenditures borne by the seller:

- commissions and brokerage fees
- cost of containers or other reusable tare if, under the foreign economic activity commodity nomenclature, they are classified as a single whole being valued with the goods;
- cost of packing, including cost of packaging materials and labor associated with packing;

4) royalty and licensing fees related to the goods being valued, which are subject to payment by the seller, directly or indirectly, as a term of selling the goods being valued, provided that those royalties and fees are not included in the price actually paid or payable;

5) the part of the income received by the seller, directly or indirectly, from subsequent re-sales;

6) taxes levied on the customs territory of the Republic of Kazakhstan, provided they are not subject to being refunded to the seller at the time of export of the goods from the customs territory of the Republic of Kazakhstan, in compliance with the tax legislation of the Republic of Kazakhstan or with international treaties to which the Republic of Kazakhstan is a signatory.

3. When determining the customs value of goods, the following payments and expenditures shall be excluded from the transaction value, provided that they are confirmed by documents:

1) expenditures for installation, assembly, and setting up of equipment or rendering technical assistance after export of equipment from the customs territory of the Republic of Kazakhstan;

2) expenditures for delivery of goods after their export from the customs territory of the Republic of Kazakhstan;

3) cost of insurance for goods after their export from the customs territory of the Republic of Kazakhstan;

4) customs duties and taxes paid in the country of import.

4. In the absence of a transaction value, the customs value of exported goods shall be determined based upon an excerpt from the accounting documents of the seller-exporter on costs associated with production, purchase, storage and transportation of the exported goods, which

shall be provided by the declarant. In the process, expenditures specified in Paragraph 1 of this Article shall be taken into consideration.

5. In the absence of information proving the declared customs value of exported goods, the customs value of the goods shall be determined based upon information that the customs authorities have with regard to identical or similar goods, including information containing the results of an independent expert examination.

### **Article 332**

#### **Determination of the Customs Value of Imported Goods**

The customs value of goods imported onto the customs territory of the Republic of Kazakhstan shall be based upon the general principles of customs valuation under the General Agreement on Tariffs and Trade (hereinafter referred to as GATT/WTO).

### **Article 333**

#### **Methods For Determining the Customs Value of Imported Goods**

1. The customs value of goods imported onto the customs territory of the Republic of Kazakhstan shall be determined through the use of the following methods:

- 1) the transaction value of imported goods;
- 2) the transaction value of identical goods;
- 3) the transaction value of similar goods;
- 4) the deduction of costs method;
- 5) the composition of costs method;
- 6) the reserve method.

2. The principal method for determining the customs value of goods shall be the method based on the transaction value of imported goods.

3. When it is impossible to use the principal method, each of the methods listed shall be used in sequence. In the process, each subsequent method shall be used when the customs value cannot be determined through the use of the preceding method. Upon request of the declarant, the deduction method and the composition method may be applied in reverse sequence.

4. When the customs value of goods is determined through the use of one of the methods specified in Paragraph 1 of this Article, the subsequent methods shall not be used.

### **Article 334**

#### **Method for Determining the Customs Value Based on the Transaction Value of Imported Goods**

1. The customs value of goods imported onto 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.

2. When determining the customs value of goods, the following expenditures shall be included in the transaction value, if they were not previously included:

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

- transportation cost;
- costs associated with loading, unloading, transloading and transshipping of goods;

2) cost of insurance;

3) expenditures borne by the buyer:

- commissions and brokerage fees, except for commissions on purchases;
- cost of containers or any other reusable tare if, under the foreign economic activity commodity nomenclature they are classified as a single whole being valued with the goods;

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

4) the corresponding part of the cost 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 use in relation to manufacture or sale for export of the goods being valued:

- raw materials, materials, components, semi-finished products and any other components, which are a constituent part of the goods being valued;
- tools, punches, moulds and other similar items used in the production of the goods being valued;
- materials used in the manufacture of the goods being valued (lubricants, fuels and other);
- engineering work, development work, artwork, design work, styling, sketches and drafts, made outside the territory of the Republic of Kazakhstan and directly required for the manufacture of the goods being valued;

5) royalty and licensing fees associated with the goods being valued, subject to payment by the buyer, directly or indirectly, as a term of sale of the goods being valued, provided that those royalties and fees are not included in the price actually paid or payable;

6) the amount of direct or indirect income of the seller from any subsequent re-sales, transfer or use of the goods being valued.

3. When importing different types of goods in a single delivery, expenditures to be incorporated into the customs value of each type of imported good and calculated for the entire delivery of goods shall be proportional to the ratio of the value of each type of good to the value of the entire consignment of goods.

4. When determining the customs value of goods, the following payments and expenditures shall not be included, provided that they are excluded from the price actually paid or payable for the imported goods:

1) expenditures associated with installation, assembly, setting up or rendering technical assistance after the import of equipment onto the customs territory of the Republic of Kazakhstan;

2) expenditures associated with delivery of goods after import onto the customs territory of the Republic of Kazakhstan;

3) customs duties and taxes paid in the country of import.

5. The method based on the transaction value of imported goods shall not be used for determining the customs value of goods when:

1) there are restrictions with regard to the buyer's right to disposal or use of the goods being valued, 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 significantly affect the value of goods;

2) goods are sold for export to the Republic of Kazakhstan under the following transactions, which do not have the features of purchase and sale:

- free delivery of goods;
- delivery of goods under consignment terms which stipulate delivery of goods for sale in the Republic of Kazakhstan without transfer of the right of ownership to the importer;
- delivery of goods by a foreign legal person to their branch offices (representative offices) located on the territory of the Republic of Kazakhstan;
- delivery of goods under the terms of barter or transactions involving any other type of compensation;
- delivery of goods under the terms of property lease (leasing);
- delivery of goods for the purposes of temporary stay;
- import onto the territory of the Republic of Kazakhstan of wastes for non-commercial utilization purposes;
- delivery of goods towards the guarantee commitments of the seller;
- other deliveries, which do not have the features of purchase and sale of goods;



3) the sale or transaction value depends upon compliance with conditions, the influence of which is not possible to calculate;

4) the information used by the declarant to declare the customs value is not confirmed by documentation, or is not quantitatively determinable and reliable;

5) participants in the transaction are related persons, and the transaction value is not acceptable as a basis for determining the customs value in compliance with the requirements of this Article.

Here, related persons shall mean persons who meet one of the following criteria:

- one of the participants in the transaction or an official to one of the participants is, at the same time, acting as an official to another transaction participant;

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

- participants in the transaction are connected by labor relations;

- a person directly or indirectly owns or controls five or more percent of voting shares, which are in circulation of each of the transaction participants, or shares in the charter capital of each of the transaction participants;

- both participants in the transaction are under direct or indirect control by a third person;

- participants in the transaction together directly or indirectly control a third person;

- one of the participants in the transaction is under direct or indirect control of another participant in the transaction;

- participants in the transaction, or their officials, are close relatives. The level of relations shall be defined by the legislation of the Republic of Kazakhstan.

6. The fact that the transaction participants are related to each other shall not be sufficient grounds to consider the transaction value as unacceptable. In this case the customs authority must analyze the circumstances surrounding the transaction, and the transaction value can be used for determining the customs value of goods, provided the relationship has not affected the price.

7. When the customs authority has grounds to believe that the relationship of the transaction participants has affected the price of the goods, the declarant shall be given a recommendation (in writing, upon the declarant's request). In the process, the declarant shall be given an opportunity to submit additional information proving that the relationship of the transaction participants has not affected the price of the goods.

8. On the initiative of the declarant, the transaction value may be used as the basis for determining the customs value, provided the declarant proves that the transaction value closely approximates one of the following values, which were determined at approximately the same time:

- 1) transaction value with identical or similar goods for export to the Republic of Kazakhstan between unrelated parties;

- 2) customs value of identical or similar goods, determined by the deduction of costs method;

- 3) customs value of identical or similar goods, determined by the composition of costs method;

9. The prices presented by the declarant for comparison purposes shall be adjusted with regard to differences in:

- 1) the commercial level (wholesale or retail),

- 2) the quantity;

- 3) the elements (expenditures) listed in Paragraph 2 of this Article,

- 4) other expenses a seller incurred in a transaction between unrelated parties, if such expenses are not borne by the seller in the transaction with a related party.

10. The price of identical or similar goods presented by the declarant for comparison purposes may not be used instead of a transaction value for determining the customs value of goods.

## **Article 335**

### **Method for Determining Customs Value Based on the Transaction Value of Identical Goods**

1. When using the method for determining value based on the transaction value for determining the customs value of goods, with identical goods as the basis, the transaction value of identical goods shall be used, in compliance with the requirements stated in this Article.
2. Identical goods shall mean goods, which are identical to the goods being valued in every respect, including the following features:
  - 1) physical characteristics;
  - 2) quality and reputation on the market;
3. When using the customs valuation method on the basis of this Article:
  - 1) goods shall not be considered as being identical to those being valued if they were not produced in the same country as the goods being valued;
  - 2) goods not produced by the producer of the goods being valued, but by some other person, shall be taken into account only if there are no identical goods produced by the same producer of the goods being valued;
  - 3) goods shall not be considered as identical if their development, engineering, artwork, design, sketches and drafting:
    - were provided to the seller by the buyer free of charge or at a reduced price to be used in connection with production and sale for export to the Republic of Kazakhstan;
    - were carried out in the Republic of Kazakhstan and, owing to that, their cost was not included in the customs value of the goods, based on section 5 Sub-paragraph 4) Paragraph 2 of Article 334 of this Code.
4. Insignificant differences in appearance shall not serve as the basis for refusal to recognize goods as identical, provided such goods meet the requirements of this Article.
5. The transaction value of identical goods shall be accepted as the basis for determining the customs value, provided those goods are:
  - 1) sold for import onto the territory of the Republic of Kazakhstan;
  - 2) imported simultaneously with the goods being valued, or not earlier than ninety calendar days prior to the import of the goods being valued;
  - 3) imported in approximately the same quantity and at the same commercial level (wholesale or retail).
6. When there are no cases of import of goods in the same quantity and at the same commercial level, the cost of identical goods imported in a different quantity and at a different commercial level may be used, and their value shall be adjusted taking into consideration these differences.
7. If the cost of the expenses specified in Sub-paragraphs 1) and 2) Paragraph 2 of Article 334 of this Code for identical goods significantly differs from the cost of such expenses for the goods being valued, due to the difference in distance and types of transport vehicles, a customs value which is determined based on the transaction value of the identical goods must be duly adjusted.
8. Adjustments stipulated in Paragraphs 6 or 7 of this Article must be introduced on the basis of reliable information verified by documentation.
9. When more than one transaction value with identical goods is identified when using this method, then the lowest of the values shall be applied to determine the customs value of the imported goods.

**Article 336**  
**Method for Determining Customs Value Based on the Transaction Value**  
**of Similar Goods**

1. When using the method for determining the value based on the transaction value of similar goods as the basis for determining the customs value of the goods, a transaction value of

goods similar to those being imported shall be used, in compliance with the requirements stated in this Article.

2. Similar goods shall mean goods, which, although not identical in every respect, have similar characteristics and consist of similar components, which allow them to perform the same functions as the goods being valued, and to be commercially interchangeable.

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

1) quality, availability of a trademark;

2) reputation on the market.

4. The provisions of Paragraphs 4-7 of Article 335 of this Code shall apply when using the method for determining customs value based on the transaction value of similar goods.

5. When using this method for determining customs value:

1) goods shall not be considered similar to those being valued if they are not manufactured in the same country as the goods being valued;

2) goods, which were manufactured by a person different from the manufacturer of the goods being valued, shall be taken into consideration only if there are no 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 drafts:

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

- were manufactured in the Republic of Kazakhstan and, owing to that, their cost was not included in the customs value of the goods on the basis of section 5, Sub-paragraph 4), Paragraph 2, Article 334 of this Code.

### **Article 337**

#### **Method of Determining Customs Value Based on Deduction of Costs**

1. The customs value of goods shall be determined based on the deduction of costs method when identical or similar goods being valued are initially sold without changes in their original state.

2. When using the deduction of costs method as the basis for determining the customs value of goods, the price per unit of goods shall be applied, at which identical or similar goods being valued are sold in the largest combined quantities, simultaneously or approximately simultaneously with the imported goods being valued, to a party which is not related to the seller.

3. In the process, sales must take place at the same time as the import of the goods being valued but, if no such sales occur at this time, then at the earliest date after import of the goods being valued, but not later than ninety days from the day of import of the goods being valued.

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

1) commission fees, usually paid or agreed to be paid, or extra payments usually charged to derive profit and to cover general expenses in connection with the sale of imported goods of the same class or type in the Republic of Kazakhstan;

2) amounts of import duties, taxes, fees and other payments which are subject to payment in the Republic of Kazakhstan in relation to the import onto and (or) sale of goods on the territory of the Republic of Kazakhstan;

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

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

6. If there are no cases of sale of the goods being valued, or identical or similar goods in the same state as they were at the moment of import then, upon request of the declarant, the price per unit of goods which underwent processing may be used with the deduction of the added value and in compliance with Paragraphs 2-4 of this Article.

### **Article 338**

#### **Method for Determining Customs Value Based on Composition of Costs**

When using the composition of costs method as the basis for determining the customs value of goods, the cost of goods calculated by computing the following shall be used:

- 1) the cost of materials and expenditures incurred by the manufacturer in relation to the manufacture of the goods being valued,
- 2) the amounts of profit and general expenses usually included in the price when selling goods of the same class or type as the goods being valued, which are produced in the exporting country for delivery to the Republic of Kazakhstan;
- 3) the cost of the expenses listed in Sub-paragraphs 1) 2) of Paragraph 2 Article 334 of this Code.

### **Article 339**

#### **Reserve Method for Determining Customs Value**

1. The customs value of goods on the basis of the reserve method shall be determined by a more flexible application of the methods described in Articles 334-338 of this Code, in compliance with the principles and general provisions of the GATT/WTO related to the customs value of goods.

2. When using the reserve method to determine customs value, the following may be utilized:

- 1) informational reference books on world prices;
- 2) statistical data, generally accepted commission rates, discounts, profit, transport rates and other data.

In the process, the appropriate adjustment of data shall be mandatory, taking into account commercial standards and (or) the quantity of goods being valued.

3. When using the reserve method to determine customs value, information that the customs authorities have, as well information provided by independent experts, may also be used.

4. In compliance with the provisions of this Article, the following shall not be used as a basis for determining the customs value of goods based on the reserve method:

- 1) the price of the goods on the domestic market of the country of export;
- 2) systems, which stipulate the use of the highest value from two alternative values for customs purposes;
- 3) the price of goods supplied by the country of export to third countries;
- 4) the price of the goods on the domestic market of the Republic of Kazakhstan in relation to domestic goods;
- 5) an arbitrarily established or unconfirmed value of goods;
- 6) the value of identical or similar goods determined on the basis of expenses not stipulated by Article 338 of this Code;
- 7) the minimum customs value.

### **Article 340**

#### **Procedure for Determination of Customs Value of Goods**

1. The customs value of goods conveyed across the customs border of the Republic of Kazakhstan shall be declared by the declarant in compliance with the provisions established in this Chapter.
2. Control over the accuracy of the determination of the customs value of goods shall be exercised by the customs authority that conducts clearance of goods, including the use of an independent expert examination conducted according to procedures established by the Government of the Republic of Kazakhstan. While under customs control, the correctness of the application of the selected method of assessment of the price actually paid or payable for the goods, as well as the accuracy of the determination of the structure and amount of the declared customs value, shall be determined.
3. The customs authority that checks the declaration of customs value is not, either upon its own initiative or at the instruction or request of the declarant, entitled to insert any data on the declared customs value, or to make changes, additions or corrections in the declaration.
4. Particular features for determining customs value when applying and changing separate customs regimes are stipulated by Section VI of this Code.
5. With regard to goods conveyed by natural persons with the application of simplified procedures, the customs value of goods shall be determined in compliance with Article 295 of this Code.

### **Article 341**

#### **Submission of Documents to Confirm the Declared Customs Value**

1. To confirm the declared information on customs value, the declarant shall submit the following documents:
  - 1) customs value declaration, except in cases stipulated by Paragraph 5 of Article 342 of this Code;
  - 2) agreement (contract) and additional existing agreements thereto, the data contained in which may affect the determination of the customs value of the goods;
  - 3) invoice or pro-forma invoice (with respect to transactions other than purchase-and- sale transactions);
  - 4) payment documents proving the value of the goods if, under the terms of payment, at the moment of submission of the customs declaration, payment is fully or partially made;
  - 5) transport and insurance documents if, under the terms of delivery, expenses for transportation and insurance are borne by the buyer;
  - 6) transportation invoice or officially certified receipt for transport expenses in cases when transport expenses were not included in the invoice, but were borne by the buyer;
  - 7) copy of the customs declaration of the country of departure, if the declarant can provide it.
2. When the documents specified in Paragraph 1 of this Article are not sufficient to confirm the declared customs value, the declarant may submit the following additional documents when they are necessary:
  - 1) the founding documents of the person transporting the goods;
  - 2) contracts with third parties related to the transaction;
  - 3) invoices for payments made to third parties in favor of the seller;
  - 4) invoices for commissions or brokerage services, related to transactions with the goods being valued;
  - 5) excerpts from the buyer's book-keeping documents, proving the value of the goods;
  - 6) licensing or royalty agreements;
  - 7) storage receipts;
  - 8) delivery orders;
  - 9) catalogues, specifications, price lists of manufacturing companies;
  - 10) calculations by the manufacturing company for goods being valued;

11) other documents that may be used to confirm information stated in the customs value declaration.

## **Article 342**

### **Conditions for Declaring the Customs Value of Goods**

1. The customs value of goods shall be declared by the declarant to the customs authority when declaring goods, by filling out a customs value declaration. The format and procedures for completion of the customs value declaration shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues.

2. The customs value declared by the declarant, and the data submitted in connection with its determination, shall be based on reliable, quantifiable and documentarily confirmed information.

3. A customs value declaration shall be filled out for all goods imported onto the customs territory of the Republic of Kazakhstan under the customs regime for release of goods into free circulation, except in cases specified in Paragraph 4 of this Article.

4. The customs value declaration shall not be filled out when:

1) the customs value of the imported consignment does not exceed a sum equivalent to 900 monthly calculation indices, except for multiple shipments under one contract, and except for repeated shipments of the same kind of goods by the same shipper to the same consignee's address under different contracts;

2) the standards and conditions established by the Government of the Republic of Kazakhstan with regard to goods that are conveyed across the customs border of the Republic of Kazakhstan by natural persons are complied with.

In the cases specified in Paragraph 4 of this Article, the customs value shall be stated in the customs declaration.

## **Article 343**

### **Adjustment of the Customs Value of Goods**

1. The customs value of goods may be adjusted in the following cases:

1) in the course of customs clearance and verification of the customs value:

- the method of determining the customs value of goods declared by the declarant reveals a discrepancy in the amount and (or) structure of the customs value of goods in contradiction to the data in the documents submitted for confirmation, except in cases established by Paragraph 3 of this Article;

- technical mistakes, which affect the amount of declared customs value, are revealed in the customs value declaration forms;

- it is necessary to apply a conditional customs value for the purpose of granting use of the goods to the declarant, in compliance with Article 347 of this Code.

2) after the release of goods, including with the application of conditional customs value:

- when determining the final customs value of goods based upon additional information submitted by the declarant, or when accepting the customs value of goods determined by the customs authority;

- technical mistakes which affect the amount and (or) the structure of the customs value are revealed when declaring goods;

3) an unreliable declaration is revealed in the course of further checks (both in the course of further verification of the documents being kept with the customs authority, and in the course of examination of the foreign economic activity of participants in foreign economic activity);

it is revealed that the declared customs value does not correspond to the actual value of goods effective on the date of acceptance of the customs declaration, due to discrepancies in the

quantity and (or) quality of the imported or exported goods with the terms of the foreign trade contract (agreement);

4) the transaction value has changed due to state control over transfer pricing.

2. The documents confirming nonconformity of the quantity of goods are:

1) for goods exempt from customs payments and taxes, a claim (acceptance certificate) on the quantity agreed upon by the exporter/importer, with the participation of a representative of the exporter/importer, and a certificate of examination from the customs authority;

2) for other goods – a resolution (statement of examination) by an independent expert and a certificate of examination from the customs authority;

3. In the event that the fact of loss of or damage to goods is revealed prior to the moment of declaring customs value, the nonconformity in the value declared by the declarant with the amount specified in the invoice shall not result in adjustment of the customs value, if the declared value differs from the value stated in the invoice in an amount corresponding to the amount of loss or damage. The documents confirming the fact of loss or damage are:

1) a resolution (statement of examination) by an independent expert, as well as claims for loss of or damage to goods, agreed upon with the person who is responsible for the safety of the goods during the transaction (exporter/importer, carrier, insurer), if the imported goods are subject to customs payments and taxes;

2) claims for loss of or damage to goods agreed upon with the person who is responsible for the safety of the goods during the transaction (exporter/importer, carrier, insurer) in all other cases;

3) a certificate of examination from the customs authority;

Deviations in quantity and quality, the amounts of which do not exceed the limits of the franchise amount agreed to in the contract, or agreed to in the price agreement, shall not be recognized by the customs authority as the basis for a reduction or increase in price.

4. In case of a change in the transaction value, due to state control over transfer pricing, the decision made by the authorized state body on customs issues, concerning levying customs payments and taxes, shall be considered as constituting the documents confirming an adjustment in the transaction value of goods.

5. When making an adjustment after the release of goods into free circulation with the computation of customs payments and taxes to be paid, the difference between customs payments and taxes charged and those actually paid shall have a penalty imposed upon them calculated according to the official re-financing rate of the National Bank of the Republic of Kazakhstan, effective on the date of payment of the debt. The penalty shall be calculated beginning on the date the customs declaration was accepted for customs clearance.

The penalty shall not be imposed in cases when the declarant initiated an adjustment to the customs value. In the process, an adjustment in the size of the customs value due to the nonconformity of the declared amount of the customs value, discovered by the customs authorities in the course of conducting verification, shall be considered as having been initiated by the declarant.

6. Forms for adjustments to the customs value shall be completed only for those goods, the customs value, and (or) customs payments, and (or) taxes of which are being adjusted. The format and procedures for completion of adjustments to the customs value shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues. Forms for adjustments to the customs value shall form an integral part of the customs declaration.

7. After accepting the documents for customs clearance, all adjustments made by the customs authorities with respect to the customs value declared by the declarant shall be considered as the customs value of the goods, and may be appealed by the declarant in compliance with established procedures.

**Article 344**  
**Confidentiality of Information on the Customs Value of Goods**

Information which is submitted by the declarant when declaring the customs value of goods, and which is defined as a commercial secret or as confidential, may be used by the customs authority for customs purposes only, and may not be transferred to third parties or to other state bodies without the special permission of the declarant, except in cases stipulated by this Code and by the legislation of the Republic of Kazakhstan.

**Article 345**  
**The Rights and Obligations of the Declarant**  
**when Determining Customs Value**

1. The declarant shall be entitled:
  - 1) to prove the reliability of data provided for determining customs value, when the customs authorities have doubts as to its reliability;
  - 2) if there is a need to clarify the declared customs value, to accept the declared goods, under the condition that the security of payment of customs duties and taxes, in compliance with the customs valuation of goods performed by the customs authority, is ensured when it is necessary to clarify the declared customs value of goods not subject to customs payments and taxes, to accept the declared goods with a commitment to submit the required documents within the time limit established by the customs authority;
  - 3) to request the customs authority to provide, in writing, the reasons for which the declared customs value of goods cannot be accepted by the customs authority;
  - 4) in case of disagreement with a decision by the customs authority with regard to the customs value of goods, to appeal this decision in compliance with the procedures stipulated by this Code.
2. The declarant shall be obliged:
  - 1) to declare the customs value, and to submit the data used in its determination, based on reliable quantifiable and documentarily verified information;
  - 2) when it is necessary to verify the declared customs value at the request of the customs authority, to provide the latter with the data required for verification purposes;
  - 3) to cover any additional expenses incurred in connection with clarification of the declared customs value, or with provision of additional information to the customs authority.

**Article 346**  
**The Rights and Obligations of the Customs Authority in**  
**Determining Customs Value**

1. The customs authority conducting the customs clearance of goods shall be entitled:
  - 1) to make a decision concerning the permissibility of the method and accuracy of determining the customs value of goods, as declared by the declarant, based on the documents and information submitted by the declarant, and also based on information available to him/her to be used for determination of customs value;
  - 2) to require the declarant to submit, in writing, additional documents and information, when the documents and information previously submitted by the declarant are not sufficient for making a decision with respect to the declared customs value, and to establish a time limit for submission in the process, a requirement to submit additional documents may not serve as grounds for refusal to register the customs declaration and to release the goods;
  - 3) when documents and information confirming the accuracy of the determination of the customs value stated by the declarant are not available, or when there are reasons to believe that the information submitted by the declarant is not reliable or sufficient, to independently determine



the customs value of the declared goods by the application, in sequence, of the methods stipulated by this Code for determining the customs value of goods, based on information which is available (including information on prices related to identical or similar goods), with adjustments made in compliance with this Code.

2. Upon the written request of the declarant, the customs authority shall be obliged to present in writing:

- 1) information on the structure and methods for determining the customs value of goods in the event that it is determined by the customs authority;
- 2) an explanation of the reasons for which the customs value of goods declared by the declarant cannot be accepted by the customs authority.

### **Article 347**

#### **Conditional Valuation of Goods**

1. When it is impossible to use the method for determining customs value based on the transaction value of imported goods, due to absence of documents confirming the customs value, and when it is necessary to clarify the customs value declared by the declarant according to other methods of determining the customs value, the customs authority shall be entitled to conditionally release the declared goods, provided that the customs duties and taxes are secured by the declarant in compliance with the conditional customs valuation of goods performed by the customs authority, based on information on prices which is available to the customs authority .

2. During the formation of pricing information which is available to the customs authorities, statistical data that is contained in the customs cargo declaration, which was formulated on the basis of reliable, quantifiable and documentarily confirmed information, shall be used, as well as information obtained as a result of an independent expert examination.

3. The period of validity for the deposited amount of customs duties and taxes shall be sixty calendar days starting on the day that the goods are released, except when payment documents must be submitted as proof and, under the transaction terms, the time limit for payment exceeds the specified time period.

4. After the declarant submits documents verifying the declared customs value, the amounts securing payment of customs duties and taxes shall be refunded (or offset), in compliance with Chapter 45 of this Code, by filling out a form for adjustment of the customs value.

5. Failure to provide the required documents confirming the declared customs value before the expiration of the established time limit shall result in transfer of the amount of customs payments and taxes, calculated on the basis of the conditional value of the goods, to the national budget, through completion by a customs official of the form for adjustment of the customs value, which shall be considered as a final decision with respect to the customs value of the goods.

## **CHAPTER 42. TIME LIMITS AND PROCEDURES FOR PAYMENT OF CUSTOMS PAYMENTS**

### **Article 348 Payers of Customs Payments**

The declarant and the persons, in the interests of whom the customs authorities perform the legally significant actions stipulated by this Code, shall be the payers of customs payments.

### **Article 349 Time Limits For Payment of Customs Duties**

1. Customs duties shall be paid prior to or on the day of registration of the customs declaration, except in the event of a change in the time limit for payment of customs duties.
2. When the customs declaration was not filed within the time limit established in compliance with Article 407 of this Code, the time limit for payment of customs duties shall expire on the date that the time limit for filing the customs declaration expires.
3. When conditionally released goods are used for purposes other than those for which they were granted exemption from customs duties, then the date on which the person violated the restrictions on use and disposal of goods shall serve as the time limit for payment of customs duties. When it is impossible to establish the date of violation, the date of conditional release of goods shall be considered as the time limit for payment of customs duties.

### **Article 350 Time Limits for Payment of Customs Fees**

1. Customs fees for customs clearance shall be paid:
  - 1) prior to or on the day of registration of the customs declaration;
  - 2) when the customs declaration was not filed within the time limit established in compliance with Article 406 of this Code, then the time limit shall expire on the date that the time limit for filing the customs declaration expires;
  - 3) when conditionally released goods are used for purposes other than those for which they were granted exemption from customs fees for customs clearance, the date on which the person violated the restrictions on use and disposal of goods shall serve as the time limit for payment of the customs fees. When it is impossible to establish the date of violation, the date of conditional release of goods shall be considered as the time limit for making payments.
2. Customs fees for customs escort shall be paid after the customs authority makes a decision on a customs escort, but not later than when the arrangements for a customs escort begin.
3. Fees for making a preliminary decision shall be paid prior to or on the day of acceptance by the customs authorities of the documents and data specified by this Code for making a preliminary decision.
4. Customs fees for storage of goods at bonded warehouses and temporary storage warehouses established by the customs authorities shall be paid on the day of removal of the goods from the territory of the warehouses.

### **Article 351 Time Limits for Payment of Fees**

Licensing fees and fees for issuing a qualification certificate for a customs clearance specialist shall be paid prior to or on the day of acceptance by the customs authorities of the documents

and data specified by this Code for issuance of licenses and qualification certificates for customs clearance specialists.

## **Article 352**

### **Procedures for Payment of Customs Payments**

1. Customs payments shall be paid by means of cash or non-cash transactions.
2. Payment of customs payments may be made by the payer or by a third person, upon the instruction of the payer for whom the customs payments are being made. Customs payments shall be paid in the national currency of the Republic of Kazakhstan.
3. Conversion of a foreign currency into the national 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, effective:
  - 1) on the date of registration of the customs declaration;
  - 2) on the date that customs payments, which are not related to the customs clearance of goods, are made.
4. Customs payments shall be paid into the national budget in compliance with the procedures established by the authorized state body on customs issues in coordination with the Ministry of Finance of the Republic of Kazakhstan.

## **Article 353**

### **Time Limit for the Limitation of Legal Claims**

The time limit for payers to claim refunds or offsets of extra amounts of customs payments and taxes paid, shall be five years.

## **Article 354**

### **Control over Payment of Customs Payments and Taxes**

Control over the accuracy of the calculation and the timely transfer of customs payments and taxes, subject to imposition by the customs authorities to the budget, shall be exercised by the customs authorities.

## **CHAPTER 43. CUSTOMS PRIVILEGES**

### **Article 355 Customs Privileges**

1. Customs privileges shall mean privileges with regard to goods conveyed across the customs border of the Republic of Kazakhstan in the form of exemption from customs payments, as well as preferential tariff treatment.
2. Customs privileges shall be granted by introducing amendments and additions to this Code and may not be of an individual nature except in cases stipulated by Articles 356, 357 of this Code.
3. Granting of customs privileges by other legislative acts of the Republic of Kazakhstan shall be prohibited.

### **Article 356 Exemption From Customs Payments**

The following shall be exempted from customs duties:

- 1) means of transport which perform regular international conveyance of cargo, baggage and passengers, and also logistics items and inventories, fuel, foodstuffs and other items which are required for maintenance in route at intermediate stopping points, or items purchased abroad in connection with the liquidation of accidents involving (breakdown of) the means of transport;
- 2) logistics items and inventories, fuel, foodstuffs and other items which are exported outside of the customs territory of the Republic of Kazakhstan to supply the production activities of Kazakhstani vessels or vessels leased (chartered) by Kazakhstani enterprises and organizations engaged in maritime trade, and also the products of their trade which are imported onto the territory of the Republic of Kazakhstan;
- 3) national and foreign currency (except for those used for numismatic purposes) and securities, in compliance with the legislation of the Republic of Kazakhstan;
- 4) goods, except for excise goods, which are imported onto the customs territory of the Republic of Kazakhstan or exported from the customs territory of the Republic of Kazakhstan as humanitarian aid;
- 5) goods, except for excise goods, and excluding passenger cars especially designated for medical purposes, imported onto the customs territory of the Republic of Kazakhstan or exported from the customs territory of the Republic of Kazakhstan under agreements signed by states, governments, or international organizations, as free-of-charge aid for the purposes of charity, including for rendering technical assistance;
- 6) goods, which are exempt from customs duties in compliance with the legislation on investments of the Republic of Kazakhstan;
- 7) raw materials imported by the National Bank of the Republic of Kazakhstan and its subdivisions for the production of banknotes;
- 8) goods conveyed across the customs border of the Republic of Kazakhstan under customs regimes, which stipulate exemption from customs duties;
- 9) goods conveyed across the customs border of the Republic of Kazakhstan by natural persons under the regulations for duty-free import and export of goods, as established by the Government of the Republic of Kazakhstan;
- 10) goods exempted from customs duties in compliance with the legislation on migration of the Republic of Kazakhstan;
- 11) goods purchased under grants rendered in compliance with agreements signed with states, governments, or international organizations, which are specified by the tax legislation of the Republic of Kazakhstan;

12) goods specified in the list formulated by the Government of the Republic of Kazakhstan, which are imported onto the customs territory of the Republic of Kazakhstan or exported from the customs territory of the Republic of Kazakhstan within the framework of peacekeeping or other exercises conducted for the fulfillment of the international obligations of the Republic of Kazakhstan, for the purpose of ensuring the collective security;

13) goods imported and exported for official use by foreign diplomatic representative offices and by representative offices equated with them, and also for personal use by the diplomatic, administrative and technical staff of these representative offices, including family members living with them who are not residents of the Republic of Kazakhstan, and who are exempted in compliance with international treaties ratified by the Republic of Kazakhstan;

14) goods imported onto the customs territory of the Republic of Kazakhstan by the staff of the diplomatic service of the Republic of Kazakhstan in compliance with Article 289 of this Code;

15) excise stamps of foreign origin, imported onto the customs territory of the Republic of Kazakhstan for marking excise products intended for further export from the customs territory of the Republic of Kazakhstan.

2. The following shall be exempted from customs fees for customs clearance:

1) goods listed in Sub-paragraphs 1)- 5), 7), 9)-12) of Paragraph 1 of this Article;

2) goods imported onto the customs territory of the Republic of Kazakhstan or exported from the customs territory of the Republic of Kazakhstan, in compliance with Chapter 37 of this Code, except for customs fees for customs clearance of goods outside of locations designated for these purposes, and outside of the official business hours of the customs authorities;

3) goods declared under the customs regime of refusal in favor of the state.

3. Procedures for the submission of documents required for granting exemption from customs duties and customs fees for customs clearance of goods specified in this Article shall be determined by the Government of the Republic of Kazakhstan.

### **Article 357** **Preferential Tariff Treatment**

1. Preferential tariff treatment shall mean special advantages in the sphere of foreign economic activity, granted by the Republic of Kazakhstan to states or groups of states, in the form of exemption from duties or a reduction in customs duty rates, or the establishment of quotas for the preferential import (export) of goods.

Preferential tariff treatment shall be granted upon the basis of a resolution by the Government of the Republic of Kazakhstan.

2. Goods imported onto the customs territory of the Republic of Kazakhstan and originating in states belonging to a customs union or free trade zone along with the Republic of Kazakhstan, as well as goods exported from the customs territory of the Republic of Kazakhstan to these states and originating in the Republic of Kazakhstan, shall be exempted from customs duties.

3. Customs duties at reduced rates shall be imposed upon goods imported onto the customs territory of the Republic of Kazakhstan, which originate in developing countries, which enjoy the national system of preferences of the Republic of Kazakhstan. The Government of the Republic of Kazakhstan shall formulate the list of countries and goods, as well as the level of reduction in customs duty rates.

4. Goods imported onto the customs territory of the Republic of Kazakhstan, and originating in the least developed countries, which enjoy the national system of preferences of the Republic of Kazakhstan, shall be exempted from customs duties. The Government of the Republic of Kazakhstan shall formulate the list of the countries and goods.

5. Preferential tariff treatment stipulated by this Article shall be granted provided that the requirements stipulated by Chapter 8 of this Code are met.



## **CHAPTER 44. CHANGES IN THE TIME LIMIT FOR PAYMENT OF CUSTOMS DUTIES**

### **Article 358**

#### **The Concept and Terms of Changes in the Time Limit for Payment of Customs Duties**

1. A change in the time limit for payment of customs duties shall mean a delay in the time limit fixed by this Code for payment of customs duties to a later time, but not for more than three months from the day of registration of the customs cargo declaration by the customs authority. A change in the time limit for payment of customs duties shall be made in the form of deferred payments and payments by installments.

Here, deferred payment shall mean extension of the time limit for payment of customs duties, and payment by installments shall mean extension of the time limit for payment of customs duties for an additional period, during which the necessary amount should be paid in parts.

2. The decision to make a change in the time limit for payment of customs duties shall be made by regional customs offices and customs houses.

3. Deferred payment and payment by installments of customs duties shall be granted for imported raw materials and goods, except for excise goods, designated for industrial processing.

4. Deferred payment or payment by installments may be granted with regard to the total amount of the customs duty subject to payment, or to a part of it.

5. Deferred payment or payment by installments shall be granted, provided that payment of customs duties is secured in compliance with the procedure stipulated by Chapter 45 of this Code.

6. Persons who have debts with regard to customs duties and taxes, or those evading payment of customs duties and taxes, as well as persons involved in bankruptcy procedures, shall not be granted deferred payment or payment by installments.

### **Article 359**

#### **Industrial Processing**

For the purposes of this Chapter, industrial processing of raw materials and materials shall mean their usage in the production process in order to obtain products (commodities), the classification code of which under the foreign economic activity commodity nomenclature differs from the classification codes of the raw materials and materials used, at the level of any of the first four digits. Irrespective of changes in the product (commodity) classification code at the level of any of the first four digits, industrial processing shall not include the following:

- 1) simple assembly operations (riveting, welding, gluing, assembling, and other similar operations);
- 2) foodstuffs processed by catering enterprises;
- 3) operations preparing goods for sale and transport (splitting of consignments, preparing consignments for shipment, sorting, packing, repacking);
- 4) mixing commodities or components without the final products being given characteristics that would differentiate them from the initial characteristics, at the level of any of the first four digits of the foreign economic activity commodity nomenclature.

### **Article 360**

#### **Grounds for Granting Deferred Payment or Payment by Installments**

1. Deferred payment or payment by installments of customs duties shall be granted based upon a written application filed by the payer with the customs authority conducting customs

clearance of the imported raw materials and materials. In the process, the application must contain information concerning the security of payment of customs duties.

2. Along with the application, the payer shall submit the following documents:

- 1) the registration card of the participant in foreign economic activity;
- 2) a foreign trade contract (agreement) for the delivery of imported raw materials and (or) materials;
- 3) a technological diagram of production (or part thereof), showing the use of the imported goods in the capacity of raw materials and materials, and certified by the top manager and the chief accountant of the legal entity;
- 4) a notary certified copy of the license for the right to process raw materials and materials, if processing of raw materials and materials is recognized as a type of activity subject to licensing in compliance with the legislation on licensing of the Republic of Kazakhstan.

3. In order to confirm the right to grant deferred payment or payment by installments, the customs authorities shall be entitled to examine production areas and facilities.

### **Article 361**

#### **The Decision to Grant Deferred Payment or Payment by Installments**

1. The decision to grant deferred payment of customs duties or payment by installments, or the refusal to grant them, shall be made not later than five working days after receipt of the payer's application and of the documents specified in Article 360 of this Code.

2. The decision shall be drawn up, in written form, in duplicate and shall be signed by the head of the appropriate customs authority or by a person acting in his/her place. The first copy of the decision shall remain with the customs authority. The second copy of the decision shall be delivered to the payer not later than at the end of the day following the date that the decision was made by the customs authority.

3. The decision to grant deferred payment of customs duties or payment by installments must contain the following information:

- 1) the registration number of the decision
- 2) the time limit for deferred payment of customs duties or payment by installments;
- 3) the means of ensuring payment of customs duties as indicated in the payer's application;
- 4) the date and number of the foreign trade contract (agreement) on the supply of the imported raw materials or materials; the name of the consignee of the raw materials and (or) materials under the contract;
- 5) the name and quantity of the raw materials and (or) materials which are being granted deferred payment or payment by installments of customs duties;
- 6) the amount of customs duties with regard to which deferred payment or payment by installments is being granted.

4. The decision to refuse to grant deferred payment of customs duties or payment by installments must contain the reasons for the refusal.

### **Article 362**

#### **Time Limit for Making Deferred Payments and Payments by Installments**

1. In the event of a change in the time limit for payment of customs duties, the payer, or a third person, shall pay off the amounts due with respect to:

- 1) deferred payments - not later than at the end of the day on which the established time limit expires;
- 2) payments by installments – according to the schedule jointly approved by the customs authority and the payer;



2. When customs duties are not paid on time by the payer, the customs authorities shall take measures to recover the total amount of customs duties in compliance with Chapter 47 of this Code.

### **Article 363**

#### **Termination of a Decision by the Customs Authorities to Grant Deferred Payments or Payments by Installments**

The validity of a decision by the customs authorities to grant deferred payments or payments by installments shall terminate:

- 1) upon the expiry of the time limit specified in the decision to grant deferred payments or payments by installments;
- 2) upon the payment of all customs duties ahead of schedule;
- 3) upon the sale of the goods without industrial processing.

## **CHAPTER 45. GUARANTEE OF PAYMENT OF CUSTOMS PAYMENTS AND TAXES**

### **Article 364**

#### **General Provisions Regarding the Guarantee of Payment of Customs Payments and Taxes**

1. The guarantee of payment of customs payments and taxes shall apply:
  - 1) to ensure compliance with the qualification requirements for activity as a customs carrier, in compliance with Article 71 of this Code;
  - 2) upon delivery of goods and means of transport under the domestic customs transit procedure, in compliance with Article 82 of this Code;
  - 3) upon temporary storage of goods at a consignee's warehouse, in compliance with Article 102 of this Code;
  - 4) upon processing of goods on the customs territory of the Republic of Kazakhstan, in compliance with Article 164 of this Code;
  - 5) upon processing of goods outside the customs territory of the Republic of Kazakhstan, in compliance with Article 188 of this Code;
  - 6) upon re-export of excise goods, in compliance with Article 228 of this Code;
  - 7) upon transit of goods, in compliance with Article 234 of this Code;
  - 8) upon conditional customs valuation of goods subject to customs payments and taxes, in compliance with Article 347 of this Code;
  - 9) upon a change in the time limit for payment of customs duties, in compliance with Article 358 of this Code;
  - 10) upon extension of the time limit for submission of the customs declaration, in compliance with Article 406 of this Code;
  - 11) to ensure compliance with the qualification requirements for activity as a customs broker, in compliance with Article 426 of this Code;
2. Guarantee of payment of customs payments and taxes shall be provided prior to release of goods placed under a customs regime, or prior to the activities specified in Paragraph 1 of this Article.
3. Guarantee of payment of customs payments and taxes shall be provided by the payer or by a third person.

### **Article 365**

#### **Types of Guarantees of Payment of Customs Payments and Taxes**

1. A guarantee of payment of customs payments and taxes may be provided in the form of:
  - 1) goods and property as security;
  - 2) authorized bank guarantees;
  - 3) deposit of the payable sum with the customs authorities;
  - 4) insurance agreements (insurance policies).
2. A person shall be entitled to choose any type of guarantee of payment of customs payments and taxes specified in Paragraph 1 of this Article, except in cases stipulated by this Code.
3. The procedures for the employment of guarantees of payment of customs payments and taxes by the customs authorities shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

### **Article 366**

#### **Calculation of Amounts for the Guarantee of Payment of Customs Payments and Taxes**

1. The amount of the guarantee of payment of customs payments and taxes shall not be less than the amount of customs payments and taxes payable:
  - 1) when declaring the customs regime for release of goods into free circulation with regard to the following goods and means of transport:
    - conveyed under the domestic customs transit procedure;
    - admitted into temporary storage at the consignee's warehouse;
    - placed under the customs regime for processing on customs territory;
    - placed under the re-export customs regime;
    - imported for conveyance through the customs territory of the Republic of Kazakhstan in compliance with the transit customs regime;
    - with regard to which conditional customs valuation is applied when determining the customs value;
    - with regard to which the time limit for payment of customs duties is changed;
    - with regard to which the time limit for filing the customs declaration is extended;
  - 2) when declaring the export customs regime with regard to the following goods:
    - placed under the procedure for processing outside of customs territory;
    - exported for conveyance through the customs territory of a foreign state in compliance with the transit customs regime.
2. The amount of the guarantee required to meet the qualification requirements for activity as a customs carrier shall be defined in compliance with Article 71 of this Code.
3. The amount of the guarantee required to meet the qualification requirements for activity as a customs broker shall be defined in compliance with Article 426 of this Code.

### **Article 367**

#### **Goods and Property as Security**

1. Any goods and property, which are free from the property rights of third parties, may serve as security to guarantee the payment of customs payments and taxes, except for:
  - 1) property excluded from civil circulation;
  - 2) goods prohibited from being imported to the Republic of Kazakhstan or exported from the Republic of Kazakhstan;
  - 3) electricity, heat and other types of energy;
  - 4) perishable goods;
  - 5) property rights;
  - 6) property located outside the Republic of Kazakhstan;
  - 7) goods and property, the sale of which is limited;
2. The market value of the object of security to guarantee payment of customs payments and taxes cannot be less than the amount of the commitment for customs payments and taxes, the payment of which is ensured by the object of security, including sales expenses.
3. Unless otherwise decided by the customs authority, pledged goods remain with the depositor.

The depositor shall not be entitled to dispose of the objects of security until the payer fulfills the commitments secured by the pledge.
4. Security procedures shall be performed in compliance with civil legislation.
5. A claim against the object of a guarantee shall be performed in compliance with the legislation of the Republic of Kazakhstan.

### **Article 368**

#### **Authorized Bank Guarantee**

1. As a guarantee of payment of customs payments and taxes, the customs authorities shall accept guarantees issued by authorized banks in compliance with the normative legal acts of the National Bank of the Republic of Kazakhstan.
2. Legal relationships referring to the issuance of a guarantee by an authorized bank, fulfillment of commitments by the guarantor, and termination of the guarantee shall be regulated by the legislation of the Republic of Kazakhstan.

#### **Article 369**

##### **Deposits with the Customs Authority of the Republic of Kazakhstan**

1. Deposits to deposit accounts of the customs authority as a guarantee of payment of customs payments and taxes (hereinafter - deposits) shall be made in the national currency of the Republic of Kazakhstan or in foreign currency.
2. When the customs authority does not have a foreign currency account, the deposit shall be made in the national currency of the Republic of Kazakhstan.
3. In the event of failure to fulfill the commitments backed by the deposit, the payable amounts of customs payments and taxes shall be transferred to the national budget from the deposit not later than the day following the day of receipt of confirmation of non-fulfillment.
4. When the commitments backed by the deposit are fulfilled, the amounts paid shall be subject to refund in compliance with Article 373 of this Code or, upon the payer's request, shall be charged against future customs payments and taxes, or shall serve as a guarantee of payment of customs payments and taxes under another commitment to the customs authorities.

#### **Article 370**

##### **Insurance Agreement as a Guarantee of Payment of Customs Payments and Taxes**

1. As a guarantee of payment of customs payments and taxes, the customs authorities shall accept insurance agreements signed in compliance with the Civil Code of the Republic of Kazakhstan with an insurance company included in the register of insurance companies.
2. The procedure for and terms of inclusion of insurance companies in the register their removal from the register and procedures for maintaining the register, shall be defined by the Central Customs Authority in coordination with the authorized state body on customs issues and with the National Bank of the Republic of Kazakhstan.

## **CHAPTER 46. REFUNDING OF CUSTOMS PAYMENTS AND TAXES**

### **Article 371**

#### **Refund of Overpaid or Overcharged Customs Payments and Taxes**

1. The overpaid or overcharged amount of customs payments and taxes shall mean the amount of customs payments and taxes actually paid or charged, which exceeds the amount payable in compliance with this Code and with the tax legislation of the Republic of Kazakhstan.
2. The overpaid or overcharged amounts of customs payments and taxes shall be refunded based upon the payer's request. The request shall be submitted to the customs authority, which performed the clearance of the goods or legally significant acts, no more than five years from the date of payment.
3. The following documents must be submitted along with the application for a refund of overpaid or overcharged amounts of customs payments and taxes:
  - 1) a copy of the payment document, confirming payment of the indicated amounts
  - 2) a copy of the customs declaration processed by the customs authority, on the basis of which customs payments and taxes were charged and paid, shall be submitted when a customs declaration was processed;
  - 3.) copies of other documentation processed by the customs authorities in the course of performance of legally significant acts for performance of which customs payments were charged shall be submitted when customs payments were made without processing of a customs declaration.
4. The total period for processing a request to recover overpaid or overcharged customs payments and taxes must not exceed fifteen working days from the date of submission of the request and all other required documentation. When the customs authorities acknowledge the fact of overpayment or an overcharge of customs payments and taxes, the refund of the amounts indicated shall be made within fifteen working days.
5. Upon detection of overpaid customs payments and taxes, the customs authorities are required to inform the payer of the sum of the overpaid or overcharged amounts of customs payments or taxes not later than one month following the date of detection.
6. Upon violation of the time limit stipulated by Paragraph 4 of this Article, a penalty at the rate of 1.5 times the refinance rate of the National Bank of the Republic of Kazakhstan shall be charged for every day of the period of violation.
7. A refund of overpaid or overcharged customs payments and taxes shall be made if the payer has no debts for other customs payments and taxes, or penalties thereon, in the amount of the overpaid or overcharged amounts.
8. The procedure for the refund of overpaid or overcharged amounts of customs payments and taxes shall be determined by the authorized state body on customs issues in coordination with the Ministry of Finance of the Republic of Kazakhstan.

### **Article 372**

#### **Other Cases of Refund of Customs Payments and Taxes**

1. Refund of customs payments and taxes shall also be performed in the following cases:
  - 1) withdrawal of the customs declaration;
  - 2) restoration of most favored nation status or of preferential tariff treatment;
  - 3) when the terms of customs procedures provide for repayment of amounts of customs payments and taxes paid when exporting foreign goods from the customs territory of the Republic of Kazakhstan, or when destroying them, or rejecting them in favor of the state, or

when importing Kazakhstani goods or processed products onto the customs territory of the Republic of Kazakhstan;

4) in the event of a change in the previously declared customs regime to the customs regime for release of goods into free circulation or export, if the amounts of customs duties and taxes payable under the newly selected customs regime (the customs regime for release of goods into free circulation or export) are less than the amounts paid under the original procedure;

2. The refunding of customs duties and taxes in the cases specified in Paragraph 1 of this Article shall be performed in compliance with Article 371 of this Code as it applies to the refunding of overpaid or overcharged customs payments.

### **Article 373**

#### **Refunding a Deposit**

1. A deposit shall be refunded, provided that the commitments required by the deposit are fulfilled. The customs authority upon the written request of the payer shall actually refund the deposit within a period of time not to exceed ten working days from the day when the request was received.

2. A request for the refund of a deposit shall be submitted to the customs authority after the commitment has been fulfilled, but not later than five years following the date of fulfillment.

3. A deposit shall be refunded by the customs authority to the account or cashier's desk from which the deposit amount was paid or, in case of dissolution of the customs authority, by its legal assignee. The deposit shall be refunded in the currency of payment to the payer's bank account, which was used for remittance of the funds to the customs authority's account, unless otherwise specified in the payer's request.

4. The deposit shall not be refunded if a payer has debts with regard to customs duties, taxes and penalties in an amount equal to the amount of the deposit.

5. The refund of a deposit shall not entail a refund of interest, the amounts shall not be indexed, and bank fees shall be recovered at the expense of deposit funds.

6. The provisions of Paragraphs 3, 4 and 5 of this Article shall also apply to refunding of temporary antidumping, protection, and compensation fees.

## **CHAPTER 47. FORCED RECOVERY OF DEBTS AND PENALTIES**

### **Article 374**

#### **General Provisions Concerning Recovery of Debts and Penalties**

1. When customs payments and taxes are unpaid or not completely paid within the specified time limit, a debt shall occur. The customs authorities shall recover debts from the payers in compliance with the procedures stipulated by this Chapter.
2. The following actions shall be taken by the customs authorities to recover the debt:
  - 1) notification of the payer in compliance with the procedures stipulated by Article 376 of this Code;
  - 2) recovery of the debt against overpaid or overcharged amounts, or against deposits refundable, in compliance with the procedures stipulated by Article 377 of this Code;
  - 3) employment of the following methods for securing payment of the debt:
    - penalties charged on unpaid amounts;
    - suspension of withdrawals from the bank accounts of the payer;
    - resolution on the limited disposal of the payer's property;
  - 4) application of forced recovery measures in the following order:
    - against the money in the payer's bank accounts;
    - against the payer's cash;
    - from the payer's debtors accounts;
    - against sales under limited disposal of the payer's property.
3. The actions specified in Paragraph 2 of this Article shall be applied in sequence, except for charging penalties on the amount of debt.

### **Article 375**

#### **Calculating Penalties on Unpaid Amount of Debts**

1. When debt occurs, the penalty shall be paid by the payer except in cases of liquidation of debt in compliance with Article 377 of this Code.
2. The penalty shall be charged for every day of delay in payment of customs payments and taxes, starting on the day following the day of expiration of the time limit for payment of customs payments and taxes, including the day of payment, in the amount of 1.5 times the official re-finance rates established by the National Bank of the Republic of Kazakhstan, for each day of delay.

A penalty shall be charged and paid irrespective of the application of forced measures of recovery of customs payments and taxes, as well as any other measures of responsibility stipulated by the legislation of the Republic of Kazakhstan.
3. A penalty shall be paid, collected and refunded in compliance with the procedures stipulated by this Code with regard to payment, recovery and refund of customs payments and taxes.

### **Article 376**

#### **Notification Regarding Liquidation of Debts and Penalties**

1. Notification regarding the liquidation of debts and penalties shall mean a written notice, issued by the customs authority and sent to the payer, informing him of the unpaid amounts of customs payments, taxes and penalties, and the payer's responsibility to pay the amount of customs payments, taxes and penalties within the time limit specified in the notification.

The notification must contain the reasons for its issuance, and information on the measures stipulated by Article 374 of this Code to be applied to the payer, in case he/she fails to meet the notification requirements.

2. A notification shall be sent to the payer regardless of administrative or criminal procedures instituted against him/her.
3. A notification shall be sent to the payer not later than one month from the date of establishment of the fact of the debt.
4. Notification must be given to the payer personally, with a receipt of notification, or sent by another means that confirms the fact and date of receipt. When the payer evades receipt of the notification, it shall be sent to the addressee by registered letter not later than the following day. Notification shall be considered as having been received upon the expiry of seven days from the date when the registered letter is sent.
5. An appeal against the notification shall be made by the payer within the time limit and in compliance with the procedures stipulated by Chapter 72 of this Code.
6. The payer shall be responsible for meeting the requirements of the notification within a period of ten days of receipt of the notification unless the notification is appealed.
7. When the payer fails to meet the requirements specified in the notification within the time limit specified in Paragraph 6 of this Article, the customs authorities shall take action in compliance with Article 374 of this Code.
8. The format for notification shall be established by the Central Customs Authority of the Republic of Kazakhstan.

#### **Article 377**

#### **Recovery of Debts and Penalties against Overpaid or Overcharged Amounts, or against Deposits, for the Account of the Customs Authority**

1. In case of non-fulfillment of the requirements of the notification, the customs authority shall be entitled to recover debts and penalties against overpaid or overcharged amounts, or against deposits due to be refunded.
2. Within three working days, the customs authority shall forward a written notice to the payer regarding the debts and penalties recovered in compliance with this Article.
3. Recovery of debt against the account of overpaid or overcharged amounts shall be made in compliance with the procedures determined by the authorized state body on customs issues in coordination with the Ministry of Finance of the Republic of Kazakhstan.



**Article 378**  
**Suspension of Withdrawals from a Payer's Bank Account**

1. When the sum of overpaid or overcharged amounts or the sum of a deposit to the account of the customs authority is not sufficient to pay off a debt, the customs authority shall make a resolution to suspend withdrawals from the payer's bank accounts.
2. Suspension of withdrawals from a payer's bank accounts shall be applied to all payout operations of the payer, except for operations to liquidate the debt and penalty.
3. A resolution on the suspension of withdrawals from a payer's bank account shall be made according to the form established by the tax legislation of the Republic of Kazakhstan, and shall come into force upon the receipt of the resolution by the bank or other organization authorized to perform separate banking operations.
4. A resolution on the suspension of withdrawals from a payer's bank account shall be unconditionally enforced by banks and organizations authorized to perform separate banking operations.
5. A resolution on the suspension of withdrawals from a payer's bank account must be cancelled by the customs authority, which issued the resolution not later than one working day of the date of elimination of the reasons for suspension of withdrawals from the payer's bank account.

**Article 379**  
**Resolution on Restrictions on the Disposal of the Payer's Property for Liquidation of Debts and Penalties**

1. In the event that a payer has not paid off the debt and penalty within ten working days of the resolution on suspension of withdrawals from the payer's bank account entering into force, restrictions on the disposal of the payer's property shall be imposed.
2. A resolution on restrictions on the disposal of a payer's property shall be enforced by the customs authority in compliance with the procedures established by the tax legislation of the Republic of Kazakhstan.
3. A resolution on restrictions on the disposal of a payer's property shall be applied to property owned or operated by the payer, the book value or the market value of which, depending on the method of determination of the cost, is equal to the amount of the debt and the penalty.

Upon issuing a resolution on restrictions on the disposal of a payer's property, which is being leased, including financial leasing and pledge, transfer of the rights to the property to the lessee and pledged shall be prohibited as of the date of issue of the resolution with regard to the property, and until its cancellation.

4. Based on the resolution, the customs authority shall draw up an inventory statement on the property which is restricted for disposal, in compliance with the procedures stipulated by the tax legislation of Republic of Kazakhstan, with notification of the payer of his/her responsibilities for breach of the terms of ownership, use and disposal of the property. The inventory of the property restricted for disposal shall be made with a specification of the value of the property, calculated based upon the payer's accounting data or on an independent valuation performed in compliance with the legislative act of the Republic of Kazakhstan on valuation activities. The inventory statement shall be made in duplicate.
5. The customs authority shall be obliged to provide the payer with one copy of the resolution on restrictions on the disposal of the payer's property, and with one copy of the inventory statement on the property.
6. A resolution on restrictions on the disposal of the payer's property shall be cancelled by the customs authority which issued the resolution, not later than upon the expiration of one

working day following the date of elimination of the reasons for restrictions on the disposal of the payer's property.

### **Article 380**

#### **Recovery of Debts and Penalties from Funds in a Payer's Bank Accounts**

1. In the event that the debt and penalties are not paid by the payer within the ten day period following the issue of the resolution on restrictions on the disposal of the payer's property, the customs authorities shall make a decision to recover the money from funds in bank accounts through an indisputable procedure.
2. A resolution on indisputable recovery shall be enforced through sending a collection order, from the customs authority to the bank where the payer has his accounts, to deduct the amount payable from the payer's accounts and to transfer it to the national budget.
3. Upon execution of a collection order issued by the customs authority to deduct the amount from one of the payer's bank accounts, collection orders issued by the customs authority to deduct the amount from the payer's other bank accounts, opened in the same bank, are to be returned by the bank to customs without execution and with a payment document confirming execution of the order for collection attached, if the orders for collection are issued by the customs authority in the same amount and type of debt.
4. Collection of debts and penalties through an indisputable procedure shall be made in the national currency of the Republic of Kazakhstan and in foreign currency. Collection of the debt in foreign currency shall be made in an amount equal to the amount of customs payments, taxes, and penalties payable in the national currency of the Republic of Kazakhstan at the rate established by the National Bank of the Republic of Kazakhstan on the day of recovery.
5. A collection order issued by the customs authority shall be enforced by the bank in compliance with the procedures and within the time limit specified by the legislation of the Republic of Kazakhstan.

### **Article 381**

#### **Recovery of Debts and Penalties Against Cash**

1. Recovery of debts and penalties against cash shall be performed when there are no funds in bank accounts.
2. A confiscation of cash by the customs authority, in foreign currency as well, which is indicated in the payer's balance sheet, shall be considered to be recovery of debt and penalties against cash.
3. A confiscation of cash shall be registered in a confiscation statement according to the form established by the tax legislation of the Republic of Kazakhstan.
4. Cash confiscated from a payer shall be transferred to the national budget not later than one working day of confiscation.

### **Article 382**

#### **Recovery of Debts and Penalties Against a Debtor's Account**

1. In the event that a payer has no funds in bank accounts and no cash, the customs authority has the right, within the limits of the outstanding amount, to recover against bank accounts of third parties owing the payer (hereinafter referred to as 'debtors'). Notifications to the debtors shall be sent regarding recovery of the debt and penalties against funds in their bank accounts, within the amounts considered currently due to the payer by the debtors, pursuant to agreements.

Not later than twenty working days after receipt of notification, the debtor must submit to the customs authority, which sent the notification, an accounts settlement document drafted jointly with the payer on the date of receipt of the notification.

2. An accounts settlement document between the payer and the debtor should contain the following information:

- 1) the names of the payer and the debtor, their registration numbers;
- 2) the name of the customs authority registering the payer and the debtor;
- 3) the bank requisites of the payer and the debtor;
- 4) the amount due to the payer from the debtor;
- 5) the legal requisites, stamps and signatures of the payer and the debtor;
- 6) the date of issuance of the accounts settlement document.

3. On the basis of the accounts settlement document, the customs authority issues a collection order for the outstanding amount from the debtor's bank account.

4. The bank or organization performing separate types of banking operations for the debtor/payer must enforce the order for recovery of debt and penalties issued by the customs authority in compliance with the requirements set forth in Article 380 of this Code.

5. When an accounts settlement document, drafted in compliance with the provisions of this Article, is not submitted within ninety working days of the date of submission of the notification, the customs authority shall be entitled to issue a collection order for the outstanding amount from the debtor's bank account.

### **Article 383**

#### **Recovery of Debts and Penalties Against Sales of the Payer's Property Restricted for Disposal**

1. Customs authorities shall be entitled, without the consent of the payer, to recover the outstanding amount against the payer's property restricted for disposal, within the limits of the outstanding amount, in the event that there are no funds available in bank accounts, or cash, or funds in the bank accounts of his debtors.

2. The payer must provide for maintenance and appropriate care of the property restricted for disposal, until removal of this term. In the event of nonperformance of the given responsibilities, the payer must reimburse the expenses for preparing the property restricted for disposal for auction, and shall be responsible for illegal actions regarding the property, in compliance with legal acts of the Republic of Kazakhstan.

3. Property limited for disposal shall be sold in compliance with the legislation of the Republic of Kazakhstan.

4. In the event that the outstanding amount is not liquidated after the sale of property restricted for disposal, the customs authority shall submit information to the tax authorities about the outstanding amount and about the recovery measures stipulated by this Code.

**Article 384**  
**Procedures for Redemption of Debt and Penalties**

Redemption of debt and penalties shall be performed in the sequential order specified by the tax legislation of the Republic of Kazakhstan.

## **SECTION IX. CUSTOMS CLEARANCE**

### **CHAPTER 48. GENERAL PROVISIONS RELATING TO CUSTOMS CLEARANCE**

#### **Article 385**

##### **Scope of Application of this Chapter**

The regulations, requirements and terms, stipulated by this Chapter shall be applicable to all customs operations related to the processing of documents for customs purposes with regard to goods and means of transport conveyed across the customs border of the Republic of Kazakhstan.

#### **Article 386**

##### **Procedures for Conducting Customs Clearance**

1. Customs clearance shall be conducted in compliance with the procedures stipulated by this Code, and by normative and legal acts in the sphere of customs activity.
2. In compliance with international treaties, customs documents of other states, which are used for customs clearance, may be used for the purpose of simplifying and speeding up the process of customs clearance.

#### **Article 387**

##### **The Technology of Customs Clearance**

1. The procedures and technologies of customs clearance shall be differentiated depending on:
  - 1) the category of goods conveyed across the customs border of the Republic of Kazakhstan;
  - 2) the type of means of transport used for conveyance;
  - 3) the persons who convey the goods.
2. Customs formalities shall be applied equally to all goods regardless of their country of origin, departure, and destination.

#### **Article 388**

##### **Commencement and Termination of Customs Clearance Procedures**

1. Customs clearance of goods and means of transport shall commence at the moment of submission to the customs authority of the documents relating to the goods and means of transport conveyed across the customs border and, in the cases specified by this Code, upon an oral statement or performance of other actions confirming the intent of the person to perform customs clearance.
2. Customs clearance with respect to goods subject to veterinary, phytosanitary and other kinds of state control, can be terminated only after coordination with the authorized bodies conducting this control.
3. Customs clearance shall be terminated after customs operations required in compliance with this Code for placement of goods under a customs regime, and for calculating and levying customs payments and taxes, have been carried out.

#### **Article 389**

##### **Location and Time for Performing Basic Customs Clearance Operations for Goods and Means of Transport**

1. Basic customs clearance shall mean actions involving the declaration of goods and means of transport and placing them under a specific customs regime.
2. Customs operations for basic customs clearance of goods shall be performed in the place where the customs authorities are located and within their business hours.
3. Upon a well-reasoned request by the declarant, customs operations for basic customs clearance of goods can be performed outside of locations designated for these purposes, and outside of the official business hours of the customs authorities, in compliance with Articles 20-22 of this Code.
4. When performing basic customs clearance of goods outside of the area of activity of the customs authority with which a consignee, forwarder or branch office is registered, the declarant must submit notification regarding the performance of customs operations in the area of activity of another customs authority.  
The notification shall be subject to registration with the customs authority not later than four hours after submission. The form of and procedures for registration of the notification shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues.

### **Article 390**

#### **Documents and Data**

1. When undergoing customs clearance, persons defined by this Code shall be obliged to submit to the customs authorities the documents and data required for customs purposes.
2. The customs authorities shall be entitled to require the documents and data necessary for ensuring compliance with the legislation, the execution of which is assigned to the customs authorities.  
A list of the documents required for customs purposes and the time limit for submission shall be established by this Code.
3. The customs authorities shall not be authorized to refuse to accept documents because of minor inaccuracies, technical and spelling mistakes that do not alter the main information stated in the documents, which influence decisions made by the customs authorities in the course of conducting customs clearance.
4. Documents required for customs purposes may be submitted to the customs authorities electronically. The terms for submission and storage of these documents shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

### **Article 391**

#### **Presence of Authorized Persons and their Representatives When Conducting Customs Clearance**

1. Persons authorized with respect to goods and means of transport, and their representatives, shall be entitled to be present during the course of customs clearance.
2. Upon a well-reasoned request by the customs authority, the persons specified in Paragraph 1 of this Article, and their representatives, shall be obliged to be present during the course of customs clearance, and to provide assistance to the customs officials in conducting it.

### **Article 392**

#### **The Language Used in the Course of Customs Clearance**

Customs clearance, including filling out documents for customs purposes, shall be conducted in the state language or in Russian, except in cases stipulated by this Code.  
The Central Customs Authority, in coordination with the authorized state body on customs issues, has the right to define certain cases in which the customs authorities may accept and use

for customs purposes, documents and data filled out in foreign languages which the responsible customs officials speak.

### **Article 393**

#### **Cargo and Other Operations with Goods**

If not otherwise stipulated by this Code, cargo and other operations with goods may be performed only with the permission of the customs authorities, and must not entail additional expenses for the customs authority.

### **Article 394**

#### **Use and Disposal of Goods And Means of Transport with Respect to Which Customs Clearance is not Completed**

No one shall have the right to use and dispose of goods and means of transport with respect to which customs clearance is not completed, except in cases stipulated by this Code.

### **Article 395**

#### **Taking Samples and Specimens of Goods**

1. Samples and specimens of goods subject to customs control may be taken, with the permission of the customs authority, by persons authorized with regard to the goods, by their representatives, and by other bodies of state control with the purpose of exercising such control.

2. Samples and specimens shall be taken in the minimum quantities necessary to ensure the possibility of testing these samples and specimens. A statement regarding the taking of samples and specimens of goods subject to customs control shall be drawn up in compliance with the form established by the Central Customs Authority.

3. Persons, and their representatives, authorized with regard to goods, shall be entitled to be present while samples and specimens of goods are being taken by customs officials and by officials of other bodies of state control.

Customs officials shall be present while samples and specimens of goods are being taken by other bodies of state control, and by other persons and representatives authorized with regard to the goods.

The specified persons and representatives shall be obliged to provide assistance to customs officials when the latter are taking samples and specimens of goods, and to perform cargo and other operations required with the goods, in order to take samples and specimens, at their own expense.

4. The customs authorities must be informed of the results of the tests on samples and specimens of goods, which are performed by other authorized bodies.

5. The customs authorities shall not reimburse any expenses incurred by the person during the course of taking samples and specimens of goods.

6. The procedures for taking samples and specimens of goods, and the time limit and procedures for testing shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues.

## **CHAPTER 49. ADDITIONAL PROVISIONS RELATED TO CUSTOMS CLEARANCE**

### **Article 396**

#### **Priority Order for Customs Clearance of Certain Categories of Goods**

1. When importing onto the customs territory of the Republic of Kazakhstan and exporting from the territory, goods required for liquidation of consequences of natural calamities, accidents and disasters, and also perishable products, live animals, radioactive materials, explosives, express cargoes, humanitarian aid and technical assistance, information and other materials for mass media needs, and other similar goods shall be cleared in priority order.

2. Express cargoes shall mean goods conveyed by specialized transport and forwarding organizations having a license to act as a customs broker, by any means of transport, with the purpose of delivering them to the consignee within seventy-two hours.

3. The priority order for customs clearance stipulates submission to the customs authority of an application and shipping documents, which shall be considered as a temporary customs declaration, with subsequent presentation of the completed customs declaration to the customs authority.

The application must contain data on the shippers and consignees of the goods, the countries of departure and destination of the goods, the name, description, quantity, gross weight and value of the goods, their purpose, and information on the customs regime under which the goods being declared are expected to be placed. It is necessary to file the customs declaration, documents and data required for customs purposes within the established time limit.

4. A complete customs declaration shall be submitted to the customs authority not later than thirty calendar days from the date of conditional release of the goods.

In the course of customs clearance, the normative and legal acts, effective on the date when the declarant's application and shipping documents were registered by the customs authorities, shall be used.

Goods subject to customs duties and taxes may be cleared in priority order only upon securing payment of customs payments and taxes.

5. When supplying power in case of emergency, a dispatcher's application, submitted to the customs authorities within three days from the day the emergency situation began, may be considered as a temporary customs declaration.

### **Article 397**

#### **Special Simplified Procedures for Customs Clearance**

1. Special simplified procedures for customs clearance shall be granted by customs authorities to persons enjoying the most favored customs regime.

Special simplified procedures for customs clearance may include:

- conducting customs clearance procedures on the premises of these persons;
- filing a single customs declaration for goods within the specific period of time during which the goods were being conveyed across the customs border;
- release of goods upon submission of the minimum volume of data required for their identification.

The procedures for application of special simplified procedures for customs clearance shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

2. Special simplified procedures for customs clearance shall not release persons from complying with the requirements and terms stipulated by this Code and by the other normative and legal acts in the sphere of customs activity, which regulate issues of full and timely customs



payments and taxes, or from compliance with non-tariff regulatory measures, and with the requirements and terms of customs procedures.

## **CHAPTER 50. DECLARATION OF GOODS**

### **Article 398 Goods Subject to Declaration**

Goods shall be subject to customs declaration when crossing the customs border of the Republic of Kazakhstan or when changing customs regimes, except in cases of transfer of goods into state ownership under a court decision.

### **Article 399 Location for Declaring Goods**

Declaration of goods shall be performed at the customs authority where customs clearance of the goods is conducted, unless otherwise stipulated by the customs legislation of the Republic of Kazakhstan.

The Central Customs Authority, in coordination with the authorized state body on customs issues, shall be entitled to specify certain customs authorities for declaring specific categories of goods only in cases when it is a required measure in order to ensure the effectiveness of customs control.

### **Article 400 The Declarant**

The following persons, conveying goods across the customs border of the Republic of Kazakhstan, may be declarants:

- 1) Kazakhstani persons;
- 2) natural persons (when conveying goods under simplified or preferential procedures);
- 3) foreign persons who enjoy customs privileges in compliance with Chapter 38 of this Code;
- 4) representative offices of foreign organizations, registered on the territory of the Republic of Kazakhstan in compliance with established procedures, when declaring the customs regimes for temporary import, transit and release into free circulation for goods imported for the needs of such representative offices.

### **Article 401 The Rights of the Declarant**

When declaring goods and performing other customs operations in the course of customs clearance, the declarant shall be entitled:

- 1) with the permission of the customs authority and prior to filing the customs declaration and documents required for customs purposes, to examine, measure and perform cargo operations with goods imported onto the customs territory of the Republic of Kazakhstan, or to take samples and specimens (No separate declaration shall be filed for samples and specimens, provided they are specified in the customs declaration for the goods);
- 2) to be present when the customs officials are exercising customs control and when they are taking samples and specimens;
- 3) to be familiarized with the results of tests of samples and specimens taken by the customs authorities;
- 4) to appeal, in compliance with the procedures established by this Code, against decisions made by the customs authorities, or against actions (inactions) by customs officials, or in cases when his/her rights are infringed.

## **Article 402**

### **The Obligations of the Declarant**

When declaring goods, the declarant shall be obliged:

- 1) to declare goods and means of transport;
- 2) to present, upon the request of the customs authority, the goods and means of transport being declared;
- 3) to submit to the customs authority the documents and data required for customs purposes;
- 4) to pay customs payments and taxes, or to secure their payment in compliance with Section VIII of this Code;
- 5) to meet other requirements of the customs authorities, stipulated by this Code.

## **Article 403**

### **The Responsibility of the Declarant**

1. The declarant shall bear responsibility for:
  - unreliable data stated in the customs declaration and other documents presented;
  - non-payment of customs payments and taxes, except in cases stipulated by this Code;
  - untimely submission of original documents required according to Article 408 of this Code.
2. A person conveying goods, or a customs broker authorized by this person under a contract, shall be responsible for non-filing of the customs declaration with the customs authority.

## **Article 404**

### **Forms of Declaration**

1. A declaration shall be made by declaring reliable information on goods to the customs authority in the established form (written, oral, concluding and electronic), on the customs regime, and other information required for customs purposes, in compliance with established procedures.
2. The procedures and format for electronic declarations of goods shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.
3. The list of data subject to being stated on a customs declaration shall be limited only to the data required for the purpose of calculating and levying customs payments and taxes, for formulating customs statistics, and for applying the customs legislation of the Republic of Kazakhstan.

## **Article 405**

### **Customs Declaration**

1. The following kinds of customs declarations shall be used when declaring goods:
  - 1) customs cargo declaration;
  - 2) customs value declaration;
  - 3) customs passenger declaration.
2. 'Customs cargo declaration' shall mean a document filed by the declarant, which contains data on the goods and means of transport, on their customs regime, and other data required for customs purposes. A customs cargo declaration shall be filed in the following cases:
  - 1) when the customs value of the declared consignment of goods exceeds ninety monthly calculation indices;
  - 2) when non-tariff regulatory measures have been established with regard to the goods;
  - 3) in other cases stipulated by this Code.

A customs cargo declaration may be used as a pre-arrival declaration, and also as a temporary, incomplete, or periodic customs declaration.

Cases when a customs cargo declaration may be used as a temporary, incomplete, or periodic customs declaration shall be established in compliance with the procedures stipulated by Articles 413-416 of this Code.

An application, drawn up in an arbitrary format, and (or) shipping, commercial or other documents defined by the Central Customs Authority, and containing the data required for identification and release of goods, may be used as a customs cargo declaration.

3. 'Customs value declaration' shall mean a document which contains data on the customs value of goods placed under a certain customs regime, and which is filed by the declarant with the customs authority along with the customs cargo declaration, in compliance with the procedures stipulated by this Code.

4. 'Customs passenger declaration' shall mean a document which is completed and filed with the customs authority by the natural person who conveys goods and means of transport across the customs border of the Republic of Kazakhstan under the simplified or preferential procedures stipulated by this Code.

5. The formats for customs declarations and the procedures for their completion shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues.

#### **Article 406**

##### **Time Limit for Submitting a Customs Cargo Declaration**

1. A customs cargo declarations for goods imported onto the customs territory of the Republic of Kazakhstan shall be filed within fifteen calendar days, including the day of presentation of the goods to the customs point of destination, except in cases specified in Paragraph 3 of this Article.

When the time limit for filing the customs cargo declaration expires on a non-working day of the customs authority, the expiration day shall be the next working day of the customs authority.

2. A customs cargo declaration for goods exported outside the customs territory of the Republic of Kazakhstan shall be filed prior to their actual export.

3. Upon a well-reasoned appeal by the declarant, the customs authority shall extend the time limit for filing the declaration. The time limit for filing a customs cargo declaration shall be extended by the customs authority which is conducting customs clearance, provided payment of customs payments and taxes for imported goods is secured.

4. Extension of the time limit for filing a customs declaration may not result in a violation of the time limit for temporary storage of goods.

#### **Article 407**

##### **Presenting Documents for Record Keeping Purposes**

. The registration card of a participant in foreign economic activity, which is drawn up during registration as a participant in foreign economic activity, shall be regarded as the document, which certifies the status of a participant in foreign economic activity and his/her registration with the customs authorities.

2. The registration card of a participant in foreign economic activity shall be issued by the customs authority within one working day, providing the following documents are submitted:

1) by legal persons:

- a notary certified copy of the certificate verifying the state registration of a legal entity or structural unit thereof;
- a copy of the statistics card issued by the statistics department;
- bank certificates verifying the opening of a bank account by the legal entity;

- a copy of the taxpayer's certificate issued by the tax body.
- 2) by natural persons intending to convey goods across the customs border of the Republic of Kazakhstan, the declaration of which require a customs cargo declaration to be filed:
  - the identity card of a natural person;
  - a copy of the taxpayer's certificate issued by the tax body;
  - bank certificates verifying the opening of a bank account, if the natural person has a bank account.
- 3. When the data changes in documents submitted for record keeping, the declarant shall be obliged, within fifteen calendar days, to submit documents confirming the changed data to the customs authority which issued the registration card of foreign economic activity.

## **Article 408**

### **Presenting Documents When Declaring Goods**

1. Filing of the customs cargo declaration must be accompanied by submission to the customs authority of an electronic copy thereof and of the documents required for customs purposes stipulated by this Article.

The structure of the electronic copy of the customs cargo declaration shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues.

2. The declarant may present copies of documents confirming the declared data, along with the presentation of an obligation to present the original of the appropriate document within the time limit required to check the customs declaration, if the original of the document is mandatory for making a decision on the release of goods.

When the originals of some documents cannot be submitted within the stated time limit, upon a well reasoned application by the declarant, the customs authorities shall permit submission of copies with subsequent submission of the originals of the documents within the period of time necessary for their receipt, but not later than thirty calendar days after the registration of the customs declaration. The declarant shall be responsible for non-submission of the original documents within the established time limit, or for mis-declaration of the data stated in copies of documents previously submitted.

When original documents were previously presented to the customs authority, based upon which customs clearance of further lots of goods is conducted, then it shall be sufficient to provide copies of those documents only.

3. When the original documents, mandatory for making a decision on the release of goods, are kept in the files of the customs authority, and then the customs authority shall make a note thereof for the declarant on the copies of those documents, and shall state the name of the customs authority keeping the originals. This note shall be sealed with the personal numbered stamp of the customs official.

4. The originals of contracts, invoices, transport documents, documents certifying payment of customs payments and duties, and licenses from the National Bank of the Republic of Kazakhstan shall be returned to the declarant after release of the goods.

In the process, for customs clearance purposes, a copy certified by the declarant must be submitted along with the originals of these documents.

5. Filing of the customs declaration must be accompanied by submission of the required documents to the customs authority, based on which the customs declaration was completed and which confirm:

- 1) the authority of the declarant to file the customs declaration in his/her own name:
  - a power of attorney for a natural person who is a staff member of the declarant;
  - or a contract for providing broker's services and the qualification certificate of a customs clearance specialist;
- 2) the right of ownership, disposal or use of goods subject to customs clearance:

a foreign economic trade contract (agreement) for purchase and sale or barter, or an agreement or other document on the right to dispose of or use goods subject to customs clearance.

3) the conveyance of goods across the customs border of the Republic of Kazakhstan:  
the shipping documentation;

4) the customs value of goods:

an invoice, pro forma invoice, specifications, and other documents specified for the declaration and determination of the customs value of goods, in compliance with Chapter 41 of this Code;

5) the origin of goods:

a declaration of origin of goods or a certificate of origin of goods, in compliance with Articles 47, 48 of this Code;

6) the payment or security of payment of customs payments and taxes, depending on the terms of the customs regime and the existence of privileges regarding customs payments and taxes:

a payment order with a notation by the bank regarding cash payment;

or a cash receipt for a customs authority voucher from the bank, when cash was paid;

or the guarantee of an authorized bank;

or a pledge agreement;

or an insurance contract;

or other documents stipulated by Paragraph 1 of Article 365 of this Code;

documents proving the granting of privileges regarding customs payments and taxes, in compliance with Article 43 of this Code;

documents confirming the granting of deferred payment (payment by installments) of customs duties, VAT;

7) the delivery of goods to the destination point:

the delivery control document stipulated by Chapter 13 of this Code;

or other documents, in compliance with international agreements ratified by the Republic of Kazakhstan;

8) compliance with the requirements with respect to currency control:

documents required in compliance with the currency legislation;

9) compliance with the mandatory standard requirements upon import of goods, regardless of the customs regimes declared:

- a phyto-sanitary (quarantine) certificate or veterinary certificate. These certificates shall be submitted only in cases defined by the normative and legal acts of the Republic of Kazakhstan for goods subject to mandatory certification.

10) verification of the status of a participant in foreign economic activity:

- the registration card of the participant in foreign economic activity.

6. the list of documents which are to be submitted in compliance with the selected customs regimes shall be defined by Article 409 of this Code.

### **Article 409**

#### **Submission of Documents in Compliance with the Requirements of the Selected Customs Regimes**

In compliance with the requirements of the selected customs regimes, the following documents may be submitted in addition to the documents specified in Article 408 of this Code:

1) under the customs regime for release of goods into free circulation:

a certificate of conformity or a declarative statement regarding the safety of products, for goods which are subject to mandatory certification in compliance with the legislation of the Republic of Kazakhstan;

the appropriate permissions by authorized bodies and other documents, in cases stipulated by the legislation of the Republic of Kazakhstan and by international agreements of the Republic of Kazakhstan;

the license for goods subject to licensing and export control, in compliance with the legislation of the Republic of Kazakhstan;

2) the export customs regime for goods:

the appropriate permissions by the authorized bodies and other documents, in cases stipulated by the legislation of the Republic of Kazakhstan and by international agreements of the Republic of Kazakhstan;

the license for goods subject to licensing and export control, in compliance with the legislation of the Republic of Kazakhstan;

3) the re-import customs regime for goods:

- a customs declaration proving export of goods from the customs territory of the Republic of Kazakhstan;

- a certificate of conformity or a declarative statement regarding the safety of products, for goods subject to mandatory certification in compliance with the legislation of the Republic of Kazakhstan;

- a document verifying payment of export customs duties as a guarantee of refund of export customs duties.

- a permission for goods subject to export control, in compliance with the legislation of the Republic of Kazakhstan;

4) the transit customs regime for goods:

- documents verifying the legitimacy of the means of transport (container) for transporting goods under customs stamps and seals in cases stipulated by this Code.

- a permission for the transit of goods subject to export control, in compliance with the legislation of the Republic of Kazakhstan;

5) the bonded warehouse customs regime:

- a contract for the storage of goods with the owner of a bonded warehouse;

6) the duty free shop customs regime:

- a certificate of conformity or a declarative statement regarding the safety of the products, or a foreign certificate recognized by the authorized body, in compliance with the established procedures;

7) the customs regime for processing on customs territory:

- a conclusion by the authorized body of the Republic of Kazakhstan on the expediency of processing goods;

8) the customs regime for processing of goods for free circulation:

- a conclusion by the authorized body of the Republic of Kazakhstan on the expediency of processing goods;

9) the customs regime for processing outside of customs territory:

- a conclusion by the authorized body of the Republic of Kazakhstan on the expediency of processing goods;

10) the temporary import customs regime:

- an obligation to export goods;

- a certificate of conformity or a declarative statement regarding the safety of products, for goods subject to mandatory certification, in compliance with the legislation of the Republic of Kazakhstan;

11) the temporary export customs regime for goods:

- an obligation to import goods;

12) the free customs zone customs regime:

- a certificate of conformity or a declarative statement regarding the safety of products, for goods subject to mandatory certification, in compliance with the legislation of the Republic of Kazakhstan;

13) the free warehouse customs regime:

- a contract for placement of goods into storage with the owner of a free warehouse;

the technological documentation of an enterprise verifying the possibility of performing processing operations using the declared goods;

- a certificate of conformity or a declarative statement regarding the safety of products, for goods subject to mandatory certification, in compliance with the legislation of the Republic of Kazakhstan;

14) the re-export customs regime for goods:

- the customs declaration produced when importing goods onto the customs territory of the Republic of Kazakhstan, or a short form declaration when declaring goods that are placed into temporary storage places;

- a permission for goods subject to export control, in compliance with the legislation of the Republic of Kazakhstan;

- a permission for the re-export of goods, issued by the authorized body of the country of origin of the goods in cases when, under international agreements ratified by the Republic of Kazakhstan, re-export is permitted upon the existence of the specified permission;

15) the customs regime for destruction of goods:

- a conclusion on environmental protection issues by the authorized body of the Republic of Kazakhstan;

16) the customs regime for refusal of goods in favor of the state:

- a certificate of conformity or a declarative statement regarding the safety of products, for goods subject to mandatory certification, in compliance with the legislation of the Republic of Kazakhstan;

17) the special customs regime:

- a list of goods, certified by the authorized body on goods conveyed across the customs border of the Republic of the Republic of Kazakhstan, which are specified in subparagraphs 1), 2) of article 277 of this Code;

- a list of goods, certified by the transport organization on goods which are specified in subparagraph 3) of article 277 of this Code;

- the documents which accompany the goods, stating the designation of the goods for the purposes specified in subparagraph 4) of article 277 of this Code;

- a confirmation by the authorized body on the export of the goods for the purposes specified in subparagraph 5) of article 277 of this Code.

## **Article 410**

### **Acceptance and Registration of the Customs Cargo Declaration**

1. A customs cargo declaration and an electronic copy, filled out in compliance with the established format, as well as the documents necessary for customs purposes, shall be filed by the declarant with the customs authority.

2. The date and time of acceptance by the customs authorities of the customs cargo declaration and of the documents required for customs purposes shall be stated in the list of enclosed documents and shall be certified with the personal numbered seal of the customs official. The list of enclosed documents shall be drawn up in compliance with the procedures determined by the Central Customs Authority in coordination with the authorized state body on customs issues. After certification the list shall be returned to the declarant.

3. The customs authority shall not be entitled to reject a customs cargo declaration for registration, except when:

1) the declaration is filed by a person who is not the declarant;

2) the required data, stipulated by Paragraph 5 of Article 405 of this Code, is not stated in the declaration;

3) the declaration is not signed or not properly certified, or not completed in the established format;



4) customs payments and taxes for the declared goods have not been made, or payment has not been secured, except in cases when deferred payment is granted or when payment by installments is granted for customs duties and taxes, and also in cases when VAT is paid by means of the offset method;

5) not all documents, data on which is stated in the special column on the customs cargo declaration, are presented.

4. The customs cargo declaration shall be registered or refused registration within a period of time not to exceed two hours from the moment of acceptance of the customs cargo declaration.

5. In the event of refusal to register the customs cargo declaration, the customs official shall fill out a form of refusal to register the customs cargo declaration, and shall pass the specified form of refusal, along with the submitted documents, to the person who filed the customs cargo declaration.

The format of and procedures for drawing up the form of refusal to register the customs cargo declaration shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.

6. Starting from the moment of registration, the accepted customs cargo declaration shall become a legal document.

#### **Article 411**

#### **Amendments or Additions to Data Stated in a Customs Declaration, and Withdrawal of a Customs Declaration**

1. With the permission of the customs authority and based upon a well reasoned written appeal by the declarant, the data stated in a customs cargo declaration may be amended or supplemented, or a customs cargo declaration, accepted by the customs authority, may be withdrawn.

2. Amendments and additions to the data stated in the customs cargo declaration shall be allowed by the customs authority under the condition that, by the moment of acceptance of the declarant's appeal, the customs authority has not finished checking the customs cargo declaration, or has not started the examination of the goods.

3. Amendments or additions to the customs declaration may not extend or reduce the sphere of its effectiveness, and may not result in declaring goods other than those that were stated in the customs declaration accepted by the customs authority.

4. It is permissible to correct typographical, technical or spelling errors (not more than three) which do not change the basic data stated in the customs cargo declaration which influences the making of decisions by the customs authorities during the course of customs clearance, upon an oral appeal by the declarant, by crossing out the incorrect data or by writing the correct data over the incorrect data. Each correction of this kind shall be certified by the signature of an authorized person and by the declarant's stamp.

5. Customs officials shall not be entitled, on their own initiative, or upon the instruction or request of a person, to fill out a customs cargo declaration, or to amend or add to the data stated in a customs cargo declaration, except for adding data considered to be within the authority of the customs authorities.

6. Upon a well-reasoned appeal by the declarant, the customs cargo declaration may be withdrawn by him prior to release of goods. In case of the withdrawal of a customs declaration, the customs authority shall establish a time limit for filing a new customs declaration. This time limit shall not exceed fifteen calendar days from the day that the decision to withdraw was issued, except in cases of application of the procedures for temporary, preliminary, periodic, or incomplete declaration of goods. Withdrawal of a declaration shall not extend the time limit for payment of customs duties and taxes.

7. In the event that a withdrawn declaration was filed for goods intended for export from the customs territory of the Republic of Kazakhstan, the customs cargo declaration may be withdrawn prior to their actual export from the customs territory of the Republic of Kazakhstan. A time limit for filing a new customs declaration for the goods shall not be established.

Here, the withdrawn customs cargo declaration shall be subject to annulment.

8. In exceptional cases, it is permissible to make amendments and additions to the customs cargo declaration upon a well reasoned request by the declarant, with the permission of the Central Customs Authority, within one month from the day the goods were released, provided that the requirements stipulated by Paragraph 3 of this Article are met.

## **CHAPTER 51. ADDITIONAL PROVISIONS RELATING TO DECLARATION OF GOODS**

### **Article 412 Preliminary Declaration**

1. A customs cargo declaration may be filed with regard to goods not earlier than thirty calendar days prior to their submission to the customs point of destination, if the declarant submits the documents, which are required for customs clearance of the goods. Customs payments and taxes shall be paid prior to or when filing the customs declaration with the customs authority.
2. If transport or commercial documents that accompany goods are required for customs purposes, the customs authority shall accept copies of these documents, certified by the declarant, or the data from these documents and, after the arrival of the goods, shall compare the data to the data stated in the original documents.
3. A customs declaration shall be subject to annulment if the goods are not presented to the customs authority, which accepted the pre-arrival customs declaration, within thirty calendar days from the date of registration.
4. When using a pre-arrival declaration of goods, the normative and legal acts, effective on the day of registration of the customs declaration by the customs authority, shall apply.
5. When there are changes in the valuation, quantitative or weight indicators, which were previously declared (previously declared based upon copies of the documents accompanying the goods), the documents confirming the changes in value, quantity or weight (commercial statements, statements from the Chamber of Commerce) shall be subject to mandatory submission.
6. If, after the arrival of goods, discrepancies are discovered in the value, quantity or weight as compared to the data previously stated, the declarant shall be entitled to withdraw the pre-arrival declaration in compliance with the procedures stipulated by this Code.
7. In order to use the pre-arrival declaration procedure, special permission of the customs authority shall not be required. The procedure for pre-arrival declaration shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues.

### **Article 413 Temporary Customs Declaration**

1. When exporting goods from the customs territory of the Republic of Kazakhstan, it is permissible to declare goods by filing a temporary customs declaration.
2. A temporary customs declaration shall allow for a statement of data, proceeding from the intention to convey an expected quantity of goods within a certain period of time. The value of goods may be declared by the declarant, taking into consideration the price for the goods under a foreign-economic transaction. If the contract (agreement) does not state a fixed (accurate, final) price for goods and defines only the conditions for its determination, and if accurate information with respect to the quality or quantity of the conveyed goods is not available on the date of filing the customs declaration, then a preliminary price, put on record in the contract, or a conditional value of the conveyed goods, based upon price information available to the customs authority, shall be used for determination of the conditional value of the goods.  
The procedures for filling out a temporary customs declaration and clearing customs with it shall be defined by the Central Customs Authority in coordination with the authorized state body on customs issues. The normative and legal acts, effective on the day of registration of the temporary customs declaration with the customs authority, shall apply for that procedure.
3. A temporary customs declaration shall be filed with the customs authority within the month preceding the month of expected delivery.

4. Customs payments and taxes shall be paid prior to or when filing the temporary customs declaration with the customs authority.
5. Within a period of time not to exceed ten calendar days after the delivery of goods declared in the temporary customs declaration, the declarant shall be obliged to file a complete and properly filled out customs declaration. This time limit shall be calculated from the day that the consignment, and the delivery acceptance statement or other documents, which are being used to determine the value and the quantity of the goods, are processed, but not later than sixty calendar days from the date of customs clearance with the temporary customs declaration. An excess in the actual quantity of goods as compared to the declared quantity shall be permitted, but not more than ten per cent.
6. Additional payment of customs payments and taxes or refund of over-charged customs duties and taxes under a temporary customs declaration shall be performed upon submission of a completed customs declaration in compliance with Section VIII of this Code.

#### **Article 414**

##### **Particular Features of Submitting a Temporary Customs Declaration when Exporting Goods by Pipe Lines and Electric Power Lines**

A temporary customs declaration for electric power shall be filed with the customs authority within the month preceding the quarter of expected delivery.

2. Within a period of time not to exceed thirty calendar days after delivery of the goods stated in the temporary customs declaration, the declarant shall be obliged to file a complete and properly filled out customs declaration. This time limit shall be calculated from the day that the transport documents are processed. For natural gas and electric power, the time limit for filing a completed customs declaration shall be calculated from the last day of the month of delivery. The total time limit for filing a completed customs declaration must not exceed three months from the date that the month of delivery stated in the temporary customs declaration terminated.

#### **Article 415**

##### **Periodical Customs Declaration**

1. When the same goods are conveyed across the customs border by the same person on a regular basis, the customs authority may permit filing of a single periodic customs declaration for all goods conveyed across the customs border of the Republic of Kazakhstan within a certain period of time.
2. Goods shall be considered as being the same when they have the same classification code at the level of nine digits under the foreign economic activity commodity nomenclature.
3. Goods shall be considered as being regularly conveyed across the customs border of the Republic of Kazakhstan by the same person, when the same person delivers the same goods three or more times within one calendar month.
4. For customs purposes, a single shipment shall mean the same goods conveyed across the same checkpoint within one calendar month under the same foreign trade contract, regardless of the quantities of the separate deliveries.
5. When conducting customs clearance of goods using a periodic declaration, the normative and legal acts of the Republic of Kazakhstan, effective on the date of registration of the periodic customs declaration with the customs authorities, shall apply.  
A periodic declaration of goods shall be performed by filing a periodic customs declaration within the month preceding the month of delivery. In the process, a periodic customs declaration shall be filled out for a single consignment of goods.

Not later than ten calendar days after termination of the calendar month within which the goods were conveyed using the periodic declaration procedure, a complete declaration that is filled out according to the actual quantity of exported or imported goods, shall be filed.

8. When goods are imported in volumes different from those stated in the periodic customs cargo declaration, a complete customs declaration shall be filled out according to the actual quantity of the imported goods. In the process, a periodic customs cargo declaration shall be filed within the next month, taking the changes into account.

9. The procedures for customs clearance of goods using the periodic declaration procedure shall be determined by the central customs authority in coordination with the authorized state body on customs issues.

#### **Article 416** **Procedures for Issuing Permission to Use the** **Periodic Declaration Procedure**

1. To receive permission to use the periodic declaration procedure (hereinafter referred to as 'permission'), the person concerned shall file an application with the customs authority, completed in an arbitrary form, signed by the manager of the entity conveying the goods, and containing the following data:

- 1) name and classification code of goods under the foreign economic activity commodity nomenclature at the nine-digit level;
- 2) expected frequency and volumes of conveyance of goods within one calendar month;
- 3) country of origin of goods;
- 4) requisites of the foreign trade contract or of another document, based upon which the goods are to be cleared (date and number);
- 5) approximate customs value of the goods;
- 6) name of the shipper, when goods are being imported; name of the consignee, when goods are being exported;
- 7) when goods are being exported – the customs checkpoint through which the goods will be exported;

The application shall be subject to consideration by the customs authority within a period of time not to exceed three days from the moment it was received. With the permission of the head of the customs authority, the time limit may be extended up to ten calendar days.

Permission with regard to imported goods shall be issued provided a preliminary decision concerning classification of goods was made.

Permission shall not be issued:

- 1) when the expected conveyance of the goods does not comply with the requirements set for the use of the periodic declaration procedure;
- 2) to persons who have incurred a penalty through a judicial settlement for violation of customs rules;
- 3) to persons who have debts with regard to customs payments and taxes.

Permission shall be considered effective from the moment that the preliminary sum of customs payments and taxes was transferred to the deposit account of the customs authority.

Permission shall be issued for the period of validity of the foreign trade contract or of another document, based upon which the goods are to be cleared.

7. Permission may be withdrawn or its validity may be terminated in the following cases:

- 1) the person has committed a violation of customs rules, cases of which are being considered by the court;
- 2) the person has debts with regard to customs payments and taxes, or monthly amounts of customs payments and taxes have not been submitted for deposit to the customs authority;
- 3) the requirements set for the use of the periodic declaration procedure, stipulated by this Code, have not been complied with.

## **CHAPTER 55. RELEASE OF GOODS**

### **Article 417**

#### **Grounds for Release of Goods**

The customs authorities shall release goods, provided the following requirements are complied with:

- in the course of customs clearance and examination of goods, the customs authorities have not revealed any violations in the sphere of customs activity, except when the revealed violations have been eliminated, and the goods that are the object of the violation are not subject to seizure or confiscation, or cannot be required in future as material proof, in compliance with the legislative acts of the Republic of Kazakhstan;
- licenses, certificates, and permissions, required for the release of goods in compliance with international agreements of the Republic of Kazakhstan and with the legislation of the Republic of Kazakhstan, have been submitted to the customs authority;
- the persons have complied with the necessary requirements and terms for placing goods under the selected customs regime, or an appropriate customs procedure has been applied, in compliance with this Code;
- customs payments or taxes for the goods were paid, or secured in compliance with Chapters 42, 45 of this Code.

### **Article 418**

#### **Time Limit for Release of Goods**

The customs authorities shall release goods or refuse to release goods not later than the day following the day when the checking of documents and the examination of goods was terminated.

### **Article 419**

#### **Release of Goods When Examination of Documents, Testing of Samples and Specimens of Goods, or Expert Resolution is Required**

1. When the customs authorities make a decision on the necessity of testing samples and specimens in order to submit detailed technical documentation, or to conduct an expert examination for the purpose of verifying the accuracy of the data stated in the customs declaration or in other documents submitted to the customs authorities, goods shall be released prior to receipt of the results of the examination, provided that the declarant has secured payment of customs payments or taxes that can be charged additionally according to the results of the customs expert examination.
2. Goods shall not be released only when the customs authorities discover signs indicating that non-tariff regulatory measures may be applied to goods, and that the declarant has failed to submit evidence, proving compliance with these measures.

### **Article 420**

#### **Release of Goods in Case of Discovery of Signs of Administrative Violation in the Sphere of Customs Activity**

In case of discovery of signs of administrative violation in the sphere of customs activity, goods may be released with the permission of the head of the customs authority, prior to completion of the proceeding on the case, or prior to completion of hearing the case, provided that the goods

that are object of the violation are not subject to confiscation and cannot be required as material proof, and that the payment of customs payments or taxes that can be charged, according to the case hearing, are secured, and that payment of penalties and other potential recoveries is secured.

## **CHAPTER 53. CUSTOMS BROKER**

### **Article 421**

#### **The Customs Broker**

A legal entity that was established in compliance with the legislation of the Republic of Kazakhstan, that is located in the Republic of Kazakhstan, and that obtained a license from the Central Customs Authority to act as a customs broker, may act as a customs broker.

A customs broker shall perform its activity in compliance with the customs legislation of the Republic of Kazakhstan.

### **Article 422**

#### **The Customs Broker's Activity**

1. Customs broker's activity shall mean performing actions related to customs clearance, preliminary operations and execution of other intermediary functions in the sphere of customs activity, on his/her own behalf, at the expense of and based upon the instruction of the person he/she represents.

2. The following shall constitute the functions of the customs broker:

- 1) declaration of goods and means of transport;
- 2) submission to the customs authority of documents and supplementary data required for customs purposes;
- 3) presenting declared goods and means of transport to the customs authority;
- 4) securing payment of customs payments and taxes stipulated by the customs and tax legislation of the Republic of Kazakhstan with respect to the declared goods and means of transport;
- 5) performing the actions required for customs clearance and customs control purposes, as the person authorized with respect to the declared goods and means of transport.

The customs broker can perform the above-mentioned functions only in the aggregate. Partial performance of the above-mentioned functions or performance of operations within a single function by the customs broker shall not be allowed.

3. Relations between the customs broker and the person whom he/she represents shall be based upon a written agreement, taking into consideration the requirements of this Code. The person represented by the custom broker may give instructions to the customs broker to perform functions in the sphere of customs activity, stipulated by Paragraph 2 of this Article, only in the aggregate.

The person, represented by the customs broker shall not participate in the basic process of customs clearance of the goods and means of transport, with respect to which the customs broker, acting on his/her own behalf, has committed at least one legally significant action, unless otherwise stipulated by the legislation of the Republic of Kazakhstan.

4. Modification or cancellation of the agreement between the customs broker and the person whom he/she represents, that takes place during the course of performing actions related to customs clearance, shall not release the customs broker from responsibility.

5. Disputes between the customs broker and the person whom he/she represents shall be resolved in compliance with the legislation of the Republic of Kazakhstan.

6. When performing customs operations, the customs broker shall not experience less favorable conditions or face stricter requirements than those that are established and applied with respect to the declarant or other persons, in compliance with this Code.

### **Article 423**

#### **Restrictions on the Scope of Customs Broker Activity**



1. The customs broker shall be entitled to restrict the scope of his/her activity to certain categories of goods under the foreign economic activity commodity nomenclature, and to types of means of transport, and to regions. These restrictions shall be stated in the license for acting as a customs broker.
2. Performing activities beyond the stated restrictions shall not be allowed.

#### **Article 424**

##### **The Customs Broker's Rights**

1. The customs broker shall enjoy the same rights and shall have the same duties as the person who authorizes him/her to represent his/her interests in relation to the customs authorities.
2. While executing his/her activity, the customs broker shall be entitled:
  - 1) to be present during the customs clearance of goods and means of transport, or during the taking of specimens and samples of goods by customs officials for the purposes of customs clearance of such goods;
  - 2) with the permission of the customs authority and in the presence of a customs official, prior to the beginning and during the course of customs clearance, to inspect goods and means of transport, to weigh them, and to determine their quantity by other means, as well as to take specimens and samples of goods. With respect to goods exported from the territory of the Republic of Kazakhstan, such permission shall not be required provided that such operations are performed prior to the customs clearance procedure;
  - 3) to be familiarized with the results of tests (expert examinations) conducted by the customs authority on samples and specimens;
  - 4) to conduct tests (expert examinations) on samples and specimens of goods, or to ensure that such tests (expert examinations) are conducted in compliance with the legislation of the Republic of Kazakhstan, at his/her own expense or at the expense of the person whom he/she represents;
  - 5) with the agreement of the customs authority, to approve a list of his/her employees who will have access to customs control zones, and to have premises in these zones for performing operations related to customs clearance;
  - 6) to receive information and consultations from customs authorities on customs issues, in compliance with this Code;
  - 7) in compliance with the procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues, to have access to the information networks of the customs authorities, used for automatic processing of information and electronic transmission of data required for customs purposes, except in cases stipulated by Article 26 of this Code;
  - 8) to demand the documents and data required for customs purposes from the person whom he/she represents, including those, which contain confidential information, and to obtain such documents and data within a period of time that ensures compliance with the requirements established by this Code;
  - 9) to act as the guarantor or the payer to the customs authorities for the person whom he/she represents, on issues relating to security of payment of customs payments and taxes, in the course of preliminary operations or other customs formalities and customs procedures;
  - 10) as a condition to signing an agreement with the person whom he/she represents, to specify requirements for ensuring the fulfillment of the obligations of this person, in compliance with the civil legislation of the Republic of Kazakhstan;
  - 11) to appeal against decisions made by the customs authorities, or against the actions (inactions) of customs officials, in compliance with the procedures established by this Code.

#### **Article 425**

##### **Duties and Responsibility of the Customs Broker**

1. The following shall constitute the duties of the customs broker:
  - 1) to declare goods and means of transport in the order established by this Code and by other normative legal acts of the Republic of Kazakhstan in the sphere of customs activity. ;
  - 2) to present the declared goods and means of transport at the request of the customs authority;
  - 3) to submit documents and supplementary information required for customs purposes to the customs authority;
  - 4) to keep records and reports with regard to goods and means of transport, in compliance with the procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues;
  - 5) to submit information in a timely manner to the customs authority on any discovered changes, destruction, damage or loss of the means of customs identification; on damage to containers and packages; on non-compliance of goods with the data stated thereon in transport, commercial and other documents; on non-compliance of goods with the data stated thereon in various documents and on similar circumstances related to customs activity;
  - 6) to control compliance by customs clearance specialists, working on the staff of the customs broker, with the requirements stipulated by this Code;
  - 7) to submit information on the customs clearance specialists who work on the staff of the customs broker, and also samples of their personal stamps and signatures to the customs authority.
  - 8) to secure payment of customs payments and taxes in compliance with Chapter 45 of this Code in an amount which is not less than twenty five per cent of the average quarterly amount of customs payments and taxes, calculated with regard to goods cleared by the customs broker during the last calendar year, but not less than 10,000 times the established monthly calculation index.
2. Upon the expiry of each year of activity of the customs broker, the Central Customs Authority shall make a decision regarding the re-calculation of the amount of the security of the customs broker. Payment of customs payments and taxes must be secured by the customs broker within the first quarter of each year.
3. When performing his/her activity, the customs broker shall fulfill all duties of the declarant, and shall bear full responsibility, as if he/she is independently transferring the goods across the customs border of the Republic of Kazakhstan.
4. The duties and responsibility of the customs broker during the course of customs clearance, preliminary operations and other customs formalities, shall be conditioned by the requirements and conditions established by this Code and by other normative and legal acts of the Republic of Kazakhstan in the sphere of customs activity, that are required for placement of goods under a customs regime or for customs formalities. The fact of performing such operations shall not impose on the customs broker the obligation to perform operations relating to the completion of the customs regime, as well as other obligations imposed only on the person conveying the goods, in compliance with this Code and with other normative and legal acts of the Republic of Kazakhstan in the sphere of customs activity.
5. The customs broker shall bear joint responsibility with the person whom he/she represents for the payment of customs payments and taxes, payable prior to or simultaneously with the filing of the customs declaration, in compliance with this Code.
6. The duties and responsibilities of the customs broker with regard to the customs authorities may not be restricted by the agreement with the person whom he/she represents.
7. The rights, duties and responsibilities of the customs broker shall be common to all customs brokers. The granting of preferences, exclusive rights and other privileges of an individual nature to certain customs brokers shall be prohibited.

## **Article 426**

### **Qualification Requirements for Customs Broker Activities**

To perform activities as a customs broker, legal persons must comply with the following qualification requirements:

- 1) the presence on the staff of a customs clearance specialist who has obtained a qualification certificate in compliance with the established procedures;
- 2) the availability of software products, which are compatible with the software products used by the customs authorities;
- 3) security of payment of customs payments and taxes which is carried out in compliance with Chapter 45 of this Code, in an amount not less than twenty-five percent of the average quarterly amount of customs payments and taxes calculated with regard to goods which were cleared by the customs broker during the last year, or which are expected to be cleared by the customs broker, but not less than 10,000 times the established monthly calculation index.

#### **Article 427**

##### **License for the Right to Perform Customs Broker Activities**

1. A legal person may begin activity as a customs broker upon obtaining a license issued by the Central Customs Authority for the right to perform customs broker activities.
2. The following documents shall be required to obtain a license:
  - 1) an application by a legal person, completed in compliance with the established format;
  - 2) documents confirming the data stated in the application and the compliance of the applicant with the qualification requirements, namely:
    - notary certified copies of the registration documents;
    - a document confirming compliance with the qualification requirements established by Article 426 of this Code;
  - 3) documents confirming payment of license fees;
3. Relations regarding licensing that are not regulated by this Code shall be regulated by the legislation on licensing.

#### **Article 428**

##### **Suspension of a License for the Right to Perform Customs Broker Activities**

1. When a customs broker fails to comply with the requirements and obligations established with regard to customs broker activities, and when there are sufficient grounds to believe that the customs broker abuses his/her rights, a license may be suspended, based upon a decision by the Central Customs Authority, for a period of up to six months, with a statement of the grounds for suspension.
2. The decision to suspend a license shall be made by the Central Customs Authority either independently, or based upon a statement by the customs authority, in the form of an order, with substantiation of the decision.
3. The license shall be suspended as of the day the appropriate decision was made.
4. The license shall be renewed based upon an order by the Central Customs Authority as of the day the decision to renew the license was made, and after elimination of the reasons for which the license was suspended.
5. A license may be suspended based upon a well-reasoned application by the customs broker.

#### **Article 429**

##### **The Withdrawal of a License for the Right to Perform Customs Broker Activity**

1. A license may be withdrawn by the Central Customs Authority in the following cases:

- 1) when it was issued based upon incomplete or unreliable information, and when provision of complete and reliable information would not serve as grounds for issuance of a license to the applicant, pursuant to established procedures;
  - 2) use of the services of a specialist who does not have a qualification certificate, or of a specialist whose qualification certificate has been withdrawn, or of a specialist whose qualification certificate has been suspended, or of a specialist who has been deprived of the right to perform this activity based upon a decision by the court;
  - 3) non-elimination of the reasons for which the license was previously suspended.
2. The decision to withdraw shall be made by the Central Customs Authority in the form of an order, indicating the reasons for the decision, or based upon a well-reasoned statement by the customs authority.
  3. The withdrawal of the license shall become effective as of the day that the decision to withdraw was made.
  4. In case of withdrawal of a license, the customs broker shall be obliged to return it to the Central Customs Authority not later than fifteen days after receipt of the decision.
  5. A repeat application for issuance of a license for the right to perform the activities of a customs broker may be considered upon the expiration of two years from the date that the decision to withdraw the license was made, provided that the reasons for withdrawal have been eliminated.

#### **Article 430**

#### **Termination of the Validity of a License for the Right to Perform Customs Broker Activity**

1. The validity of a license shall be terminated in the following cases:
    - 1) the license has been withdrawn;
    - 2) the legal person holding the license for the right to perform customs broker activity has been re-organized or liquidated;
    - 3) the customs broker ceases his/her activities providing customs services and submits a written application thereon to the Central Customs Authority;
  2. Upon termination of a license for the right to perform customs broker activity, a legal person shall be obliged to fulfill all of the obligations, which he/she has assumed, prior to cessation of activity as a customs broker.
  3. The decision to terminate the validity of a license for the right to perform activity as a customs broker shall be made by the Central Customs Authority in the form of an order, indicating the reasons for the termination.
- In the event of termination of the validity of a legal person's license for the right to perform activity as a customs broker due to withdrawal of the license, a separate order to terminate the validity of the license shall not be issued.
- In the event of termination of the validity of a license, it shall be subject to return to the Central Customs Authority within a fifteen-day period beginning on the day that the decision to terminate was made.

#### **Article 431**

#### **Additional Provisions Relating to Customs Broker Activity**

1. When the data on the customs broker, that is stated in the application for obtaining a license, but is not stated in the license, changes, then the customs broker must notify the Central Customs Authority thereof, in writing, within a month from the date when the changes were introduced.

2. When the name or location of the customs broker, that are stated in the license, have changed, then the broker must, within a period of one month, lodge an application for re-issuing the license, enclosing relevant documents that confirm the stated data.

Within a ten-day period from the day that the customs broker lodged an appropriate application, in writing, the Central Customs Authority shall re-issue the license by issuing a new license in compliance with established procedures.

3. When the customs broker makes a decision to extend the restricted scope of his/her activity, which is stated in the license, it is necessary to obtain a new license, in compliance with the procedures established for obtaining it. The validity of the previously issued license shall expire as of the moment that a new license is issued.

4. In the event of the loss of a license, the customs broker shall be entitled to obtain a copy within a ten-day period from the date that he/she applied for it. License fees shall be paid for issuance of a copy for the right to perform certain kinds of activity, in compliance with the procedures and in the amount established by the tax legislation of the Republic of Kazakhstan.

5. Decisions by the customs authorities with regard to licensing may be appealed in compliance with the procedures established by the legislation of the Republic of Kazakhstan.

6. In the event of termination of validity, withdrawal or suspension of a license, relations between the customs broker and the persons whom he/she represents shall be regulated by the legislation of the Republic of Kazakhstan.

#### **Article 432**

##### **The Register of Customs Brokers**

The Central Customs Authority shall maintain a register of customs brokers, and shall publish it monthly, including through the use of information technologies.

#### **Article 433**

##### **The Customs Clearance Specialist**

1. A specialist, holding a qualification certificate issued by the Central Customs Authority, shall have the right to perform customs clearance actions on behalf of a customs broker.

Relations between a customs broker and a customs clearance specialist shall be based upon an individual labor contract that is signed in compliance with the legislation of the Republic of Kazakhstan. A customs clearance specialist shall be entitled to perform customs clearance activities on behalf of a customs broker as of the moment that an individual labor contract was signed with the customs broker. When terminating the contract, the customs broker shall be obliged to notify the Central Customs Authority thereof within a three-day period.

2. A single specialist shall not be allowed to perform customs clearance operations for two or more legal entities simultaneously.

3. The customs broker cannot restrict the responsibilities of the customs clearance specialist to the customs authorities.

4. The procedures for consideration of applications and the issue of a qualification certificate, the procedures for conducting certification of customs clearance specialists, as well as the requirements of them, shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues. The Central Customs Authority shall maintain a register of customs clearance specialists.

#### **Article 434**

##### **Suspension and Withdrawal of the Qualification Certificate of a Customs Clearance Specialist**

1. The qualification certificate of a customs clearance specialist may be suspended by the Central Customs Authority for a period of up to two months in the following cases:
  - 1) when the specialist has not confirmed, within a period of one month, his/her compliance with new requirements, in the event of substantive modifications to legal regulations in the sphere of customs activity;
  - 2) when, during the course of certification that is conducted for the purpose of confirming compliance of the specialist with the established requirements, the specialist is not certified within a period of one month .
2. The decision to suspend a certificate shall be made by the Central Customs Authority in the form of an order and shall become effective as of the day it was made.
3. The validity of a certificate that was suspended for the reasons specified in Paragraph 1 of this Article shall be renewed based upon a decision by the Central Customs Authority that is made in the form of an order, after conducting certification in compliance with the procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues.
4. The decision to significantly modify the legal regulations of customs activity, and to suspend the validity of certificates based upon specific grounds, shall be made by the Central Customs Authority in coordination with the authorized state body on customs issues, and shall be subject to publication.
5. The customs authority that reveals violations in the activities of a specialist, which are grounds for suspension of the certificate, shall immediately inform the Central Customs Authority thereof.
6. The qualification certificate of a customs clearance specialist may be withdrawn by the Central Customs Authority when the certificate was issued based upon incomplete or unreliable information submitted by the applicant, and when this information had a significant influence on making the decision to issue the certificate, as well as when the certificate was issued to the applicant in violation of the procedures for issuing it.
7. A repeat application for issuance of a qualification certificate may be considered upon the expiration of six months from the date it was withdrawn, provided that the reasons for withdrawal have been eliminated.
8. The decision to withdraw, invalidate or suspend a qualification certificate may be appealed in compliance with the legislation of the Republic of Kazakhstan.

#### **Article 435**

##### **The Relationship of the Customs Broker and His/Her Staff to Information Obtained From Persons Whom He/She Represents**

Information obtained by the customs broker and its employees from a person whom it represents may be used exclusively for customs purposes.

Infliction of unlawful damage to the rights and interests of the represented person, which are protected by the Law, is not allowed.

Confidential information of the represented person may not be released, used by the customs broker and his/her employees for personal needs, and passed to third parties or to state bodies of the Republic of Kazakhstan, except in cases directly stipulated by this Code.

## **SECTION X. PROTECTION OF RIGHTS TO OBJECTS OF INTELLECTUAL PROPERTY BY THE CUSTOMS AUTHORITIES**

### **CHAPTER 54. THE GROUNDS FOR PROTECTION OF RIGHTS TO OBJECTS OF INTELLECTUAL PROPERTY BY THE CUSTOMS AUTHORITIES**

#### **Article 436**

##### **Basic Terms Used in This Section**

The following basic terms are used in this Section:

- 1) **‘counterfeit goods’** shall mean goods that contain objects of intellectual property which are produced and (or) conveyed across the customs border in violation of the rights of the owner, which are protected in compliance with the legislation of the Republic of Kazakhstan;
- 2) **‘owner of the right’** shall mean the person who possesses the exclusive right to use an object of intellectual property in compliance with the legislation of the Republic of Kazakhstan;
- 3) **‘suspension of release’** shall mean extension by the customs authorities of the time limit for making a decision to release goods conveyed across the customs border of the Republic of Kazakhstan under the chosen customs regime, which are suspected of being counterfeit;
- 4) **‘register of goods containing objects of intellectual property’** shall mean a list of goods containing objects of intellectual property, which are protected, in compliance with the legislation of the Republic of Kazakhstan.

#### **Article 437**

##### **Protection of Rights to Objects of Intellectual Property by the Customs Authorities**

Within their authority and in compliance with the procedures established by this Code, the customs authorities shall take measures to protect the rights of the owner in regard to objects of intellectual property.

#### **Article 438**

##### **Register of Goods Containing Objects of Intellectual Property Maintained by the Central Customs Authority**

1. The Central Customs Authority shall maintain a register of goods containing objects of intellectual property (hereinafter referred to as –‘Register’) for customs control purposes, and shall publish it periodically.
2. The procedure for keeping the Register and bringing it to the attention of the customs authorities and applicants shall be determined by the Central Customs Authority.

#### **Article 439**

##### **Procedures for Including Goods Containing Objects of Intellectual Property in the Register and Excluding Them from the Register**

1. Inclusion in the Register shall be implemented by the Central Customs Authority upon application by the owner of the right to objects of intellectual property.
2. When the owner of the right, or a person who represents the interests of the owner of the right (hereinafter referred to as ‘applicant’), has sufficient grounds to believe that their intellectual property rights were violated or may be violated while the goods are being conveyed

across the customs border of the Republic of Kazakhstan, he/she shall be entitled to apply to the Central Customs Authority for protection of his/her intellectual property rights.

3. The application shall contain the following data:

- 1) the claim of the applicant for protection of his/her rights to objects of intellectual property;
- 2) information about the applicant;
- 3) information about the object of intellectual property to be protected, about the period of time that, according to the owner of the right, he/she may need the assistance of the customs authorities for protection of his/her rights, a description of goods that contain objects of intellectual property, information about the legal importers and exporters, and other information that would allow the customs authorities to identify counterfeit goods;
- 4) a commitment by the applicant to compensate damages to the declarant and other persons, and to cover expenses of the customs authorities, that may arise as a result of suspension of the release of goods containing objects of intellectual property, in the event that these goods were suspected of being counterfeit but proved not to be counterfeit;
- 5) information on the existence and ownership of intellectual property rights.

4. Documents verifying the existence and ownership of intellectual property rights (a certificate, permission or licensing agreement for the right to use the given object of intellectual property, or other documents), a power of attorney, issued by the owner of the right to the person representing his/her interests, and an insurance contract covering the responsibility of the applicant for damage to other persons shall be attached to the application.

In the process, the insured amount may not be less than 1000 times the monthly calculation index.

If possible, specimens of the goods containing objects of intellectual property, and of the counterfeit goods, shall be submitted along with the application.

5. The Central Customs Authority shall consider the application within a period of time not to exceed thirty days from the day that it was submitted, and shall make a decision on including the goods containing objects of intellectual property in the Register. When there are well-reasoned reasons, the Central Customs Authority shall be entitled to extend the time limit for considering the application, but not for more than three months.

6. When the information stated in the application or in the documents attached to the application changes, the applicant shall inform the Central Customs Authority thereof within a fifteen-day period.

7. Goods containing objects of intellectual property may be excluded from the Register:

- 1) upon an appeal by the applicant of the objects of intellectual property;
- 2) upon submission of incomplete or unreliable data during inclusion in the Register;
- 3) upon failing to report changes to the information stated in the application within the established time limit;
- 4) upon termination of the validity of the rights to objects of intellectual property;
- 5) upon the applicant's failure to comply with the provisions of this Section.

8. The Central Customs Authority shall inform the applicant of the exclusion of goods from the Register within three working days.

9. In the event of termination of the right to objects of intellectual property, the owner of the right shall be obliged to inform the Central Customs Authority thereof within three working days.

#### **Article 440**

#### **Time Limit Effective for Protection of Rights**

When making a decision on including goods containing objects of intellectual property in the Register, the Central Customs Authority shall establish an effective time limit for protection of the rights of the owner by the customs authorities, taking into consideration the time limit



specified by the applicant. The time limit shall not exceed two years from the day when the goods were included in the Register.

The time limit indicated shall be extended by the Central Customs Authority, upon an appeal by the applicant.

The total time limit effective for protection of rights may not be longer than the period of validity of the right to the object of intellectual property.

## **CHAPTER 55. PARTICULAR FEATURES OF CUSTOMS CLEARANCE AND CUSTOMS CONTROL OF GOODS CONTAINING OBJECTS OF INTELLECTUAL PROPERTY**

### **Article 441**

#### **Conveyance of Goods Containing Objects of Intellectual Property Across the Customs Border of the Republic of Kazakhstan. Customs Clearance and Customs Control of Such Goods**

1. Goods containing objects of intellectual property shall be conveyed across the customs border in compliance with this Code and with the normative legal acts of the Republic of Kazakhstan in the sphere of intellectual property.
2. Customs clearance shall be conducted and customs control shall be exercised on goods containing objects of intellectual property, in compliance with the procedures stipulated by this Code.

### **Article 442**

#### **Suspension of Release of Goods Containing Objects of Intellectual Property**

1. If, during the course of customs clearance and customs control of goods included in the Register, the customs authority discovers any signs of the goods being counterfeit, the release of the goods shall be suspended.
2. The decision to suspend the release of goods for a period of up to ten working days shall be made by the head of the customs authority, which is conducting customs clearance, or by a person substituting for him/her. Upon the request of the applicant, the time limit may be extended, but not for more than ten working days.
3. The customs authority shall notify the applicant and the declarant of the suspension and the reasons for it, and shall also inform the declarant of the name and address of the applicant, and shall inform the applicant of the name and address of the declarant, not later than the working day following the day that the decision to suspend the release of goods containing objects of intellectual property was made.

### **Article 443**

#### **Compensation for Expenses of the Customs Authorities**

Expenses shall be compensated to the customs authorities:

- 1) by the declarant - when goods are proved to be counterfeit;
- 2) by the applicant - when it is proved that goods containing objects of intellectual property do not violate the rights of the applicant.

### **Article 444**

#### **Provision of Information. Taking Samples and Specimens**

1. The customs authority shall provide the applicant and declarant with information on the signs of counterfeit of goods discovered, with regard to which the decision to suspend release was made.
2. Information received by the applicant or declarant in compliance with this Article shall be considered confidential and cannot be divulged or transferred to third persons or to state

bodies, except in cases stipulated by this Code and the legislative acts of the Republic of Kazakhstan.

3. With the permission of the customs authority, the applicant and declarant or their representatives shall be entitled to take, under customs control, samples and specimens of goods with respect to which the decision to suspend release due to counterfeiting was made, and to examine them.

#### **Article 445**

##### **Reversal of the Decision to Suspend Release**

1. A decision to suspend release shall be reversed when, during the period of validity of the decision to suspend release:

- 1) the applicant applies to the customs authority with a request to reverse the decision to suspend release;
- 2) the object of intellectual property is excluded from the Register in compliance with Article 439 of this Code;
- 3) the applicant, during the period of suspension of the release of goods containing objects of intellectual property, fails to present evidence of the institution of legal proceedings on the violation of intellectual property rights connected with the fact of import or export of the detained goods.

In the above-mentioned cases, the goods shall be subject to immediate customs clearance and release in compliance with the procedures stipulated by this Code.

2. The decision to suspend release shall be reversed by the head of the customs authority who made the decision, or by a person substituting for him/her.

3. Release of goods may not serve as an obstacle for the owner of the right to apply to bodies, authorized by the legislation of the Republic of Kazakhstan, to protect his/her right to objects of intellectual property.

#### **Article 446**

##### **Transfer of Goods Containing Objects of Intellectual Property with Respect to which the Customs Authority Has Suspended Release**

Goods containing objects of intellectual property, with respect to which the customs authority has suspended release due to the execution of legal proceedings, shall be delivered to the judicial authorities for the purpose of entering them into material evidence, or for making another decision in compliance with the legislation of the Republic of Kazakhstan.

#### **Article 447**

##### **Objects of Intellectual Property not Subject to Measures for the Protection of Intellectual Property Rights by the Customs Authorities**

The customs authorities shall not take measures to protect intellectual property rights with respect to goods containing objects of intellectual property which are conveyed across the customs border of the Republic of Kazakhstan:

- 1) by natural persons, or sent via international mail, if such goods are not intended for commercial purposes and are imported onto the customs territory of the Republic of Kazakhstan or exported from the territory with full exemption from customs duties and taxes, unless otherwise provided by this Code;
- 2) in compliance with the transit customs procedure for goods.

## **SECTION XI. CUSTOMS STATISTICS. INFORMATION SYSTEMS AND INFORMATION TECHNOLOGIES**

### **CHAPTER 56. CUSTOMS STATISTICS**

#### **Article 448**

##### **Customs Foreign Trade Statistics**

1. In order to ensure full and reliable record keeping of export and import data in the Republic of Kazakhstan, the analysis of the condition, dynamics and trends of foreign trade in the Republic of Kazakhstan, control over the inflow of customs duties and taxes to the national budget, currency controls, and formation of the balance of payments, the customs authorities shall keep customs foreign trade statistics, and shall present and publish customs statistical data in compliance with the legislation.

The authorized state body on customs issues shall submit customs statistics data to international organizations in compliance with international agreements of the Republic of Kazakhstan and with the legislation of the Republic of Kazakhstan.

2. Customs foreign trade statistics in the Republic of Kazakhstan shall be kept in compliance with the provisions of this Code and with the legislation of the Republic of Kazakhstan.

3. Customs foreign trade statistics shall be kept in compliance with methods that provide for the comparison of data on reciprocal trade between the Republic of Kazakhstan and its foreign trade partners.

#### **Article 449**

##### **Special Customs Statistics**

In order to ensure execution of other tasks assigned to the customs authorities of the Republic of Kazakhstan, these authorities shall keep special customs statistics.

#### **Article 450**

##### **Documents and Information Used for Statistical Purposes**

Documents and information used for statistical purposes shall be submitted in compliance with the provisions of this Code, which cover the procedures for customs clearance and customs control. The provisions of Article 26 of this Code shall be applied to information submitted for statistical purposes.

## **CHAPTER 57. INFORMATION SYSTEMS AND INFORMATION TECHNOLOGIES**

### **Article 451**

#### **The Employment of Information Systems, Information Technologies and Programming Support**

1. The customs operations stipulated by this Code shall be performed in compliance with this Chapter with the use of information systems and information technologies, including those based upon electronic means of information transfer, and with the use of programming support.
2. Information systems and information technologies shall be implemented taking suitable international standards into consideration.
3. The following information systems, information technologies and programming support may be applied for customs purposes:
  - 1) those developed, produced and purchased by the customs authorities;
  - 2) those owned by persons involved in executing tasks in the sphere of customs activity.In the process, persons providing software to the customs authorities shall not be entitled to have access to the information resources created with the help of the software.
4. Information systems, information technologies and programming support that are developed, produced and purchased by the customs authorities shall be owned by the State, and shall be included in the property of the customs authorities, which shall exercise the rights of ownership, use and disposal with regard to these products, within the limits of their authority.
5. Relations, concerning use by the customs authorities of information systems, information technologies and programming support owned by persons involved in executing tasks in the sphere of customs activity, shall be based upon contracts.
6. Information systems, information technologies and programming support used for customs purposes and owned by persons involved in executing tasks in the sphere of customs activity, shall meet the requirements established by the authorized state body on customs issues, and shall be compatible with similar products used by the customs authorities when performing customs operations. The customs authorities shall verify compliance of information systems, information technologies and programming support with the established requirements. In the process, the party, which requested the verification, shall cover the related expenses.
7. The customs authorities and the authorized state body on customs issues shall determine the possibility of using information systems, information technologies and programming support for customs purposes, and shall establish the procedures for and terms of employment of these products.

### **Article 452**

#### **Certification of Information Systems, Information Technologies and Programming Support**

1. Information systems, information technologies and programming support shall be subject to certification in the cases and according to the procedures stipulated by the legislation of the Republic of Kazakhstan.
2. A list of persons bearing the risk related to use of non-certified information systems, information technologies and programming support, and also the use of information obtained from a non-certified system, shall be determined by the legislation of the Republic of Kazakhstan.

### **Article 453**

#### **Information Resources of the Customs Authorities**

1. Information resources of the customs authorities shall mean documents and data that are submitted when performing customs operations and also documents required for accomplishing them.

Information resources of the customs authorities shall mean an integrated set of documented information, including databases and other masses of information, which is produced, processed and accumulated in the information systems of the customs authorities.

2. Information resources of the customs authorities shall be owned by the State, included in the property of the customs authorities, and administered by the customs authorities in accordance with their authority.

3. When determined by the authorized state body on customs issues, documents submitted in compliance with this Code or according to the procedures stipulated by this Code, including a customs declaration, may be submitted by electronic means of information exchange, when the requirements for record keeping and other requirements established by the legislation of the Republic of Kazakhstan are complied with.

4. The provisions of this Article shall not apply when state information resources are formed based upon mandatory submission of documented information upon the initiative of the Government of the Republic of Kazakhstan, in cases stipulated by the legislation of the Republic of Kazakhstan on information, organization of information and protection of information.

#### **Article 454**

##### **Use of Information Resources**

1. Information resources, which are under the jurisdiction of the customs authorities, shall be open and available to all, except in cases when access to information is restricted in compliance with the legislation of the Republic of Kazakhstan.

2. The customs authorities shall publish a list of information resources available for use, and the extent of access to them.

3. When access to information is not restricted, persons, including central and local state bodies, shall be entitled to obtain it from the information resources of the customs authorities, and shall not be obliged to justify the need for receiving the requested information.

4. Information resources, which are under the jurisdiction of the customs authorities, shall be used in compliance with this Code and other normative legal acts of the Republic of Kazakhstan.

#### **Article 455**

##### **Protection of Information and of the Rights of Persons Involved in Information Processes and Organization Of Information**

1. The protection of information, and of the rights of persons involved in information processes and organization of information, shall be exercised according to procedures established by the legislation of the Republic of Kazakhstan.

2. Protection shall be provided through the introduction and use of special software and technical means of protection of information compatible with the programming support of information systems and information technologies, which are subject to certification in compliance with procedures established by the legislation of the Republic of Kazakhstan.

3. The level of protection of information ensured by information protection devices must correspond to the category of information. The customs authorities, under whose jurisdiction the information resources are, shall ensure the compliance of the level of protection of information with each certain category.

4. Control over compliance with the requirements concerning protection of information, and operation of the means of protection of information, shall be executed by the authorized state

body on customs issues and other state bodies, in compliance with the legislation of the Republic of Kazakhstan.

**Article 456**  
**Participation of Customs Authorities in**  
**International Information Exchange**

The customs authorities and the authorized state body on customs issues shall participate in international information exchange with customs authorities and, also, within their authority, with other bodies and organizations of foreign countries and international organizations, in compliance with the procedures and under the conditions established by the legislation of the Republic of Kazakhstan and international agreements of the Republic of Kazakhstan.

## **SECTION XII. CUSTOMS AUDITING**

### **CHAPTER 58. FUNDAMENTALS OF CUSTOMS AUDITING**

#### **Article 457 Basic Terms**

The following basic terms are used in this Chapter:

- 1) **‘Customs auditing’** shall mean an independent assessment by customs auditors and customs auditing organizations of the compliance of customs operations performed with the legislation of the Republic of Kazakhstan and with international agreements;
- 2) **‘Customs auditor’** shall mean a natural person who is certified by the Qualification Commission and who has received a certificate confirming his/her qualification as a “Customs auditor”;
- 3) **‘Customs auditing organization’** shall mean a commercial organization established to perform customs audits, in any organizational or legal form, except for open joint stock companies, production cooperatives and state enterprises;
- 4) **‘Customs auditing standards’** shall mean the normative documents defining individual requirements for customs auditing procedures;
- 5) **‘Conclusion by a customs auditor’** shall mean a document, drawn up based upon customs auditing standards, which states the opinion of a customs auditor on the compliance of customs operations with the requirements of the legislation of the Republic of Kazakhstan, and on the reliability of the information presented to the customs authorities.

#### **Article 458 Basic Principles of Customs Auditing**

The following shall serve as the basic principles of customs auditing:

- 1) independence;
- 2) objectivity;
- 3) professional competence;
- 4) confidentiality.

#### **Article 459 Purposes of Customs Auditing**

Customs auditing shall be directed at the execution of the following tasks:

- 1) analysis and assessment of risks arising in the sphere of customs activity;
- 2) assessment of foreign economic contracts and documents;
- 3) assessment of the compliance of customs operations performed with the requirements of the legislation of the Republic of Kazakhstan and with international agreements.



## **CHAPTER 59. PERFORMANCE OF CUSTOMS AUDITING**

### **Article 460**

#### **Chamber of Customs Auditors**

1. The Chamber of Customs Auditors shall be a non-profit, independent, professional and self-financing organization.
2. The Chamber of Customs Auditors shall be formed by customs auditors and customs auditing organizations.
3. The Chamber of Customs Auditors shall operate based upon a Charter adopted at a general members meeting.
4. The Chamber of Customs Auditors shall have the following authority:
  - 1) to promote the development and improvement of customs auditing;
  - 2) to develop customs auditing standards;
  - 3) to consider disputes between customs auditors on customs auditing issues;
  - 4) to provide customs auditors and customs auditing organizations with the current regulations of the Republic of Kazakhstan and with the methodological documents related to customs auditing;
  - 5) to analyze, summarize and disseminate the experience of customs auditors and customs auditing organizations;
  - 6) to represent the interests of customs auditors and customs auditing organizations in state, public, foreign and international organizations;
  - 7) to arrange training and preparation of customs auditor candidates for certification; to improve the qualifications of customs auditors;
  - 8) to carry out other activities which do not conflict with the legislation of the Republic of Kazakhstan and international agreements.

### **Article 461**

#### **Certification of Customs Auditors**

1. Certification of customs auditors shall be executed by the Qualification Commission for certification of customs auditors.
2. Persons who have higher education and not less than three years of work experience in the spheres of economics, finance, customs, audit control or legislation shall be admitted for certification.
3. Candidates for customs auditors must pass qualification examinations according to a program approved by the Qualification Commission for certification of customs auditors, in coordination with the authorized state body determined by the Government of the Republic of Kazakhstan.
4. Persons who pass certification will receive a certificate conferring qualification as a “customs auditor”.
5. Persons who failed certification shall be admitted to a repeat certification in not less than six months.

### **Article 462**

#### **Qualification Commission for Certification of Customs Auditors**

1. The Qualification Commission for certification of customs auditors shall be formed from an equal number of representatives of customs auditors and state bodies, in compliance with the procedures established by the authorized state body on customs issues.
2. The Chairman of the Qualification Commission for certification of customs auditors shall be elected from among members engaged in customs auditing.

3. The Qualification Commission on certification of customs auditors shall operate based upon a status, which is approved by the Chamber of Customs Auditors in coordination with the authorized state body on customs issues.

#### **Article 463**

##### **Annulment of the Qualification Certificate of a Customs Auditor**

1. The qualification certificate of a customs auditor shall be annulled in the following cases:
  - 1) unreliability of data submitted to the Qualification Commission for customs auditor candidates to be admitted for certification;
  - 2) acknowledgement that a customs auditor is incapable;
  - 3) issuance of a deliberately false or unqualified conclusion by a customs auditor;
  - 4) non-compliance with the basic requirements of customs auditing standards and any other violations of the legislation, when carrying out professional activities.
2. A qualification certificate of a customs auditor shall be annulled by the Qualification Commission. The Qualification Commission shall inform the state body which issued the license to perform customs auditing of the annulment of the Qualification Certificate.
3. A customs auditor shall be entitled to appeal a decision by the Qualification Commission through legal proceedings.

#### **Article 464**

##### **Licensing of Customs Auditing**

1. Licenses for customs auditors and customs auditing organizations shall be issued by the authorized state body established by the Government of the Republic of Kazakhstan.
2. A license for performance of customs auditing shall be permanent and shall be valid on the entire territory of the Republic of Kazakhstan.
3. A license for performance of customs auditing shall be issued, suspended and withdrawn in compliance with the procedures established by the legislation of the Republic of Kazakhstan.

#### **Article 465**

##### **Performance of Customs Auditing**

1. The relationship between a customs auditor, a customs auditing organization and the person being audited shall be based upon a contract, in compliance with the legislation of the Republic of Kazakhstan.
2. Customs auditing shall be performed in compliance with customs auditing standards.
3. Based upon the results of a customs audit, the customs auditor shall draw up a conclusion. The format for the auditor's conclusion and the procedure for submission shall be determined by customs auditing standards.
4. Customs auditing standards shall be approved by the authorized state body on customs issues.

#### **Article 466**

##### **Rights and Obligations of Customs Auditors and Customs Auditing Organizations**

1. Customs auditors and customs auditing organizations shall be entitled to:
  - 1) independently determine the methods of customs auditing;
  - 2) receive commercial documents and other information related to foreign economic activities;
  - 3) be present, with the permission of the customs authority, during customs control;
  - 4) invite, on a contractual basis, other specialists to take part in performance of a customs audit;

- 5) refuse to perform a customs audit when the person being audited breaks the terms of the customs auditing contract.
2. Customs auditors and customs auditing organizations shall be obliged to:
  - 1) report the inability to perform a customs audit;
  - 2) ensure the safety of documents obtained during customs auditing;
  - 3) draw up an auditor's conclusion on the results of the customs audit performed;
  - 4) keep information obtained during customs auditing confidential.

#### **Article 467**

##### **Rights and Obligations of the Person being Audited**

1. The person being audited shall be entitled to:
  - 1) receive comprehensive information related to customs auditing requirements from a customs auditor or customs auditing organization;
  - 2) receive recommendations and information related to the non-compliance of customs operations with the requirements of the legislation of the Republic of Kazakhstan, from a customs auditor or customs auditing organization;
  - 3) use the customs auditor's conclusion when solving disputes on customs issues;
  - 4) refuse the services of a customs auditor or customs auditing organization, when the latter breaks the terms of the contract.
2. The person being audited shall be obliged:
  - 1) to provide the customs auditor or customs auditing organization with the required documents and information, and give written and oral explanations;
  - 2) not to interfere with the activity of the customs auditor or customs auditing organization in order to limit the range of issues subject to customs audit.

#### **Article 468**

##### **Responsibility of Customs Auditors and Customs Auditing Organizations**

For violation of the legislation and of the terms of the contract, customs auditors and customs auditing organizations shall bear responsibility, in compliance with the legislative acts of the Republic of Kazakhstan.

#### **Article 469**

##### **Responsibility of Persons being Audited**

1. The person being audited shall bear responsibility for the completeness and reliability of documents and other data presented to a customs auditor or customs auditing organization for performance of a customs audit.
2. When the customs audit reveals violations of the legislation of the Republic of Kazakhstan, measures stipulated by the legislative acts of Republic of Kazakhstan shall be applied to the person being audited.

## **SECTION XIII. VIOLATIONS IN THE SHPERE OF CUSTOMS ACTIVITY**

### **CHAPTER 60. RESPONSIBILITY FOR COMMITTING CRIMES AND ADMINISTRATIVE VIOLATIONS IN THE SPHERE OF CUSTOMS ACTIVITY**

#### **Article 470**

#### **Responsibility for Committing Administrative Violations in the Sphere of Customs Activity**

Responsibility for committing administrative violations in the sphere of customs activity shall arise in compliance with the Code of the Republic of Kazakhstan “On Administrative Violations”.

#### **Article 471**

#### **Proceeding on Cases of Administrative Violations in the Sphere of Customs Activity**

Cases of administrative violations in the sphere of customs activity shall be proceeded on in compliance with the Code of the Republic of Kazakhstan “On Administrative Violations”.

#### **Article 472**

#### **Responsibility for Committing Crimes in the Sphere of Customs Activity**

Responsibility for committing crimes in the sphere of customs activity shall arise in compliance with the Criminal Code of the Republic of Kazakhstan.

#### **Article 473**

#### **Conducting of an Inquiry by the Customs Authorities**

The customs authorities shall conduct an inquiry in cases which are within their authority, in compliance with the Criminal and Procedural code of the Republic of Kazakhstan.

### **III. SPECIAL PART**

#### **SECTION XIV. CUSTOMS ADMINISTRATION**

##### **CHAPTER 61. CUSTOMS ADMINISTRATION**

###### **Article 474**

###### **General Provisions of Customs Administration**

Customs administration shall mean the range of organizational, legal, procedural and other actions and measures executed by customs authorities in compliance with this Code and with the legislation of the Republic of Kazakhstan.

###### **Article 475**

###### **Customs Administration**

Customs administration shall mean the control executed by the customs authorities over the observance of the legislation of the Republic of Kazakhstan by participants in foreign economic and other activity, in the sphere of customs activity.

## **CHAPTER 62. CUSTOMS CONTROL**

### **Article 476**

#### **Exercise of Customs Control**

Customs control shall be exercised by customs officials with respect to:

- 1) goods and means of transport conveyed across the customs border of the Republic of Kazakhstan;
- 2) customs declarations, documents and information on goods and means of transport, the submission of which is stipulated by this Code;
- 3) persons acting as customs brokers, or customs carriers and with respect to persons who perform activities under certain customs regimes, and who provide customs temporary storage services;
- 4) observance of established restrictions regarding the use and disposal of goods;
- 5) calculation and payment of customs duties and taxes.

### **Article 477**

#### **Goods and Means of Transport Subject to Customs Control**

1. Goods and means of transport imported onto the customs territory of the Republic of Kazakhstan shall be subject to customs control from the moment they cross the customs border of the Republic of Kazakhstan, up until the moment they are:

- 1) released into free circulation, except for conditional release in compliance with Article 14 of this Code;
- 2) destroyed;
- 3) refused in favor of the state or turned over to the state;
- 4) actually exported outside the customs territory of the Republic of Kazakhstan.

2. When exported from the customs territory of the Republic of Kazakhstan, Kazakhstani goods and means of transport shall be subject to customs control from the moment of submission of the customs declaration or of performing another action for the direct purpose of exporting goods outside the customs territory of the Republic of Kazakhstan, up until the moment they cross the customs border of the Republic of Kazakhstan.

3. The customs authorities shall exercise customs control over observance by persons of their commitments with regard to the re-import of Kazakhstani goods and means of transport or processed products thereof, in compliance with the terms of the customs procedures and with this Code.

### **Article 478**

#### **Customs Control after Release of Goods and Means of Transport**

The customs authorities shall be entitled to exercise customs control after the release of goods and means of transport, in compliance with the procedures and terms established by this Code.

### **Article 479**

#### **Principles of Customs Control**

When exercising customs control, the customs authorities shall proceed from the principle of selectivity, and restrict themselves to those methods that are sufficient to comply with the customs legislation of the Republic of Kazakhstan.

## **Article 480**

### **Customs Control Zones**

1. For the purpose of exercising customs control by means of inspection and (or) customs examination of goods and means of transport, and of their storage and conveyance under customs control along the customs border of the Republic of Kazakhstan, customs control zones shall be established in areas intended for customs clearance; preliminary operations; transloading of goods; inspection and customs examination of goods; temporary storage; parking means of transport carrying goods subject to customs control; at customs warehouses; on the territory of special economic zones; at free warehouses; in duty free shops; and in the locations of customs authorities.
2. Customs control zones shall be established as permanent when goods subject to customs control are kept there on a regular basis; or as temporary, when they are established for the period of time required to conduct inspection or customs examination of goods.
3. The procedures for the establishment and designation of customs control zones, as well as the procedures for gaining access to customs control zones, shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.
4. The performance of production activity and other commercial activities, transportation of goods, means of transport and persons, including officials of other state bodies, across the borders and within the territories of such zones, shall be allowed only with the permission of the customs authority and under its control.

## **Article 481**

### **Obligatory Submission of Documents and Data Required for Customs Control**

1. Persons conveying goods and means of transport across the customs border of the Republic of Kazakhstan, or persons performing activity subject to the control of the customs authorities, shall be obliged to submit to the customs authorities the documents and data required for customs control in verbal, and (or) written, and (or) electronic forms.
2. The customs authority shall be entitled to request the documents and data required for customs control in verbal, and (or) written, and (or) electronic forms.
3. The persons specified in Paragraph 1 of this Article shall be obliged to immediately submit documents and data to the customs authority and, when necessary, to receive them from other persons in not more than thirty days.
4. In order to exercise customs control, the customs authorities shall be entitled, in compliance with the legislation of the Republic of Kazakhstan, to receive from banks and organizations performing certain types of banking operations, data and certificates on financial operations concerning the export and (or) import transactions being performed.
5. In order to exercise customs control after the release of goods and means of transport, the customs authorities shall be entitled to request and receive commercial documents, book-keeping documents, reports and other information, including electronic versions, related to foreign economic operations with those goods and means of transport and, with regard to goods and means of transport imported onto the customs territory of the Republic of Kazakhstan, also concerning further operations with those goods and means of transport, from the declarant or any other person involved in operations with the goods and means of transport, or who possesses the above mentioned documents and information.
6. At the request of the customs authorities, law enforcement bodies, tax authorities and other monitoring bodies of the Republic of Kazakhstan, banks and organizations that perform certain kinds of banking operations, bodies that perform registration of organizations, and notaries shall be obliged to inform the customs authorities on available data required for customs

control, in cases and in compliance with the procedures stipulated by the legislative acts of the Republic of Kazakhstan.

7. In compliance with Article 477 of this Code, documents required for customs control shall be kept by persons for a period of not less than five years, starting at the moment the goods and means of transport are released from customs control. Customs brokers and other persons involved in entrepreneurial activities with respect to goods subject to customs control, shall keep the documents for five years following the year during which customs operations were performed with the goods.

#### **Article 482**

##### **Inviting Specialists and Experts to Render Assistance in the Performance of Customs Control**

1. In compliance with the legislation of the Republic of Kazakhstan, the customs authorities shall be entitled to invite, on a contractual basis, specialists from state and other organizations, as well as experts, to render assistance in performing customs control.

2. Specialists and experts invited from state and other bodies shall be obliged to observe the confidentiality of data, in compliance with established procedures.

#### **Article 483**

##### **Goods and Means of Transport Subject to Customs Control**

1. All goods and means of transport, conveyed across the customs border of the Republic of Kazakhstan, shall be subject to customs control.

2. The customs authorities shall be entitled to stop means of transport and to forcibly return marine and air vessels, which have departed the customs territory of the Republic of Kazakhstan without the permission of the customs authority, except for foreign vessels and vessels located on the territory of other states.

#### **Article 484**

##### **Selectivity of Customs Control**

1. When exercising customs control, the customs authorities shall apply those methods which are sufficient to ensure compliance with the legislation of the Republic of Kazakhstan and with the international agreements of the Republic of Kazakhstan.

2. Selection of the methods of customs control shall involve risk assessment and risk management systems, as stipulated by Chapter 66 of this Code. Non-use of other methods of customs control or exemption from them shall not mean that persons should not observe the provisions of this Code.

3. When necessary, the customs authorities may apply all methods of customs control established in this Code, except in cases stated in Article 520 of this Code.

#### **Article 485**

##### **Location of Customs Control**

Customs control shall be exercised in customs control zones, as well as in other places defined by the customs authorities, where goods, means of transport and documents containing information on them, including in electronic form, are located.

#### **Article 486**

##### **Time Limit for Checking the Customs Declaration and Other Documents and for Examining Goods in the Course of Customs Clearance**



1. When conducting customs clearance, preliminary operations and other customs formalities, the customs authorities shall perform the actions required to check the authenticity of the processing of the customs declaration, and the compliance of the submitted documents with the requirements established by the customs legislation of the Republic of Kazakhstan.
2. Checking of the customs declaration and documents, customs examination of goods and means of transport and, in the event of the preliminary and temporary declaration of goods, checking of the customs declaration and documents, shall be conducted by the customs authority not later than two days from the date the customs declaration was registered by the customs authority, provided all documents required for the release of goods were submitted.
3. Extension of the stated time limit for up to ten days and, when transporting goods by marine transport, for up to twenty days, from the moment the customs declaration was accepted, shall be allowed with the written permission of the head of the customs authority, which shall be sent to the declarant upon his/her request.
4. Prior to the release of goods, the customs authorities shall perform the operations required to verify the conformity of the name, origin, quantity and value of goods with the information stated in the customs declaration and documents being used for customs purposes. When goods of different types and names are presented in a single consignment, and they are not divided into separate packing lots, and when the packages are not duly marked, and the packing and marking information is not stated in the shipping documents, thus preventing the customs authorities from performing the necessary operations for verification of the conformity of the goods with the information presented on them, the time limit for customs examination of such goods, when necessary, shall be extended, with the written permission of the head of the customs authority, through the period required for division of the goods into separate lots.
5. When exercising customs control of goods, which are subject to control by other state bodies, the customs authorities shall provide the coordination and simultaneous performance of such activities.

## **CHAPTER 63. TYPES AND PROCEDURES FOR CUSTOMS CONTROL**

### **Article 487 Forms of Customs Control**

The following are means of customs control:

- 1) checking of the customs declaration, documents and information;
- 2) verbal interviews;
- 3) receipt of explanations;
- 4) customs surveillance (visual surveillance, including the use of technical means, by customs officials, of the transportation of goods and means of transport subject to customs control, and of cargo and other operations performed on them);
- 5) inspection of goods and means of transport;
- 6) customs examination of goods and means of transport;
- 7) personal search;
- 8) marking of goods with special marks, or putting identification marks on them in cases stipulated by this Code and by the tax legislation of the Republic of Kazakhstan;
- 9) checking of the record-keeping and reporting system for goods and means of transport;
- 10) record-keeping for goods and means of transport;
- 11) inspection of premises and territories.

### **Article 488 Checking of the Customs Declaration, Documents and Data**

1. For the purpose of verifying the authenticity of documents and the reliability of data, the customs authorities shall check the customs declaration, documents and data presented in the course of customs clearance of goods and means of transport.
2. Verification of the reliability of the data presented to the customs authorities in the course of customs clearance shall be performed by comparing the data with information obtained from other sources, analyzing special customs statistics, processing the data with the use of information technologies, and by other means which are not prohibited by the legislation of the Republic of Kazakhstan.
3. When exercising customs control for the purpose of verifying the information stated in the customs declaration, the customs authority shall be entitled to request, in writing, documents and data from persons.
4. The customs authorities shall be allowed to selectively exercise a check of documents and data.

### **Article 489 Verbal Interview**

When conducting customs clearance, preliminary operations and other customs procedures on goods and means of transport conveyed across the customs border of the Republic of Kazakhstan, the customs officials shall be entitled to conduct verbal interviews with persons without recording the results of the interview in written form.

### **Article 490 Receipt of Explanations**

Receipt of explanations shall mean receipt of the required information regarding customs issues by the customs officials from declarants and other persons who possess information on circumstances significant for customs control purposes.

The explanations shall be recorded in written form. Notification of a summons of a person for receiving explanations shall be signed by the head of the appropriate customs authority. The means of summoning a person for receiving explanations and the location of receiving explanations shall be established by a customs official authorized to exercise customs control.

## **Article 491**

### **Inspection of Goods and Means of Transport**

1. Inspection of goods and means of transport, including international mail and the baggage of natural persons, shall be conducted by customs officials for the purpose of confirming information on the nature, origin, state and quantity of goods subject to customs control, and of the existence of customs seals, stamps and other identification marks on goods, means of transport and cargo compartments.

2. **‘Inspection of goods and means of transport’** shall mean the external visual examination of goods, baggage of natural persons, means of transport, and containers, and of the existence of customs seals, stamps and other identification marks on goods, for the purpose of customs control, if such examination does not involve unsealing the means of transport or the cargo compartments and damaging the packaging of goods.

3. Within a customs control zone, the inspection of goods and means of transport may be conducted in the absence of the declarant or other persons authorized with respect to the goods and means of transport, and their representatives, except when the above-mentioned persons express a desire to assist in the examination.

4. A customs official shall draw up a certificate, according to the established format, on the results obtained during the course of the inspection of the goods and means of transport, when the results of the inspection will be used for customs purposes. Upon the request of the person authorized with respect to the goods and means of transport, customs officials shall be obliged to draw up a certificate. The second copy of the certificate on the performance of the customs inspection shall be delivered to the person authorized with respect to the goods and means of transport.

## **Article 492**

### **Customs Examination of Goods and Means of Transport**

1. **‘Customs examination’** shall mean actions taken by customs officials with respect to goods and means of transport, which involve the opening of packaging or cargo compartments of a means of transport, or tanks, containers and other places goods are, or may be, located.

A customs examination shall be conducted for the purpose of identifying goods for customs purposes, for verifying the authenticity of the declared data or, when there is information on violations of the customs legislation of the Republic of Kazakhstan, for the purpose of checking this information, as well as for exercising selectively based customs control.

2. The declarant and other persons authorized with respect to the goods and means of transport, and their representatives, shall be entitled to assist on their own initiative in the customs examination of goods and means of transport, except in cases specified in Paragraph 3 of this Article.

3. Upon a request by customs officials, persons shall be obliged to assist in the examination and to render the necessary assistance to the customs officials. In case of the absence of a representative specially authorized by the carrier, the natural person, operating the means of transport, shall fulfill his obligations.

4. The customs authority shall be entitled to conduct customs examination of goods and means of transport in the absence of the declarant or other persons authorized with respect to goods and means of transport, and their representatives, in the following cases:

- 1) the failure of stated persons to appear upon the expiration of ten days after submission of the goods and means of transport;
- 2) the existence of a threat to the national security, to the life and health of people, animals and plants, to nature and the environment, to the preservation of artistic, historical and archeological properties of the people of the Republic of Kazakhstan, and in other exigent circumstances;
- 3) the delivery of goods by international mail;
- 4) the abandonment of goods and means of transport on the customs territory of the Republic of Kazakhstan in violation of the customs regime.

In these cases, the customs examination of goods and means of transport shall be conducted in the presence of two witnesses, and shall be recorded in a customs examination certificate according to the format established by the Central Customs authority in coordination with the authorized state body on customs issues.

5. When part of the goods indicated in the customs declaration under one name was subject to customs examination, the results of the examination shall be applied to all of the goods indicated in the customs declaration.

6. Based upon the results of a customs examination, a certificate shall be drawn up in duplicate. A customs examination certificate shall contain the following information:

- 1) information on the customs officials who conducted the examination, and on other persons assisting at it;
- 2) reasons for conducting customs an examination in the absence of the declarant or other person authorized with respect to the goods and means of transport;
- 3) results of customs examination.

The format for the certificate shall be approved by the Central Customs Authority in coordination with the authorized state body on customs issues.

The second copy of the certificate shall be delivered to the person authorized with respect to goods and means of transport, or his/her representative.

### **Article 493** **Personal Search**

1. Personal search, as an exclusive form of customs control, shall be conducted with the written permission of the head of the customs authority or of a person substituting for him/her, when there are sufficient grounds to believe that a natural person crossing the customs border of the Republic of Kazakhstan or located in a customs control zone or in a transit zone of an international airport, is concealing and is not handing over goods which are objects of a violation of the legislation of the Republic of Kazakhstan.

The procedure for conducting a personal search and the format for the decision on conducting a personal search shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues. In the process, the decision to conduct a personal search shall state the rights of the natural person and the procedures for conducting the personal search.

2. Prior to a personal search, a customs official shall be obliged to present the natural person with a decision by the head of the customs authority, or by a person substituting for him/her, to conduct a personal search, to familiarize the natural person with his/her rights in the course of the search, and to propose that he voluntarily hand over the concealed goods.

3. The actions of the customs official during the course of a personal search shall not injure the dignity and honor of the natural person.

4. A natural person subject to a personal search shall have the following rights:

- 1) prior to a personal search, to be familiarized with the procedures for conducting and the decision to conduct a personal search;

- 2) to voluntarily hand over concealed goods, which are objects of violation of the legislation of the Republic of Kazakhstan;
- 3) to make a statement to the customs officials conducting the personal search, with the obligatory inclusion in the record of the procedures for conducting the personal search;
- 4) to be familiarized with the results of the personal search and with the procedural documents;
- 5) to appeal, in compliance with this Code, against the actions of the customs officials conducting the personal search;
- 6) to use the services of a lawyer.

5. When a natural person refuses to undergo a personal search, that person shall be entitled to refuse to cross the customs border of the Republic of Kazakhstan. When there are grounds, the person may be arrested in compliance with the procedures stipulated by the legislative acts of the Republic of Kazakhstan.

6. A natural person subjected to a personal search shall be provided with a copy of the record of personal search and with a certificate on the seizure of goods.

A personal search shall be conducted by customs officials of the same sex as the person being inspected, in the presence of two witnesses of the same sex, in an isolated room that meets hygienic and sanitary requirements. Access to this room by other natural persons, and the possibility of them observing the process of the personal search must be precluded. The examination of the body organs of persons being inspected shall be conducted only by a doctor-specialist with the use, when necessary, of special medical equipment.

The doctor-specialist shall not have the right to avoid fulfilling a decision by the head of the customs authority, or by a person substituting for him/her, concerning conducting a personal search, except in cases stipulated by the legislation of the Republic of Kazakhstan.

8. A record on conducting a personal search shall be drawn up according to the format established by the Central Customs Authority in coordination with the authorized state body on customs issues.

The record shall be signed by the customs official who conducted the personal search, by the natural person subjected to the search, by the witnesses and, in the case of a medical examination, by the doctor.

#### **Article 494**

##### **Special Marking of Goods, Putting Identification Marks on Them**

1. In cases stipulated by the legislation of the Republic of Kazakhstan, customs control shall be exercised by the customs authorities by means of verification of the existence on goods (or their packaging) of special markings, identification marks or other means of designating the goods, used to confirm the legality of their import onto the customs territory of the Republic of Kazakhstan.

2. The absence on goods of special markings, identification marks or other means of designating the goods shall serve as grounds for supposing that the goods were imported onto the customs territory of the Republic of Kazakhstan without customs clearance and release, if the person at whose disposal such goods were discovered, or the declarant or other interested person, does not prove otherwise.

#### **Article 495**

##### **Checking of the Record-Keeping and Reporting System of Goods and Means of Transport**

1. Checking of the record-keeping and reporting system of goods and means of transport, as a form of customs control, shall be applied in the following cases:

- 1) upon application by a person to use simplified customs clearance procedures in compliance with the provisions of this Code;

- 2) upon conditional release of goods, when such goods are subject to record-keeping in compliance with the procedures established by the legislation of the Republic of Kazakhstan;
- 3) with respect to persons acting as customs brokers or customs carriers, or persons performing activities under certain customs regimes, and providing customs services for temporary storage;
- 4) upon inspection of persons performing foreign economic activity with respect to goods and means of transport subject to customs control.

2. In cases not specified in this Article, the record keeping and reporting system may be checked during the course of customs control by means of checking foreign economic and other activities in the sphere of customs activity.

#### **Article 496**

#### **Record-Keeping on Goods and Means of Transport**

1. For the purpose of ensuring control over conditionally released goods and means of transport subject to tariff and non-tariff regulatory measures, the customs authorities shall keep records on goods and means of transport conveyed across the customs border of the Republic of Kazakhstan, in compliance with the procedures and in the format established by the Central Customs Authority in coordination with the authorized state body on customs issues, based upon data submitted by persons during the course of customs clearance and customs control, in compliance with this Code.

2. Persons making use of the conditionally released goods and means of transport on the territory of the Republic of Kazakhstan, and other persons specified by this Code, shall be obliged to keep records and to submit reports on them to the customs authorities in compliance with the procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues.

#### **Article 497**

#### **Inspection of Premises and Territories**

1. For customs control purposes, a customs official, upon presentation of his/her certificate of employment and with the written permission of the head of the customs authority, shall have the right to access the territory and premises where goods and means of transport subject to customs control, and documents required for customs control, are or may be located, or where operations with respect to goods subject to customs control are performed, except in cases stipulated by the legislative acts of the Republic of Kazakhstan.

2. In case they are refused access to a territory or premises, customs officials shall have the right to enter the territory and premises, except for living spaces, suppress the resistance and open the locked premises in the presence of two witnesses. The customs authorities shall inform the Public Prosecutor within twenty-four hours of all cases of entering premises, suppressing resistance and opening locked premises. Persons preventing the access of customs officials to territories and premises shall bear responsibility in compliance with the legislative acts of the Republic of Kazakhstan.

3. If legislative acts of the Republic of Kazakhstan stipulate special procedures for access by state officials to specific objects, customs officials shall be obliged to have access to the specified objects in compliance with the procedures stipulated by these legislative acts of the Republic of Kazakhstan.

4. Inspection of premises and territories for the purpose of confirming the presence of goods subject to customs control, including conditionally released goods, shall be conducted at temporary storage places, bonded warehouses, free warehouses, duty-free shops, and with respect to persons who should have the goods, in compliance with the terms of customs procedures or regimes stipulated by this Code. Inspection of premises and territories shall be conducted based upon information that goods have been lost, alienated or disposed of by other

means, in violation of the requirements and terms established by this Code for the purpose of verifying the information, and based upon the checking of samples.

5. Inspection of premises and territories not specified in Paragraph 4 of this Article may be conducted by the customs authorities based upon information that goods, imported onto the customs territory of the Republic of Kazakhstan in violation of the procedures stipulated by this Code, are located in such premises and territories, for the purpose of checking such information. A certificate shall be drawn up according to the format approved by the Central Customs Authority in coordination with the authorized state body on customs issues, on the results of the inspection. A second copy of the certificate shall be delivered to the person who was subjected to the inspection.

6. The inspection of premises and territories for the purpose of verifying compliance with the qualification requirements and terms established by Articles 97, 112, 140, 156, 266 of this Code, shall also be conducted by customs authorities. A certificate shall be drawn up, in accordance with the format approved by the Central Customs Authority, on the results of these inspections.

## **CHAPTER 64. CUSTOMS EXPERT EXAMINATION**

### **Article 498**

#### **Assignment of a Customs Expert Examination**

1. The purpose of a customs expert examination shall be the determination of the quantitative and qualitative composition of goods conveyed across the customs border of the Republic of Kazakhstan, or the correct classification of goods under the foreign economic activity commodity nomenclature.

2. A customs expert examination may be assigned by the customs authorities in the following cases:

- 1) during the course of customs clearance and customs control;
- 2) upon making a preliminary decision;
- 3) when violations in the sphere of customs activity are revealed.

3. The objects of a customs expert examination shall be goods, data on the goods stated in the customs and other documents, and identification marks.

4. A customs expert examination shall be conducted by experts from customs laboratories.

The following shall serve as grounds for conducting a customs expert examination:

- 1) the assignment of a customs expert examination at the stage of customs clearance and customs control;
- 2) a resolution for the assignment of a customs expert examination in the event of violations in the sphere of customs activity.

The assignment or resolution shall specify:

- 1) the grounds for conducting a customs expert examination;
- 2) the name of the customs laboratory where the customs expert examination will be conducted;
- 3) the questions to be answered by the expert;
- 4) the materials to be reviewed by the expert.

5. The customs official who assigned the customs expert examination shall be obliged to familiarize the declarant with the assignment or with the resolution for the assignment of the expert examination, and to explain his/her rights and obligations as stipulated by Article 396 and 397 of this Code. A notation regarding familiarizing the declarant shall be made on the assignment or on the resolution, and shall be signed by the declarant.

### **Article 499**

#### **Procedures for a Customs Expert Examination**

1. A customs expert examination may be conducted both on and off of the customs laboratory premises, if required by the nature of the research, or when it is impossible to deliver the object of the research to the location of the expert examination. The expert shall begin the examination only upon a written instruction by the head of the customs laboratory.

2. The expert shall draw up a conclusion on the results of the customs expert examination.

3. The procedures for conducting customs expert examinations in customs laboratories and the format for the conclusion shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues.

### **Article 500**

#### **Expert's Rights and Duties**

1. An expert shall be entitled to:



- 1) file an application for the presentation of additional materials required to conduct the customs expert examination;
  - 2) refuse to give answers to questions which are outside his authority;
  - 3) include in the conclusion findings on circumstances with regard to which questions were not asked, but which are important to the case;
  - 4) give consultations to participants in foreign economic activity on issues of customs expert examination.
2. An expert shall be obliged to:
- 1) be familiarized with the materials related to the customs expert examination;
  - 2) conduct research on samples and specimens of goods presented for customs expert examination, and submit a conclusion based upon a complete, thorough and objective assessment of the research results;
  - 3) appear in order to present clarification or additions to the conclusions he/she issued upon a summons by the person carrying out the proceedings and examining the case on violations in the sphere of customs activity.
  - 4) not to disclose data received during the course of the customs expert examination.

### **Article 501**

#### **Expert's Conclusion**

1. The expert shall give his/her conclusion in writing on his/her own behalf and shall bear personal responsibility for the conclusion made.
2. The expert's conclusion shall describe the research conducted and give well-reasoned answers to the questions.
3. When complicated expert research is required to be conducted, the head of the customs laboratory shall make a decision to conduct a commission expert examination, which shall be conducted by several experts in one specialty. If there are disagreements between the experts, each of them or part of them shall have the right to give a separate conclusion.
4. When a customs expert examination is required to be conducted by experts in different specialties, within their authority, a complex expert examination shall be assigned. Each expert shall sign that part of the conclusion on which he/she conducted an examination.
5. When it is impossible to make a conclusion on the materials presented, the expert shall inform the customs authority, which assigned the customs expert examination, thereof in writing, stating the reasons for refusal.

### **Article 502**

#### **Additional and Repeat Customs Expert Examination**

1. An additional customs expert examination shall be assigned based upon newly discovered circumstances. The conduct of an additional customs expert examination may be assigned to the expert who conducted the initial expert examination, or to another expert.
2. A repeat customs expert examination shall be assigned to research the same objects and to answer the same questions in cases when the declarant appealed the previous conclusion. The reasons for disagreement with the results of the previous examination must be stated in the assignment or in the resolution to conduct a repeat customs expert examination.
3. A repeat customs expert examination shall be conducted in compliance with the procedures established by the Central Customs Authority.

### **Article 503**

#### **Taking Samples and Specimens of Goods**

1. The customs authorities shall be entitled to take samples and specimens of goods required to conduct expert examinations in customs laboratories.
2. Samples and specimens of goods shall be taken in the minimum quantities required to make examination possible, in compliance with the normative and technical documentation stipulating the norms for taking samples and specimens. A certificate on taking samples and specimens shall be drawn up in the format established by the Central Customs Authority.
3. The declarant shall be entitled to be present upon the taking of samples and specimens by customs officials. The declarant shall be obliged to provide assistance to the customs officials when they take samples and specimens of goods and also to perform, at their own expense, cargo and other operations with goods, which are required for taking samples and specimens. Customs authorities can take samples and specimens of goods in the absence of the declarant when he/she does not appear upon the expiry of ten calendar days after the submission of goods, as well as under exigent circumstances. In these cases, samples and specimens of goods shall be taken in the presence of two witnesses, and a certificate on taking samples and specimens shall be drawn up.
4. Upon completion of a customs expert examination, samples and specimens shall be returned to the declarant, except when such samples and specimens are subject to destruction or utilization in compliance with the legislation of the Republic of Kazakhstan or, upon the request of the declarant, the samples and specimens are to be donated to customs laboratories for collections.

## **CHAPTER 65. INSPECTION OF PARTICIPANTS IN FOREIGN ECONOMIC AND OTHER ACTIVITIES IN THE SPHERE OF CUSTOMS ACTIVITY**

### **Article 504**

#### **Inspection of Participants in Foreign Economic and Other Activities in the Sphere of Customs Activity**

1. Inspection of participants in foreign economic and other activities in the sphere of customs activity shall be conducted by the customs authorities in order to comply with the provisions of the customs and other legislation of the Republic of Kazakhstan, the control over observance of which is entrusted to the customs authorities in compliance with the procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues.
2. When necessary, the customs authorities may carry out inspections of participants in foreign economic and other activities in the sphere of customs activity with the utilization of other state bodies.

### **Article 505**

#### **Inspection of the Activities of Persons Providing Services in the Sphere of Customs Activity**

Inspection of persons acting as customs brokers, customs carriers, owners of temporary storage warehouses, owners of bonded and free warehouses, and of duty-free shops, shall be conducted by the customs authorities in compliance with the procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues.

### **Article 506**

#### **Grounds for Conducting an Inspection of Participants in Foreign Economic and Other Activities in the Sphere of Customs Activity**

1. An order issued by the Central Customs Authority and (or) a regional customs office shall serve as ground for conducting an inspection.
2. The order must be signed by the head of the customs authority or by a person substituting for him/her, and must be certified with an official stamp and registered in the special register book, in compliance with the procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues.
3. The order must be registered with the office of the prosecutor in compliance with the legislation of the Republic of Kazakhstan.
4. An order by the customs authority shall contain the following information:
  - 1) the date of registration of the order with the customs authority and its registration number;
  - 2) the name of the customs authority that issued the order;
  - 3) the full name of the participant in foreign economic and other activities;
  - 4) a copy of a taxpayer's certificate;
  - 5) the purpose of inspection;
  - 6) the position, family name, first name and patronymic name of the customs officials who perform the inspection;
  - 7) the time limit for the inspection.

### **Article 507**

#### **The Beginning of an Inspection of Participants in Foreign Economic and Other Activities in the Sphere of Customs Activity**

1. An inspection shall begin as of the moment that the order is delivered to the participant in foreign economic or other activities in the sphere of customs activity, with the obligatory presentation of a certificate of employment.
2. The refusal of a participant in foreign economic or other activities in the sphere of customs activity to accept an order, which was completed in compliance with the legislation of the Republic of Kazakhstan, shall not serve as grounds for cancellation of the inspection.
3. During the course of inspection, participants in foreign economic or other activities in the sphere of customs activity shall not be allowed to make modifications and additions to documents subject to inspection.

#### **Article 508**

##### **Terms and Periodical Basis of Inspection of Participants in Foreign Economic and Other Activities in the Sphere of Customs Activity**

1. The time limit for inspection of participants in foreign economic and other activities in the sphere of customs activity, stated in the order, shall not exceed thirty days from the moment of delivery of the order, except in cases stipulated by Paragraph 2 of this Article.
2. When inspecting participants in foreign economic and other activities in the sphere of customs activity who have structural subunits outside the activity area of the customs authority conducting the inspection, the time limit for inspections may be extended up to sixty days.
3. Inspections of participants in foreign economic and other activities in the sphere of customs activity shall be conducted on the following periodical basis, except in cases stipulated by the legislative acts of the Republic of Kazakhstan:
  - 1) for complex inspections, aimed at the verification of compliance with the customs legislation of the Republic of Kazakhstan, covering all spheres of foreign economic and other activities in the sphere of customs activity, not more than once per year;
  - 2) for thematic inspections, aimed at the verification of compliance with the customs legislation of the Republic of Kazakhstan, covering separate issues of foreign economic and other activities in the sphere of customs activity, not more often than once per half year, concerning a single issue.
4. The restrictions stated in Paragraph 3 of this Article shall not be applied to inspections, which are conducted based upon the legislation of the Republic of Kazakhstan concerning criminal procedure.

#### **Article 509**

##### **Access of Customs Officials to Territory or Premises in order to Inspect Participants in Foreign Economic and Other Activities in the Sphere of Customs Activity**

1. In compliance with Article 497 of this Code, a participant in foreign economic and other activities in the sphere of customs activity shall be obliged to provide access to customs officials to the territory or premises (except for living space).
2. When the customs officials conducting the inspection are refused access to these territories or premises (except for living space), a record shall be drawn up.
3. The record shall be signed by the customs officials conducting the inspection, in the presence of two witnesses.
4. A participant in foreign economic and other activities in the sphere of customs activity shall be entitled to refuse access to customs officials to territory and premises in the following cases:
  - 1) the order was not delivered or produced in accordance with the established procedures;
  - 2) the time limit for inspection, specified in the order, has not yet commenced or expired;
  - 3) the data on the customs officials is not indicated in the order.

## **Article 510**

### **Authorities of Customs Officials during the Course of Inspection of Participants in Foreign Economic and Other Activities in the Sphere of Customs Activity**

1. When inspecting participants in foreign economic and other activities in the sphere of customs activity, the customs officials shall be entitled to:
  - 1) check the existence of and examine goods and means of transport;
  - 2) check documents related to foreign economic or other activities in the sphere of customs activity;
  - 3) receive documents, certificates, and written and oral explanations, related to foreign economic and other activities in the sphere of customs activity from persons;
  - 4) seal the premises where the goods and means of transport are located;
  - 5) seize original documents that relate to foreign economic and other activities in the sphere of customs activity, and testify to violations in the sphere of customs activity, in compliance with the procedures established by the legislation of the Republic of Kazakhstan. In the process, the participant in foreign economic and other activity in the sphere of customs activity shall have the right to copy the seized documents.
2. Seized documents shall be returned in compliance with the procedures and terms established by the legislation of the Republic of Kazakhstan.
3. Sealing and seizure shall be performed in exceptional cases, when not taking such measures may lead to concealment of a violation in the sphere of customs activity.

## **Article 511**

### **Completion of Inspection of Foreign Economic and Other Activities in the Sphere of Customs Activity**

1. Upon completion of an inspection, the customs officials shall draw up an inspection certificate stating the following information:
  - 1) the location of inspection, the date the certificate was drawn up;
  - 2) the position, family name, first name, and patronymic name of the customs officials who conducted the inspection;
  - 3) the family name, first name, and patronymic name or full name of the participant in foreign economic and other activities in the sphere of customs activity;
  - 4) the location and bank requisites of the participant in foreign economic and other activities in the sphere of customs activity;
  - 5) the family name, first name, and patronymic name of the manager and officials of the participant in foreign economic and other activities in the sphere of customs activity, who are responsible for customs record-keeping and reporting, and for payment of customs duties and taxes charged by the customs authorities;
  - 6) information on the previous inspection and measures taken to eliminate violations of the customs legislation of the Republic of Kazakhstan, which were previously revealed;
  - 7) information on the documents presented by the participant in foreign economic and other activities in the sphere of customs activity, for inspection;
  - 8) a detailed description of violations in the sphere of customs activity, with references to the relevant regulations of the legislative acts of the Republic of Kazakhstan.
2. The time limit for inspection shall terminate on the day that the inspection certificate is delivered to the participant in foreign economic and other activities in the sphere of customs activity.
3. When the inspection does not reveal violations of the customs legislation of the Republic of Kazakhstan, an appropriate note thereon shall be made on the inspection certificate.

4. Copies of documents, payment settlements and other materials obtained during the course of inspection shall be enclosed with the inspection certificate.
5. The inspection certificate shall be drawn up in three copies and shall be signed by the customs officials who conducted the inspection.
6. The inspection certificate shall be registered in a special registration book that must be numbered, tied and sealed with the stamp of the customs authority.
7. When the participant in foreign economic and other activities in the sphere of customs activity does not agree with the results of the inspection, a manager or authorized official of the participant in foreign economic and other activities in the sphere of customs activity shall make an appropriate note thereon on the inspection certificate.

## **Article 512**

### **Decisions Based Upon the Results of an Inspection of Participants in Foreign Economic and Other Activities in the Sphere of Customs Activity**

1. Upon completion of an inspection of participants in foreign economic and other activities in the sphere of customs activity, the customs authority shall, based upon the results of the inspection reflected in the certificate, issue a Notification on amounts of customs duties, taxes and penalties imposed, according to the format stipulated by Article 376 of this Code.
2. The Notification shall be sent to the participant in foreign economic and other activities in the sphere of customs activity in compliance with the procedures stipulated by Article 372 of this Code.
3. A participant in foreign economic and other activities in the sphere of customs activity who has received a Notification on amounts of customs fees, taxes and penalties imposed, shall be obliged to comply with it within the time limit established in Article 376 of this Code.
4. A participant in foreign economic and other activities in the sphere of customs activity shall be entitled to appeal against the results of the inspection, in compliance with the procedures and within the time limit stipulated by this Code.

## **CHAPTER 66. RISK ASSESSMENT AND MANAGEMENT**

### **Article 513**

#### **General Concepts and Purposes of Risk Management Application**

1. **‘Risk’** shall mean the degree of possible non-compliance with the customs legislation of the Republic of Kazakhstan, which may lead to losses, damage or detriment to the state.  
**‘Risk assessment’** shall mean a systematic determination of risk management priorities by means of assessment and comparison of the degree of risk to standards determined in advance.  
**‘Risk management’** shall mean the technique of applying preventive measures that make it possible to determine methods of control for preventing risk.
2. The following are the purposes for using risk management:
  - 1) to focus attention on spheres of high risk and, therefore, to ensure more effective use of available resources;
  - 2) to increase the chances of revealing customs violations;
  - 3) to create favorable conditions for participants in foreign economic activities, who are in compliance with the customs legislation of the Republic of Kazakhstan, to convey goods and means of transport over the customs border of the Republic of Kazakhstan.

### **Article 514**

#### **Risk Categories**

The following are the categories of risk:

- 1) type of goods;
- 2) classification codes of goods under the foreign economic activity commodity nomenclature;
- 3) country of origin;
- 4) country of departure of goods;
- 5) country of destination of goods;
- 6) means of transport;
- 7) customs value;
- 8) transportation routes of goods;
- 9) participants in foreign economic activity;
- 10) documents presented for customs clearance.

### **Article 515**

#### **Activities of the Customs Authorities Regarding Risk Assessment and Management**

1. The Central Customs Authority shall collect, process and analyze statistical and operational information on violations in the sphere of customs activity, including all cases of violations, which are in the process of verification and with respect to which a procedural decision was made.
2. Based upon the criteria specified in Paragraphs 1-5 of Article 516 of this Code, the Central Customs Authority shall determine the lists of risk factors annually.
3. The established lists of risk factors shall be used by the customs authorities in the course of customs control in order to select objects presenting a heightened risk and cannot be used as grounds for restricting the conveyance of goods across the customs border of the Republic of Kazakhstan. These lists shall be regarded as confidential information.
4. Based upon proposals by customs offices and customs houses, the lists of risk factors may be changed during the entire period of their validity, taking into account the current operational situation.

**Article 516**  
**Criteria for Determination of Risk Factors**

1. Types of goods:
  - 1) that most often appear as objects of smuggling across the customs border of the Republic of Kazakhstan;
  - 2) capable of changes in their physical volume due to environmental changes;
2. Classification codes of goods under the foreign economic activity commodity nomenclature:
  - 1) which are subject to non-tariff regulatory measures in compliance with the legislation of the Republic of Kazakhstan;
  - 2) which are subject to excise taxes;
  - 3) which can be used for lowering customs payments, and for evading the application of non-tariff regulatory measures.
3. Goods originating in countries that are granted preferential tariff treatment.
4. Countries of departure of goods:
  - 1) granted preferential tariff treatment;
  - 2) which are sources of drug trafficking and manifestations of terrorism.
5. Countries of destination of goods that have offshore zones.
6. Means of transport:
  - 1) which have structural changes or finishing touches different from those made in the factory;
  - 2) handled by persons who are not the actual owners;
  - 3) which were previously used for the illegal transportation of goods.
7. Customs value:
  - 1) declared without submission of commercial documents for verification;
  - 2) declared based upon commercial documents, the reliability of which is doubtful (copies of documents; documents lacking information on the seller and (or) buyer; documents without notes on customs control exercised at a border checkpoint of the Republic of Kazakhstan or by customs authorities of neighboring states);
  - 3) which is significantly lower than the customs value determined by the customs authority based upon the methods of determining customs value stipulated by Article 333 of this Code.
8. Transportation routes of goods:
  - 1) which differ from the optimal route in terms of distance and condition of the road;
  - 2) which are most frequently used for smuggling across the customs border of the Republic of Kazakhstan.
9. Participants in foreign economic activity:
  - 1) performing export and import operations for the first time;
  - 2) natural persons who convey commercial shipments of goods and who are not registered with the tax authorities of the Republic of Kazakhstan as individual entrepreneurs;
  - 3) included in the maximum risk category.
10. Documents submitted for customs clearance, which prove the right to privileges or preferential tariff treatment.

**Article 517**  
**Definition of Participants in Foreign Economic Activity Belonging to the Minimum and Maximum Risk Categories**

1. The rules for defining participants in foreign economic activity belonging to the minimum risk category shall be established by the Central Customs Authority in coordination with the authorized state body on customs issues, based upon proposals developed by customs offices and customs houses along with self-regulating organizations in the sphere of customs activity.



2 Customs offices and customs houses shall include a participant in foreign economic activity in the maximum risk category when, over a period of one year he/she committed two or more violations in the sphere of customs activity that led to the confiscation of goods and means of transport, or when the total number of violations in the sphere of customs activity committed by him/her during this period exceeds five per cent of the total number of cargo customs declarations produced by him/her during this period of time.

3. In compliance with the regulations stipulated by Paragraph 1 of this Article, customs offices and customs houses shall include participants in foreign economic activity in the minimum risk category.

4. Monthly, the Central Customs Authority shall send the generalized lists of participants in foreign economic activity included in the minimum and maximum risk categories to all customs authorities. In the process, the list of participants in foreign economic activity included in the maximum risk category shall be used exclusively for customs purposes and shall be regarded as confidential.

5. Based upon the lists specified in Paragraph 3 of this Article, the customs authorities shall apply the most favored customs treatment regime to participants in foreign economic activity included in the minimum risk category, and shall apply the special customs control regime to participants in foreign economic activity included in the maximum risk category.

Other participants in foreign economic activity, who are not included on the lists of participants in foreign economic activity included in the minimum and maximum risk categories, shall be subject to the general customs procedures established by this Code.

6. Upon a request by a person included in the maximum risk category, the customs authorities shall provide the reasons for the reference. A person may appeal a decision by the customs authority on his/her inclusion in the maximum risk category.

## **Article 518**

### **The Most Favored Customs Treatment Regime**

1. The most favored customs treatment regime shall include:

- 1) delivery of goods to the destination point without application of customs securities;
- 2) temporary storage of goods in the consignee's warehouses;
- 3) exercise of selectively based examination of goods in a consignment or examination of selected consignments of goods;
- 4) conducting customs clearance of goods in top-priority order;
- 5) application of special customs procedures for customs clearance in compliance with Article 397 of this Code;
- 6) other preferential procedures that may be developed by the Central Customs Authority in coordination with the authorized state body on customs issues.

2. The grounds for beginning to verify the compliance of a participant in foreign economic activity with the minimum risk category shall be his/her written application.

3. Verification shall be performed within a month of the day that the application was submitted.

4. When a participant in foreign economic activity is included in the minimum risk category, the customs authority that performed the verification shall include the participant in foreign economic activity in the appropriate list by informing the Central Customs Authority thereof.

5. When a participant in foreign economic activity who was included in the minimum risk category commits a violation in the sphere of customs activity, that precludes his compliance with this category, the customs authority that discovered the violation shall immediately inform the Central Customs Authority thereof in order to have the person excluded from the appropriate list.

6. Withdrawal of the most favored customs treatment regime based upon sound reasons shall preclude the possibility for a repeat submission of an application for a period of one year.
7. Customs control over conveyance of goods under the most favored customs treatment regime shall be exercised mainly by the inspection of foreign economic activity.
8. The most favored customs treatment regime shall not exclude the possibility of the customs authorities using any form of customs control, when they have information or suspicions that violations in the sphere of customs activity were committed or are planned to be committed.

### **Article 519**

#### **Special Customs Control Regime**

1. The special customs control regime shall include:
  - 1) delivery of goods, conveyed over the road, exclusively under customs escort;
  - 2) mandatory placement into and storage of goods at a temporary storage warehouse until the customs clearance procedure is completed, except in cases stipulated by Article 103 of this Code;
  - 3) primarily, the performance of full examinations of goods;
  - 4) exclusion of the application of the periodic declaration procedure.
2. Upon application by a participant in foreign economic activity, the customs authority shall exclude him/her from the list of participants included in the maximum risk category, provided that he/she has not committed, within the last six months, a single violation in the sphere of customs activity which entails responsibility for the confiscation of goods and means of transport or, if the total number of violations in the sphere of customs activity committed by him/her does not exceed five percent of the total number of customs cargo declarations produced by him/her during the same period.

## **CHAPTER 67. ADDITIONAL PROVISIONS CONCERNING CUSTOMS CONTROL**

### **Article 520**

#### **Exemption From Certain Forms of Customs Control**

1. Exemption from application by the customs authorities of certain forms of customs control shall be established exclusively by this Code.
2. The personal baggage of the President of the Republic of Kazakhstan and of family members accompanying him shall not be subject to customs examination.
3. The personal baggage of the Prime Minister of the Republic of Kazakhstan, the Secretary of State of the Republic of Kazakhstan, the Chairman of the Senate of the Parliament of the Republic of Kazakhstan, the Chairman of the Majilis of the Parliament of the Republic of Kazakhstan, the General Prosecutor of the Republic of Kazakhstan, the Chairman of the Constitutional Council of the Republic of Kazakhstan, the Chairman of the Supreme Court of the Republic of Kazakhstan, the Chairman of the National Bank of the Republic of Kazakhstan, members of the Government of the Republic of Kazakhstan, and deputies of the Senate and the Majilis of the Parliament of the Republic of Kazakhstan shall be exempted from customs examination if these persons cross the customs border of the Republic of Kazakhstan while executing deputized or official duties.
4. Foreign warships (vessels), military aircraft and self-propelled military equipment performing maneuvers shall be exempted from customs examination, unless otherwise provided by the legislative acts of the Republic of Kazakhstan.

### **Article 521**

#### **Collection by the Customs Authorities of Information on Persons when Exercising Customs Control**

1. For customs control purposes, the customs authorities have the right to collect information on persons involved in foreign economic activity related to the conveyance of goods and means of transport across the customs border of the Republic of Kazakhstan, or information on persons conducting entrepreneurial activity with regard to goods subject to customs control, including information regarding registration data, location and personal information on citizens; namely, the family name, first name, patronymic name, date and place of birth, gender and personal address.
2. Participants in foreign economic activity shall have the right to be familiarized with documented information on themselves, available to the customs authorities, and to make clarifications of this information in order to ensure its completeness and reliability.
3. Information on persons shall be collected by the customs authorities during the course of customs clearance of goods and means of transport conveyed across the customs border of the Republic of Kazakhstan, and also by obtaining the indicated information from the tax authorities, the Ministry of Internal Affairs, bodies responsible for state registration, and by other means not prohibited by the legislation of the Republic of Kazakhstan.

### **Article 522**

#### **Use of Technical Means During the Course of Customs Control**

In order to reduce the time for conducting customs control and to enhance its effectiveness and optimization, the customs authorities may use technical means. The list of these means and the procedures for their application shall be formulated by the Central Customs Authority in coordination with the authorized state body on customs issues.

The technical means indicated shall not endanger the life and health of people, animals or plants, and must not cause harm to people, goods and means of transport.

### **Article 523**

#### **Use of Customs Vessels in the Course of Customs Control**

1. Marine vessels and aircraft of the customs authorities shall be used in the course of customs control of goods and means of transport on the territorial waters and internal waters of the Republic of Kazakhstan, and on the territory adjacent to the customs border of the Republic of Kazakhstan.

2. When exercising customs control with the use of marine vessels and aircraft, the customs authorities shall be entitled:

- 1) to stop means of transport and to search them, when detecting evidence that goods subject to customs control are being conveyed illegally on the means of transport;
- 2) to detain persons located inside the means of transport, whom have committed crimes related to the jurisdiction of the customs authorities as the bodies of inquiry, and subject to criminal responsibility in compliance with the legislation of the Republic of Kazakhstan;
- 3) to pursue and to detain, outside the territorial waters of the Republic of Kazakhstan, marine vessels which departed the customs territory of the Republic of Kazakhstan without the permission of the customs authorities, on territory adjacent to the customs border of the Republic of Kazakhstan, before they enter the territorial waters of their own country or of a third country, if the pursuit began in internal waters or on the territorial waters of the Republic of Kazakhstan after a visual or aural signal to stop was made from a distance allowing it to be seen or heard, and was continued without interruption;
- 4) in case of violations in the sphere of customs activity, to detain the means of transport for the purpose of seizing them in compliance with the legislative acts of the Republic of Kazakhstan;
- 5) in cases stipulated by this Code, to escort the means of transport, including stationing customs officials on them.

3. When executing their duties, the crews of customs vessels shall be entitled, in compliance with the legislation of the Republic of Kazakhstan:

- 1) to use the marine and air space of the Republic of Kazakhstan, the areas of sea and river ports, and of airports and aerodromes (landing grounds) on the territory of the Republic of Kazakhstan, regardless to whom they belong or are assigned;
- 2) to enter and to exit ports according to the procedures coordinated with the authorized state body of the Republic of Kazakhstan;
- 3) to receive navigation, hydro-metrological, hydrographic, and other information required to carry out tasks entrusted to the customs authorities, free of charge.

### **Article 524**

#### **Cargo and Other Operations with Goods and Means of Transport Required for Customs Control**

1. Upon a request by the customs authority, a declarant, warehouse owner, customs broker, or other persons authorized with regard to goods, shall be obliged to provide transportation, weighing of goods or determining of their quantity by other means, as well as loading, unloading, transloading, repairing of damaged packaging, unpacking, packing and re-packing of goods subject to customs control, as well as unlocking premises, reservoirs and other places where goods are or may be located.

2. The carrier shall be obliged to make possible cargo or other operations with goods that he conveys, and with the means of transport.

3. Cargo and other operations with goods and means of transport must not result in additional expenses for the customs authorities.

**Article 525**  
**Identification of Goods, Means of Transport, Premises**  
**and Other Places**

1. Means of transport, premises, containers and other places where goods and means of transport subject to customs control are or may be located, places where activity subject to customs control is performed, as well as goods and means of transport subject to customs control, may be identified by the customs authorities.
2. Identification shall be executed by sealing; stamping; marking with numbers, letters or other symbols, or identification marks; punching stamps; taking samples and specimens; describing goods in detail; preparing designs, images to scale, photographs, or illustrations; through the use of shipping and other documents, and by other means.
3. The procedures for the use and manufacture of means of identification as well as their standards shall be specified by the Central Customs Authority in coordination with the authorized state body on customs issues. Seals, stamps and other means of identification, applied by customs authorities of foreign states in compliance with the international agreements of the Republic of Kazakhstan, may be recognized as means of identification for customs purposes.
4. Means of identification may be changed, removed or destroyed only by the customs authorities or with their permission, except when there is an imminent threat of destruction, irrevocable loss or serious damage to goods and means of transport. The customs authority shall be informed immediately of alteration, removal or destruction of identification marks, and shall be provided with proof that a threat exists.

**Article 526**  
**Inventory of Goods and Means of Transport**  
**Subject to Customs Control**

The customs authorities shall be entitled to make an inventory of goods and means of transport subject to customs control at any time, as well as of goods with respect to which customs duties and taxes were not paid, or preferences with regard to customs duties and taxes were not granted.

**Article 527**  
**Compliance with the Requirements Regarding the Minimum Period of Time for**  
**Exercising Customs Control**

Persons shall be obliged to comply with the requirements regarding the minimum period of time required to exercise customs control. Damages caused to a person due to his/her non-compliance with these requirements shall not be compensated.

**Article 528**  
**The Impermissibility of Causing Illegal Damages During the Course of Customs Control**

When exercising customs control it is impermissible to cause illegal damages to the carrier, declarant, their representatives, owners of temporary storage warehouses, customs warehouses or free warehouses, owners of duty free shops and other persons whose interests are affected by the actions (inactions) and decisions of the customs authorities during the course of customs control, as well as to goods and means of transport.

## **SECTION XV. CUSTOMS CONTROL IN THE SPHERE OF CURRENCY AND EXPORT CONTROL**

### **CHAPTER 68. CURRENCY CONTROL EXERCISED BY THE CUSTOMS AUTHORITIES**

#### **Article 529**

##### **Customs Authorities as the Agencies of Currency Control**

1. The customs authorities shall act as the agencies of currency control and shall perform currency regulation within their authority and in compliance with the legislation of the Republic of Kazakhstan.
2. The Central Customs Authority shall determine the functions and competencies of the customs authorities, and shall develop normative and legal acts in the sphere of currency control within its authority and in compliance with the legislation of the Republic of Kazakhstan.

#### **Article 530**

##### **Competencies of the Customs Authorities in the Sphere of Currency Control**

1. For the purpose of complying with the norms of currency regulation, the customs authorities shall exercise currency control over the conveyance of goods by persons and over the compliance of these persons with their obligations.
2. The Central Customs Authority shall improve the organization and implementation of currency control over export and import operations by introducing proposals to the main body authorized to regulate currency in the Republic of Kazakhstan.

#### **Article 531**

##### **Authority of the Customs Authorities when Exercising Currency Control**

When exercising currency control, the customs authorities shall be entitled to:

- 1) verify the compliance of participants in foreign economic activity with the norms of the currency legislation;
- 2) request and receive from state bodies, banks, and other organizations, documents and material containing information on foreign economic transactions, and on their compliance with their obligations, in compliance with the legislative acts of the Republic of Kazakhstan, also including information constituting banking and commercial secrets;
- 3) send demands (instructions) to eliminate violations of the currency legislation that are discovered;
- 4) call persons to account, in compliance with the legislative acts of the Republic of Kazakhstan.

#### **Article 532**

##### **Responsibility for Violations Revealed During the Course of Currency Control Exercised by the Customs authorities**

When the customs authorities reveal violations of the currency legislation of the Republic of Kazakhstan during the course of currency control, the persons shall bear responsibility in compliance with the legislative acts of the Republic of Kazakhstan.

**CHAPTER 69. CONVEYANCE ACROSS THE CUSTOMS BORDER  
OF THE REPUBLIC OF KAZAKHSTAN OF GOODS SUBJECT TO EXPORT  
CONTROL IN THE REPUBLIC OF KAZAKHSTAN**

**Article 533**

**Customs Authorities as the Agencies of Export Control**

1. The customs authorities shall carry out regulations in the sphere of export control within their authority and in compliance with the legislation of the Republic of Kazakhstan.
2. The Central Customs Authority shall determine the functions and the competencies of the customs authorities by developing normative and legal acts in the sphere of export control within its authority and in compliance with the legislation of the Republic of Kazakhstan.

**Article 534**

**Competencies of the Customs Authorities in the Sphere of Export Control**

1. The customs authorities shall exercise customs control over the import and export of goods subject to export control across the customs border of the Republic of Kazakhstan.
2. The customs authorities shall participate in the development of the normative and legal basis in the sphere of export control, and shall prevent and suppress illegal conveyance of goods subject to export control across the customs border of the Republic of Kazakhstan.

**Article 535**

**Observance of Confidentiality of Information**

The customs officials responsible for export control shall keep confidential information obtained from participants in foreign economic activity and from other authorized bodies.

**Article 536**

**Responsibility for Violations Revealed During the Course of Export Control  
Exercised by the Customs Authorities**

When persons violate the legislation of the Republic of Kazakhstan on export control, they shall bear responsibility in compliance with the legislative acts of the Republic of Kazakhstan.

## **SECTION XVI. TRANSFER OF GOODS AND MEANS OF TRANSPORT TO STATE OWNERSHIP**

### **CHAPTER 70. TRANSFER OF GOODS AND MEANS OF TRANSPORT TO STATE OWNERSHIP**

#### **Article 537 Transfer of Goods and Means of Transport to State Ownership**

Goods and means of transport shall be transferred to state ownership based upon:

- 1) a court decision, when employing confiscation for violations in the sphere of customs activity.
- 2) a customs declaration processed under the customs regime for refusal in favor of the state and an acceptance report for goods or means of transport.

#### **Article 538 Procedures for Transfer of Goods and Means of Transport to State Ownership Based Upon a Court Decision**

1. Goods and means of transport shall be transferred to state ownership in case of violations in the sphere of customs activity from the moment that the court decision comes into force.
2. Based upon a court decision and acceptance report, the customs authority shall transfer confiscated goods or means of transport to the authorized body.

#### **Article 539 Procedures for Transfer to State Ownership of Goods and Means of Transport Processed under the Customs Regime for Refusal in Favor of the State**

1. The person conveying goods and means of transport shall declare and file with the customs authority a customs declaration, processed under the customs regime for refusal in favor of the state.
2. Goods and means of transport processed under the customs regime for refusal in favor of the state become the property of the state based upon the customs declaration and on the acceptance report for goods or means of transport, as of the moment the goods and means of transport are transferred to the authorized body.



## **CHAPTER 71. PROCEDURES FOR DISPOSAL OF GOODS AND MEANS OF TRANSPORT TRANSFERRED BY THE CUSTOMS AUTHORITIES TO STATE OWNERSHIP**

### **Article 540 Disposal of Goods and Means of Transport Transferred to State Ownership**

Goods and means of transport transferred to state ownership shall be disposed of in compliance with the procedures and terms established by the Government of the Republic of Kazakhstan.

### **Article 541 Methods of Disposal of Goods and Means of Transport Transferred to State Ownership**

1. Disposal of goods and means of transport shall be effected by way of destruction, utilization or sale.
2. Destruction or utilization of goods and means of transport shall be performed at the expense of the person who conveys the goods. In the event that this person cannot be identified, then at the expense of the proprietor or owner. In the event of their absence, then at the expense of the state budget, unless otherwise stipulated by the legislation of the Republic of Kazakhstan with regard to certain categories of goods.

### **Article 542 Sales of Goods and Means of Transport Transferred to State Ownership Based upon a Court Decision**

1. Sales of goods and means of transport transferred to state ownership shall be carried out as of the moment the court decision comes into force.
2. Sales of these goods and means of transport shall be carried out in compliance with the legislation of the Republic of Kazakhstan.

### **Article 543 Sales of Goods and Means of Transport Cleared under the Customs Procedure for Refusal in Favor of the State**

1. Based upon a customs declaration cleared under the customs regime for refusal in favor of the state and on an acceptance report for goods and means of transport, the customs authority shall transfer the goods and means of transport to the authorized body within three working days of the date that the acceptance report was issued.
2. Sales of goods and means of transport cleared under the customs regime for refusal in favor of the state shall be carried out by the authorized body.

### **Article 544 Funds Obtained from Sales of Goods and Means of Transport Transferred to State Ownership**

Funds obtained through the sale of goods and means of transport transferred to state ownership shall go to the appropriate budget.

## **SECTION XVII. CONSIDERATION OF AN APPEAL AND MAKING A DECISION THEREON**

### **CHAPTER 72. APPEALING A DECISION BY THE CUSTOMS AUTHORITY OR THE ACTION (INACTION) OF A CUSTOMS OFFICIAL**

#### **Article 545 Right of Appeal**

1. Any person, including their authorized representatives, shall be entitled to appeal a decision, or the action (inaction) of a customs authority or of a customs official, if the decision or the action (inaction) infringes upon the rights and interests of the person, creates obstacles to their implementation, or unlawfully imposes a responsibility.
2. A person's right of appeal may be realized by filing an appeal with the customs authorities, including with a superior customs authority, the authorized state body on customs issues, and (or) the court.
3. Normative legal acts in the sphere of customs activity issued by the Central Customs Authority may be appealed in compliance with the legislation of the Republic of Kazakhstan.
4. The procedures for filing, considering and satisfying an appeal forwarded to the court, shall be determined in compliance with the legislative acts of the Republic of Kazakhstan.

#### **Article 546 The Procedures for Filing an Appeal**

1. An appeal of a decision or action (inaction) of a customs official shall be filed with the customs authority, which employs the customs official. An appeal of a decision, action, or inaction by the head of the customs authority, shall be filed with a superior customs authority, or with the authorized state body on customs issues.
2. When the appeal filed is subject to consideration by a superior customs authority, the customs authority shall forward it to the superior customs authority along with verifying materials and with a conclusion regarding the appeal, not later than three working days from the date the appeal was filed, with notification of the person who filed the appeal.
3. When an appeal is filed directly with a superior customs authority, this authority shall request verifying materials and the conclusion regarding the appeal, not later than three working days from the date the appeal was filed, from the customs authority against whose decision, action or inaction, or against the decision or action (inaction) of an official thereof, the appeal was filed.

#### **Article 547 Time Limit for Filing an Appeal**

1. An appeal of a decision by the customs authority, or of an action (inaction) by a customs official may be filed within a period of one year:
  - 1) from the date that the person discovered that his/her rights in the sphere of customs activity were infringed upon, or obstacles were created for their realization, or any responsibility that is not stipulated by the customs legislation of the Republic of Kazakhstan was imposed on him/her;
  - 2) from the date of expiration of the time limit stipulated by the customs legislation of the Republic of Kazakhstan for making a decision by the customs authority or by a customs official.

2. When the time limit for filing an appeal has not been complied with for good reasons, the time limit may be renewed by a body authorized to consider appeals, based upon a written application by the person who filed the appeal.

### **Article 548** **Format for and Contents of an Appeal**

1. An appeal shall be filed in written form.
2. An appeal shall contain the following details:
  - 1) name of the customs authority, or the position, family name, first name and patronymic name of the customs official (if they are known) whose decision or action (inaction) are subject to appeal;
  - 2) family name, first name and patronymic name of the person filing the appeal; his/her address or location;
  - 3) the subject of the decision made by the customs authorities, or of the action (inaction) of the customs official, subject to appeal;
  - 4) the circumstances based upon which the person believes that the decision made by the customs authority, or the action (inaction) of the customs official, infringes upon his/her rights, creates obstacles for their realization, or unlawfully imposes a responsibility.
  - 5) the signature of the appellant or his/her representative;
  - 6) documents and (or) materials proving the illegality of the decision made by the customs authority, or of the action (inaction) of the customs official.

### **Article 549** **Consequences of Filing Appeals**

Filing an appeal shall not suspend the execution of the decision or action (inaction) subject to appeal of the customs authority or of the customs official, except in cases when the superior customs authority or authorized state body on customs issues which is considering the appeal has sufficient grounds to believe that a decision by the customs authority or an action by a customs official do not comply with the norms of the customs legislation of the Republic of Kazakhstan.

## **CHAPTER 73. CONSIDERATION OF AN APPEAL OF A DECISION BY OR ACTION (INACTION) OF A CUSTOMS AUTHORITY, OR OF A CUSTOMS OFFICIAL**

### **Article 550**

#### **The Bodies Considering Appeals**

1. An appeal of a decision or action (inaction) of a customs authority shall be considered by a superior customs authority, or by the authorized state body on customs issues.
2. An appeal of a decision or action (inaction) of a customs official shall be considered by the customs authority employing the official, whereas an appeal of a decision or action (inaction) of the head of a customs authority shall be considered by his/her superior customs authority or by the authorized state body on customs issues.
3. On behalf of the customs authority, the head of the customs authority or a person, substituting for him/her, shall make a decision with regard to the appeal. In the process, the appeal may not be considered by the customs official who made the decision or performed the action (inaction), or by his/her subordinate.
4. An appeal that is filed in compliance with the established procedures shall be subject to mandatory registration with the appropriate body on the date of filing.

### **Article 551**

#### **Grounds for Refusal to Accept an Appeal for Consideration**

1. The superior customs authority or the authorized state body on customs issues that considers an appeal shall refuse to accept an appeal for consideration in the following cases:
  - 1) the prescribed time limit for filing an appeal was not complied with, and the person did not apply with a request to renew an expired time limit, or the request to restore an expired time limit was rejected, except in cases when the time limit expired for good reasons;
  - 2) the appeal is not duly signed, or is signed by a person who cannot duly confirm his/her authority to do so;
  - 3) the requirements regarding the format and content of an appeal have not been complied with;
  - 4) the subject of an appeal relates to a decision or action (inaction) of a body that is not authorized regarding customs issues.
2. A repeat appeal that does not contain new arguments or newly discovered circumstances shall not be subject to consideration if there is exhaustive material concerning the appeal and the person who filed the appeal has been given an answer in compliance with the established procedures.
3. The appellant shall be notified in writing of a decision to refuse consideration of an appeal within three working days of the date of registration, stating the reasons for refusal.

### **Article 552**

#### **Withdrawal of Appeal**

1. An appellant may withdraw his/her appeal at any stage and any moment prior to when a decision is made on the appeal.
2. Withdrawal shall be carried out in written form, stating the reasons for withdrawal.

### **Article 553**

#### **Time Limit for Considering an Appeal**

1. A superior customs authority or an authorized state body on customs issues must consider an appeal, and must make a decision thereon, within a period not to exceed fifteen working days, except for appeals requiring additional review and (or) checking.

2. An appeal requiring additional review and (or) checking must be considered within one month of the date of registration.

#### **Article 554**

##### **Decision on an Appeal**

1. Based upon the results of the consideration of an appeal, the superior customs authority or the authorized state body on customs issues shall:
  - 1) acknowledge that the decision or action (inaction) of the customs authority or of the customs official is lawful;
  - 2) acknowledge that the decision or action (inaction) of the customs authority or of the customs official is partially or completely unlawful.
2. When the superior customs authority or the authorized state body on customs issues that considers the appeal deems it necessary, it may make several decisions with regard to the same appeal or complaint which are not exclusive of one another, as specified in Sub-paragraph 2) of Paragraph 1 of this Article.
3. When the decision or action (inaction) of a customs authority or customs official, subject to appeal, is acknowledged as unlawful, the body considering the appeal shall completely or partially rescind the decision made by the customs authority or official and shall oblige it/him/her to make a new decision within its/his/her authority and in compliance with the legislation of the Republic of Kazakhstan.
4. When a customs official makes an unlawful decision or performs an unlawful action (inaction), or when an official does not duly fulfill his/her duties, the body considering the appeal shall take measures to subject the official to disciplinary, administrative, or criminal action.
5. A decision by the superior customs authority or the authorized state body on customs issues that considers the appeal shall be made in writing and shall contain the following details:
  - 1) the name of the body which considered the appeal;
  - 2) the position, family name and initials of the customs official who made the decision on the appeal;
  - 3) the family name and initials or name of the person who filed the appeal;
  - 4) a brief description of the subject of the appeal;
  - 5) the decision made on the appeal;
  - 6) the reasons and grounds for the decision made;
  - 7) the measures undertaken with regard to the official who committed the violation in the sphere of customs activity;
  - 8) information concerning the order of appeal on the decision made.
6. Within the time limit stipulated by Article 553 of this Code, a copy of the decision made as a result of consideration of the appeal shall be forwarded to the person who filed the appeal.

#### **Article 555**

##### **Completion of Consideration of an Appeal**

Consideration of an appeal shall be regarded as completed, provided that the body that considered the appeal has resolved the issues stated in the appeal, has taken the necessary measures, and has provided an answer in writing.

## **CHAPTER 74. SIMPLIFIED PROCEDURES FOR APPEALING DECISIONS BY A CUSTOMS AUTHORITY OR ACTIONS (IN ACTIONS) OF A CUSTOMS OFFICIAL**

### **Article 556**

#### **Simplified Procedures for Appealing Decisions by a Customs Authority, or Actions (Inactions) of a Customs Official**

1. A person shall be entitled to appeal under simplified procedures against a decision by the customs authority to the head of a superior customs authority; and against an action (inaction) of a customs official to the head of the customs authority, or to the person substituting for him/her, which employs the customs official whose action (inaction) is subject to appeal.
2. A decision by a customs authority or an action (inaction) of a customs official may be appealed under simplified procedures in cases when the value of the goods and means of transport with regard to which the decision or action (inaction) which is being appealed was made, as well as other actions, caused, in the opinion of the person, illegal expenses that do not exceed an amount equivalent to 100 monthly calculation indices.
3. Consideration of an appeal against a decision by the customs authority or an action (inaction) of a customs official under simplified procedures, and making decisions thereon, shall not serve as an obstacle for filing an appeal in compliance with the procedures and time limit stipulated by this Code.

### **Article 557**

#### **Procedures for Appeals and Making Decisions under Simplified Procedures**

1. The simplified procedure for appealing a decision by the customs authority or an action (inaction) of a customs official shall mean filing a written appeal to the head of the customs authority.
2. An appeal filed under simplified procedures shall be subject to immediate consideration, and a decision thereon shall be made on the day of filing the appeal.
3. When considering an appeal under simplified procedures, the head of the customs authority, which considers the appeal, shall draw up a certificate on considering the appeal under simplified procedures, stating information on the person who filed the appeal, a brief description of the appeal, and the decision made thereon.
4. The certificate on considering an appeal shall be signed by the head of the customs authority which considers the appeal, and by the person who filed the appeal. A copy of the certificate shall be delivered to the person who filed the appeal.

## **SECTION XVIII. PROCEDURE FOR SERVING IN THE CUSTOMS AUTHORITIES**

### **CHAPTER 75. PROCEDURE FOR SERVING IN THE CUSTOMS AUTHORITIES**

#### **Article 558**

##### **Service in the Customs Authorities**

1. Service in the customs authorities is a specific kind of civil service for citizens of the Republic of Kazakhstan who perform their professional activity in implementation of the tasks, rights and duties of the customs authorities, as well as of functions of law enforcement bodies in compliance with the legislative acts of the Republic of Kazakhstan.
2. The procedure for serving in the customs authorities shall be regulated by this Code and by the legislation of the Republic of Kazakhstan on civil service and labor.

#### **Article 559**

##### **Recruitment for Serving in the Customs Authorities**

1. Customs officials shall mean competent citizens of the Republic of Kazakhstan who are recruited to serve in the customs authorities, and who are able to fulfill the responsibilities imposed on them as a result of their personal, moral, business, and professional qualities, and of their state of health, physical development, and standard of education.
2. The following are the requirements for being recruited to serve in the customs authorities:
  - 1) a medical certificate that confirms the ability to serve;
  - 2) an absence of negative reasons according to the results of a special examination;
  - 3) compliance with the qualification requirements established by the authorized state body on customs issues.
3. A probation period of up to three months without awarding a special rank shall apply to those recruited to serve in the customs authorities.

#### **Article 560**

##### **Recruitment of Young Specialists for Serving in the Customs Authorities**

1. Young specialists, recruited for serving in the customs authorities, shall spend a mandatory probation period at customs posts, customs houses and customs departments in compliance with the procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues.

#### **Article 561**

##### **Procedures for Appointment to a Position and Dismissal from a Position**

1. The head of the Central Customs Authority shall be appointed to and dismissed from his/her position by the Government of the Republic of Kazakhstan, based upon a statement by the head of the authorized state body on customs issues.
2. Deputy heads of the Central Customs Authority shall be appointed to and dismissed from their positions by the head of the authorized state body on customs issues, based upon a statement by the head of the Central Customs Authority.

3. Other customs officials shall be appointed to and dismissed from their positions in compliance with the procedures established by the authorized state body on customs issues.
4. Customs officials shall be provided with customs identification cards in compliance with the procedures established by the Central Customs Authority in coordination with the authorized state body on customs issues.

### **Article 562**

#### **Oath of the Customs Official**

A customs official shall take an oath in compliance with the procedures established by the Central Customs Authority.

### **Article 563**

#### **Special Ranks of Customs Officials**

1. The following special ranks shall be awarded to customs officials in compliance with the established procedures, in accordance with his/her position and period of service:
  - 1) junior commanding staff:  
Warrant Customs Officer;  
Senior Warrant Customs Officer;
  - 2) middle commanding staff:  
Junior Customs Lieutenant;  
Customs Lieutenant;  
Senior Customs Lieutenant;  
Customs Captain;
  - 3) senior commanding staff:  
Customs Major;  
Customs Lieutenant Colonel;  
Customs Colonel;
  - 4) highest commanding staff:  
Customs Major General;  
Customs Lieutenant General.  
Customs Colonel General
2. Customs officials awarded special ranks shall be provided, free of charge, with the uniform, the standards for and norms of which shall be determined by the Government of the Republic of Kazakhstan, and the rules for wearing of which shall be established by the Central Customs Authority.
3. Provisions of this Article shall also apply to heads and specialists of specialized institutions.

### **Article 564**

#### **Procedure for Awarding Special Ranks to Customs Officials**

1. Special ranks awarded to customs officials shall be subdivided into the first rank, next highest rank and highest rank.
2. The first special rank shall be awarded to customs officials in accordance with the positions they occupy upon expiration of the probation period, except in cases when the customs official has a higher military and/or special rank.
3. The next highest rank shall be awarded in sequential order upon the expiration of the established period of service in the previous special rank in compliance with Article 565 of this Code. When there are several next highest ranks provided for the position occupied, a time limit for occupying the last special rank shall not be established.



4. The highest special rank shall be awarded in accordance with the position occupied upon expiration of the established period of service in the previous special ranks stipulated by Article 565 of this Code.

5. The first, next highest and highest special ranks shall be awarded to officials in accordance with the position occupied, in the following order:

1) in the Central Customs Authority:

Position	Special Rank		
	First	Next Highest	Highest
Chairman	Customs major general	Customs lieutenant general	Customs colonel general
Deputy Chairman	Customs colonel	Customs major general	Customs lieutenant general
Head of the main administration; Head of the independent administration	Customs major	Customs lieutenant colonel; Customs colonel	Customs major general
Deputy head of the main administration; Deputy head of the independent administration; Head of administration of the main administration	Customs major	Customs lieutenant colonel	Customs colonel
Section head	Customs captain	Customs major	Customs lieutenant colonel
Department head; Chief inspector	Senior customs lieutenant	Customs captain	Customs major
Leading inspector	Junior customs lieutenant	Lieutenant; Senior customs lieutenant	Customs captain
Inspector (with secondary special education)	Warrant officer	Senior warrant officer	Senior warrant officer

2) in regional customs departments, customs houses, customs laboratories, customs posts and border checkpoints:

Position	Special Rank		
	First	Next highest	Highest
Head of the regional customs administration	Customs lieutenant colonel	Customs colonel	Customs major general
Deputy head of the regional customs administration; Head of customs house; Head of the specialized institution	Customs major	Customs lieutenant colonel	Customs colonel
Deputy head of the customs house; Deputy head of the specialized institution; Head of the customs post	Customs captain	Customs major	Customs lieutenant colonel
Head of the checkpoint; Deputy head of the customs post;	Senior customs lieutenant	Customs captain	Customs major

Head of the section			
Head of the department; Chief inspector	Customs lieutenant	Senior customs lieutenant	Customs captain
Senior inspector	Junior customs lieutenant	Customs lieutenant	Senior customs lieutenant
Inspector	Customs warrant officer	Senior customs warrant officer	Junior customs lieutenant
Junior inspector	Customs warrant officer	Senior customs warrant officer	Senior customs warrant officer

6. A time limit for the first, next highest and highest special ranks for Customs Senior Warrant Officer, Colonel, Major General, Lieutenant General and Colonel General shall not be established.

7. Special ranks for the junior commanding staff of the customs authorities shall be awarded by the head of the Central Customs Authority.

8. Special ranks for the middle and senior commanding staff of the customs authorities shall be awarded by the head of the Central Customs Authority in coordination with the authorized state body on customs issues.

9. Special ranks for the highest commanding staff shall be awarded by the President of the Republic of Kazakhstan based upon a statement by the authorized state body on customs issues.

#### **Article 565** **Time Limit for Service in Special Ranks**

1. The following time limits for service in special ranks shall be established for customs officials, except for the officials specified in Paragraph 5 of Article 564:

Customs Warrant Officer	5 years;
Junior Customs Lieutenant	1 year;
Customs Lieutenant	2 years;
Senior Customs Lieutenant	3 years;
Customs Captain	3 years;
Customs Major	4 years,
Customs Lieutenant Colonel	5 years.

2. Customs officials may be awarded the next highest special rank ahead of schedule, in compliance with the procedures established by Articles 566, 575 of this Code.

#### **Article 566** **Procedure for Awarding the Next Highest Special Rank Ahead of Schedule**

1. The next highest special rank may be awarded to a customs official ahead of schedule:

- 1) prior to the expiration of the established period of service in the first special rank as a Customs Lieutenant, but not less than one year from the moment of awarding that rank to graduates of higher educational institutions with four or more years of study, recruited for serving in the customs authorities;
- 2) prior to the expiration of the established period of service and not less than half of the period of service in the previous special rank, but not higher than the next highest special rank that corresponds to the occupied position, as an incentive measure for conscientious performance of official duties.

2. The next highest special rank may be awarded to a customs official ahead of schedule not more than twice during the entire period of service for customs authorities.

**Article 567**  
**Procedure for Suspension of Awarding the Next Highest Special Rank**

1. Awarding the next highest special rank to a customs official with respect to whom a disciplinary action has been taken (except for an oral one), or against whom criminal procedures have been instituted, or an official examination was carried out due to the discovery of violations of official discipline or corrupt actions, shall be suspended until he/she is released from disciplinary action, or the criminal case is dismissed based upon exonerative grounds, or until the official examination has been completed.
2. The head of a customs authority who suspends awarding the next highest special rank to a customs official without grounds, except in cases established by Paragraph 1 of this Article, shall bear disciplinary responsibility in compliance with the legislation of the Republic of Kazakhstan.

**Article 568**  
**Procedure for Rotation of Customs Officials**

1. Rotation of a customs official within the same customs authority, or to another customs authority in the same location, or for service in another location shall be performed in compliance with the procedures established by the authorized state body on customs issues.
2. When a customs official is rotated to service in another location, compensation and other expenses shall be paid to the official in compliance with the procedures established by the legislation of the Republic of Kazakhstan.

## **CHAPTER 76. USE OF PHYSICAL FORCE, SPECIAL MEANS AND FIREARMS**

### **Article 569**

#### **Basic Provisions on Use of Physical Force, Special Means And Firearms**

1. In cases and in compliance with the procedures stipulated by this Code, customs officials shall be entitled to use physical force, special means and firearms.
2. When using physical force, special means and firearms, customs official shall be obliged to:
  - 1) warn of the intention to use them, except in cases when a delay in the use of physical force, special means and firearms creates a direct threat to his/her life and health; may entail other grave consequences; upon sudden or armed attack, or attack with the use of military technical devices and means of transport; or upon other circumstances, when a warning is inappropriate or impossible in the given situation;
  - 2) provide medical first aid to persons who suffer bodily harm, and immediately inform the head of the customs authority, or the person substituting for him/her, thereof;
  - 3) depending on the nature and level of danger of the violation and of the persons who committed it, and depending on the force of the opposition, try to minimize any damage that might occur when eliminating the danger;
  - 4) the head of the customs authority, or the person substituting for him/her, shall be obliged to inform the prosecutor, the department of internal affairs, and the superior manager of the customs authority immediately of the fact of use of firearms, or of death or bodily harm.
3. The procedures for accounting for, storing and use of firearms, special means, and service animals shall be determined by the Central Customs Authority in coordination with the authorized state body on customs issues.
4. Use of physical force, special means and firearms in violation of the established procedures shall entail the responsibility stipulated by the legislation of the Republic of Kazakhstan.

### **Article 570**

#### **Use of Physical Force**

1. Customs officials have the right to use physical force, including martial arts, only in cases when non-violent methods do not allow the customs official to fulfil his/her duties.
2. Physical force shall be used when:
  - 1) suppressing offences in the sphere of customs activity;
  - 2) seizing offenders;
  - 3) suppressing physical resistance to lawful orders or instructions of the customs officials;
  - 4) hindering access to premises and (or) to territory where goods and means of transport subject to customs control are located.
3. It shall be prohibited to use physical force with respect to women, persons with visible signs of disability, or juvenile persons, except in cases when they show armed resistance and (or) commit a group attack, which threatens the life and health of people.

### **Article 571**

#### **Use of Special Means**

1. When performing their official duties, the customs officials have the right to use special means: handcuffs, rubber truncheons, tear-gas, devices for unlocking premises, devices for forced stoppage of transport, as well other special means in the following situations:

- 1) to ward off an attack on customs officials and other persons;
  - 2) to ward off an attack on buildings, premises, constructions, or means of transport which belong to or are used by the customs authorities, or on goods and means of transport subject to customs control, and also to free these objects if they are seized;
  - 3) to put a stop to physical resistance shown against a customs official;
  - 4) to detain offenders or deliver them to the customs authority or to the law enforcement agencies of the Republic of Kazakhstan, if these persons show resistance or other opposition;
  - 5) to stop means of transport which are suspected of being objects of violation in the sphere of customs activity.
2. It shall be prohibited to apply special means with respect to women, persons with visible signs of disability, or juvenile persons, except in cases when they show armed resistance and (or) commit group attacks, which threaten the life and health of people.
3. The list of special means used by customs officials shall be formulated by the Government of the Republic of Kazakhstan.

## **Article 572**

### **Carrying, Storage and Use of Firearms**

1. The categories of customs officials who are given the right to carry, store and use firearms shall be determined by the Government of the Republic of Kazakhstan.
2. Firearms shall be used in the cases specified by Article 573 of this Code.
3. The customs officials of the Republic of Kazakhstan shall bear responsibility for loss, careless storage, and inappropriate execution of duties regarding the protection of weapons and munitions in compliance with the legislative acts of the Republic of Kazakhstan.

## **Article 573**

### **Application and Use of Firearms**

1. Customs officials shall be entitled to use firearms in order to:
  - 1) ward off a group and (or) armed attack on customs officials and members of their families, and also to suppress an attempt to capture firearms belonging to customs officials;
  - 2) ward off an armed attack on buildings, premises, structures and means of transport belonging to and (or) used by the customs authorities, and also in cases of armed attempt to capture goods and means of transport subject to customs control;
  - 3) detain persons who show armed resistance, or who are caught in the process of committing a grave crime, and detain armed persons refusing to execute a lawful order to lay down their arms;
  - 4) stop a means of transport by damaging it, when the person driving the means of transport does not obey the lawful orders of a customs official;
  - 5) render protection from attacks by animals;
  - 6) warn of the use of arms, to signal an alarm or to call for help;
  - 7) in other cases of necessary defence and extreme necessity.
2. The use of arms shall be prohibited with respect to women, persons with visible signs of disability, or juveniles, except in cases when they show armed resistance and (or) commit an armed or group attack, as well as in cases when the use of arms may threaten the life and health of other citizens.
3. In all cases of using firearms, customs officials shall be obliged to take the measures necessary to ensure the safety of people, to provide emergency medical aid to the injured, and to inform the prosecutor and a superior customs authority.

## **CHAPTER 77. MATERIAL SECURITY AND SOCIAL PROTECTION OF CUSTOMS OFFICIALS**

### **Article 574 Remuneration of Labor of Customs Officials**

1. The monetary allowance for customs officials shall be established based upon the unified labor remuneration system approved by the President of the Republic Kazakhstan for employees of bodies of the Republic of Kazakhstan who are supported from the state budget, and shall include a monetary allowance and extra payments for special service conditions stipulated by the legislation of the Republic of Kazakhstan.
2. The monetary allowance for customs officials shall include the official salary and extra payments for special rank.
3. The length of service giving the right to receive raises in the official salary for long service and to receive additional paid leave shall include periods of service:
  - 1) in the armed forces of the Republic of Kazakhstan and in law enforcement bodies of the Republic of Kazakhstan;
  - 2) in state bodies;
  - 3) in courts;
  - 4) in elective positions in the representative bodies of the Republic of Kazakhstan.

### **Article 575 Incentives for Customs Officials**

1. The following incentives and rewards shall be provided to customs officials for exemplary fulfilment of their official duties and for high standards of service:
  - 1) expressing gratitude;
  - 2) payment of a lump sum monetary reward;
  - 3) rewarding with a valuable present;
  - 4) rewarding with a diploma;
  - 5) rewarding with a breastplate “For Distinguished Service in the Customs Authorities”;
  - 6) rewarding with an honorary medal «Honored Customs Officer»;
  - 7) awarding of the next highest special rank ahead of schedule;
  - 8) awarding of a special rank at one level higher than the rank corresponding to the position occupied;
  - 9) other incentives stipulated by the legislation of the Republic of Kazakhstan.
2. Rescinding of a previously imposed disciplinary action ahead of schedule may be used as an incentive.

### **Article 576 Leave for Customs Officials**

Customs officials shall be granted annual leave of thirty calendar days, with payment of a recovery allowance in an amount equal to two official salaries.

### **Article 577 Provision of Pensions to Customs Officials**

The legislation of the Republic of Kazakhstan on provision of pensions shall be applied to customs officials.

**Article 578**  
**Legal and Social Protection of Customs Officials**

1. Customs officials are representatives of public authority and shall be protected by the state.
2. In the event of the loss of life (death) of a customs official due to the performance of his/her official duties, the dependants and legatees of the deceased shall be paid a lump sum compensation in the amount of sixty monthly salaries of the deceased, in accordance with his/her last position in the customs authority.
3. When a customs official is injured due to the fulfillment of his/her official duties, or suffers other damage to his/her health, which prevents him/her from further involvement in professional activities, the person shall be paid lump sum compensation from the national budget in an amount equal to:
  - 1) thirty monthly salaries, to a disabled person of the first group;
  - 2) eighteen monthly salaries, to a disabled person of the second group;
  - 3) six monthly salaries, to a disabled person of the third group;
  - 4) one and a half monthly salaries, in case of a sustained loss of the capacity to work without qualifying for disability.
4. A lump sum compensation shall not be paid when it has been proved, in compliance with the procedures established by the legislation of the Republic of Kazakhstan, that the loss of life (death), injury, wound (maiming), or illness of the customs official occurred due to circumstances not related to the fulfillment of their official duties.

## **CHAPTER 78. DISCIPLINARY RESPONSIBILITY OF THE CUSTOMS OFFICIALS**

### **Article 579**

#### **Types of Disciplinary Actions Imposed on Customs Officials**

1. The following types of disciplinary actions shall be imposed on customs officials, except in cases covered by Paragraph 2 of this Article, for illegal decisions, actions (inactions), or improper fulfillment of their official duties:

- 1) reprimand;
- 2) rebuke;
- 3) severe rebuke;
- 4) warning of incomplete official compliance;
- 5) dismissal from the customs authorities.

2. For certain types of violations of the customs legislation of the Republic of Kazakhstan, customs officials shall have disciplinary actions imposed on them which are not less than those established by Articles 580-588 of this Code.

3. For violations not specified in Paragraph 2 of this Article, disciplinary actions shall be imposed in compliance with the procedures established by the legislation of the Republic of Kazakhstan.

### **Article 580**

#### **Violation by a Customs Official of the Time Limit for Considering an Application for Making a Preliminary Decision**

For violation of the time limit established by Article 56 of this Code for considering an application for making a preliminary decision, a customs official shall have a disciplinary action imposed on him/her in the form of a rebuke.

### **Article 581**

#### **Violation by a Customs Official of Certain Actions in the Sphere of Customs Activity**

For violation of the procedures and time limit established by this Code for the issuance, suspension and withdrawal of licenses for carrying out activity as a customs broker or customs carrier, for operating a duty free shop, establishing a temporary storage warehouse, bonded warehouse, or free warehouse, as well as for a decision on the establishment of temporary storage places, customs carriers, or the qualification certificate of a customs clearance specialist, the customs official shall have a disciplinary action imposed on him/her in the form of a rebuke.



**Article 582**  
**Unjustified Refusal by a Customs Official to Conduct Customs Clearance  
with Regard to Domestic Customs Transit**

For unjustified refusal to conduct customs clearance with regard to domestic customs transit, as established by Article 82 of this Code, the customs official shall have a disciplinary action imposed on him/her in the form of a rebuke.

**Article 583**  
**Failure of a Customs Official to Put Stamps and Seals, Stipulated  
by the Customs Legislation of the Republic of Kazakhstan, on Documents**

When a customs official fails to put seals and stamps on documents, in compliance with the established procedures stipulated by the customs legislation of the Republic of Kazakhstan, he/she shall have a disciplinary action imposed on him/her in the form of a rebuke.

**Article 584**  
**Illegal Refusal to Allow a Declarant to Choose a Customs Regime**

When a customs official illegally refuses to allow a declarant to place goods and means of transport under a chosen customs regime, in compliance with this Code, he/she shall have a disciplinary action imposed on him/her in the form of a rebuke.

**Article 585**  
**Failure to Inform the Customs Authority**

When a customs official fails to inform the customs authority located at a checkpoint on the customs border of the Republic of Kazakhstan and the customs point of departure, of the actual transfer of goods from the customs territory of the Republic of Kazakhstan, within the time limit established by Article 123 of this Code, he/she shall have a disciplinary action imposed on him/her in the form of a severe rebuke.

**Article 586**  
**Illegal Detention of Means of Transport at a Check Point on the Customs Border of the  
Republic of Kazakhstan**

For illegal detention of a means of transport at a checkpoint on the customs border of the Republic of Kazakhstan for a period exceeding the period specified in Article 280 of this Code, a customs official shall have a disciplinary action imposed on him/her in the form of a severe rebuke.

**Article 587**  
**Illegal Refusal by a Customs Official to  
Register a Customs Declaration**

For illegal refusal to register a customs declaration, a customs official shall have a disciplinary action imposed on him/her in the form of a severe rebuke.

**Article 588**  
**Illegal Violation of the Time Limit for Checking a Customs Declaration**  
**or Additional Information and Documents**

For illegal violation of the time limit for checking a customs declaration or additional information and documents, established by the customs legislation of the Republic of Kazakhstan, a customs official shall have a disciplinary action imposed on him/her in the form of a severe rebuke.

**The President**  
**of the Republic of Kazakhstan**

**N.Nazarbayev**

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**Astana**