

Annex XIV

Law of the Republic of Kazakhstan No. 62-III of 20.06.2005 “On Amendments and Addenda to the Customs Code of the Republic of Kazakhstan”

Article 1. To amend and add to the Customs Code of the Republic of Kazakhstan as of 5 April 2003 (Parliament Statements of the Republic of Kazakhstan, 2003, No. 7-8, article 40; No. 15, article 139; 2004, No. 18, article 106):

1) in the paragraph 1 of the **article 7**:

to insert words “of the Republic of Kazakhstan” after words “customs authorities” to subparagraphs 1) and 26);

subparagraph 44) to set forth as follows:

“44) authorized body on customs affairs is the state body fulfilling direct customs affairs management in the Republic of Kazakhstan;”;

2) to change words “and export from the Republic of Kazakhstan” with words “export from the Republic of Kazakhstan and transit through the territory of the Republic of Kazakhstan” in heading and paragraphs 1 and 2 of the **article 8**;

3) to insert the part three to the **article 14** as follows:

“Conditionally released goods have the status of foreign goods.”;

4) to insert words “of the Republic of Kazakhstan” to the heading of the **article 17**;

5) subparagraph 12) of the **article 19** to set forth as follows:

“12) carrying out of radiation control in admission points of goods and vehicles through the national (customs) border of the Republic of Kazakhstan;”;

6) in paragraph 1 of the **article 24**:

in the part one:

to eliminate the word “republican” in subparagraph 8);

to eliminate the word “state” in subparagraph 9);

to eliminate the part two;

7) in the **article 33**:

to change the word “import” with words “, including antidumping, compensatory and preventive import measures” in paragraph 1;

to change words” group of countries, customs unions of countries, region or part of the country, if there is the necessity of their segregation” with words “group of countries and customs unions of countries” in paragraph 2;

8) to insert words “as well as from the territory of free warehouse to the rest part of customs territory of the Republic of Kazakhstan” after words “of the territory of the Republic of Kazakhstan” to the part one of paragraph 2 of **article 39**;

9) after the words “five percent” in the paragraph 5 of **article 41** to insert the words “ with the exception of cases of goods loss or shortage. The independent expertise act (conclusion) and the Customs inspection act are with that the documents confirming the fact of goods loss or shortage”

10) to change the word “acceptance” with the word “registration” in paragraph 4 of article 42;

11) to insert the part two to paragraph 2 of **article 46** as follows:

“Acceptance procedure and the form of customs authority decision on goods classification are determined by the customs affairs authorized body.”;

12) paragraph 2 of the **article 53** to set forth as follows:

“2. Fulfillment order of preliminary operations upon goods transportation to the customs territory of the Republic of Kazakhstan using pipeline transport and transmission facilities is determined by the customs affairs authorized body.”;

13) to insert words “is permitted in admission points determined in accordance with the article 55 of present Code, during their work in accordance with the legislation of the Republic of Kazakhstan, and” after the word “Kazakhstan” in paragraph 2 of **article 54**;

14) subparagraph 4) of paragraph 1 of the **article 64** to set forth as follows:

“4) documents confirming the conformity to qualification requirements determined in article 63 of present Code.”;

15) in **article 74**:

to change words “or to export from customs territory of the Republic of Kazakhstan” with words “,to export from customs territory of the Republic of Kazakhstan and transit through the territory of the Republic of Kazakhstan” in subparagraph 1) of paragraph 1;

paragraph 3 to set forth as follows:

“3. Provisions of subparagraphs 1) and 4) of paragraph 2 of present article are not applied upon goods transportation in accordance with the procedure of the domestic customs transit by railway transport.

Goods and vehicles delivery ensuring measures are not applied upon goods transportation by the participants of foreign-economic activity related to the category of minimum risk in accordance with the article 470 of present Code, with the exception of goods transported in accordance with the paragraph 5 of present article.”;

to insert words “, and is sent to customs authority of the departure by communication facilities” after the word “assignment” to paragraph 6;

16) paragraph 3 of **article 76** to set forth as follows:

“3. Control document of goods delivery is completed by the declarant or the carrier, forwarder, and in the absence of indicated persons – by the official of customs authority.”;

17) to change words “arrival of the vehicle to customs authority” with words “fee payment for customs accompaniment” in paragraph 4 of **article 78**;

18) to insert the part two to **article 79** as follows:

“On motivated request of the person transporting goods, customs authority extends set term of domestic customs transit which shall not exceed the deadline determined in the part one of present article.”;

19) paragraph 2 of **article 82** to set forth as follows:

“2. Transshipping of goods from one vehicle to another is permitted upon the prior written notification to customs authority in which activity area this operation is fulfilled. In case of goods transshipping with damaged customs stamp and seal, the new control document of goods delivery is made up.”;

20) in article 86:

to change words “issuing the written arrival confirmation to the carrier” with words “registration of the arrival” in paragraph 1;

in paragraph 2:

to eliminate words “and provides the carrier with vehicle arrival written confirmation, which form is determined by authorized body on customs affair” in the part one;

to eliminate the part two;

paragraph 3 to set forth as follows:

“3. Goods and vehicles shall be located in places of temporary storage in the activity area of the destination customs authority to the completion of goods delivery procedure.”;

21) in **article 88**:

to insert words “at option of the person transporting goods under the requirements observance conditions to temporary storage places” to paragraph 1;

to insert paragraph 4 as follows:

“4. Temporary storage procedure is not applied upon goods transportation on the procedure of the preliminary and periodical goods avowal using simplified procedure of customs clearance stipulated in article 371 of present Code and in other cases determined by present Code.”;

22) paragraph 4 of **article 89** to set forth as follows:

“4. In case of goods transportation and delivery vehicles may be used as places of temporary storage upon the observance of one of the following conditions:

use of international road transportation procedure;

integrity of identification facilities.

The carrier takes responsibility for the safety of goods placed in the vehicle and integrity of identification facilities till the completion of customs clearance procedure and goods transfer to the consignee.”;

23) in **article 91**:

paragraph 2 to set forth as follows:

“2. Period of temporary storage of goods and vehicles being the material evidences on criminal cases and administrative law infringements in the sphere of customs affair, is determined in accordance with the legislation of the Republic of Kazakhstan.”;

to insert words “payment or” after words “under conditions” to paragraph 5;

24) paragraph 1 of article 93 to set forth as follows:

“1. Any goods may be located in places of temporary storage, except of goods transferred by pipeline transport and by transmission facilities as well as transferred by the participants of foreign-economic activity related to the category of minimum risk in accordance with article 470 of present Code.”;

25) in **article 102**:

subparagraph 4) to set forth as follows:

“4) to assist customs control fulfillment and to ensure completion of cargo operations necessary for customs control during the working day from the moment of goods and vehicles placement to temporary storage.”;

to insert subparagraph 10-1) as follows:

“10-1) to take measures on provision of goods export in which respect customs clearance is finished, in time not later than the completion of next working day after goods release.”;

26) paragraph 1 of **article 114** to set forth as follows:

“1. Shipment of goods exported beyond the bounds of customs territory of the Republic of Kazakhstan is permitted after the goods placement under specified customs procedure, with the exception of cases when:

1) customs authority does not require goods presentation upon customs registration;

2) goods may be declared under specified customs procedure only after shipment fulfillment;

3) goods are transported through customs border of the Republic of Kazakhstan in accordance with customs transit regime.”;

27) paragraph 3 of **article 115** to set forth as follows:

“3. In time no more than five working days customs authority of destination informs customs authority of departure on fact of goods and vehicles export beyond the bounds of customs territory of the Republic of the Kazakhstan with presentation of delivery control documents to customs authority of departure that is the basis for its withdrawal from customs control.

After documents receipt of delivery control and withdrawal from customs control, in time not more than one working day, the customs authority of departure provides the participant of foreign-economic activity with the original copy of cargo customs declaration with marks of customs authority located in admission point on customs border of the Republic of Kazakhstan. Copy of the said cargo customs declaration certified with personal numbered seal of the official, is kept in files of customs authority during the period determined by the legislation of the Republic of Kazakhstan.”;

28) to insert subparagraph 4) to paragraph 1 of **article 122** as follows:

“4) to be identified by customs authorities.”;

29) in paragraph 1 of **article 123**:

to change words “customs authority returns” with words “are returned” in the first paragraph;

to eliminate subparagraph 3);

30) to insert subparagraph 4 to **article 134** as follows:

“4. Alienation of goods or their part placed in customs warehouse, transfer of ownership, use and (or) disposal rights in their respect are permitted under conditions of presentation of new customs declaration in accordance with requirements determined by present Code.”;

31) to eliminate subparagraph 9) of paragraph 1 of **article 137**;

32) in paragraph 1 of **article 146**:

to insert words “by Kazakh person” after the word “is founded”;

to eliminate words “by its owner”;

33) in **article 156**:

to change words “of one month” with words “of fifteen working days” in paragraph 3;

to change the word “calendar” with the word “working” in paragraph 4;

34) in **article 170**:

to change words “of one month” with words “of fifteen working days” in paragraph 3;

to change the word “thirty calendar” with the word “fifteen working” in paragraph 4;

35) in **article 176**:

to change words “of one month” with words “of fifteen working days” in paragraph 3;

to change words “thirty calendar” with the words “fifteen working” in paragraph 4;

36) to insert paragraph 3 to **article 187** as follows:

“3. Remains of non-processed goods and wastes appeared in the result of the processing are subject to back import or placement under customs export regime.”;

37) in paragraph 1 of **article 192**:

to change words “of goods import to customs territory of the Republic of Kazakhstan” with words “of goods placement under customs regime of temporary import” in the part one;

in the part two:

to change words “of one month” with words “of fifteen working days”;

to insert the third sentence as follows:

“Term of consideration of the application on the temporary goods import period extension shall not exceed ten working days from the date of application receipt.”;

38) to insert the part two to paragraph 4 of **article 193** as follows:

“New customs declaration is submitted not later than fifteen calendar days from the transfer date of use and (or) disposal right, or alienation of temporary imported goods.”;

39) in the part two of **article 201**:

to change words “of one month” with words “of fifteen working days”;

to insert the third sentence as follows:

“Term of consideration of the application on the extension of the temporary goods export period shall not exceed ten working days from the date of application receipt.”;

40) in **article 210**:

in paragraph 1:

subparagraphs 1) and 4) to set forth as follows:

“1) of goods export located in places of temporary storage, till their placement under specified customs regime in cases:

if terms and conditions of the foreign-trade transaction provide re-export;

of goods export to the supplier or other indicated person because of non-conformity to terms of foreign economic transaction ;”;

“4) of foreign goods export previously placed under customs regimes of customs warehouse, free warehouse, free customs zone, in cases, if:

terms and conditions of the foreign-trade transaction provide re-export;

goods are returned to the supplier or other indicated person because of non-conformity to terms of foreign economic transaction;”;

to eliminate paragraph 2;

to insert paragraph 4 as follows:

“4. Placement of goods under customs regime of goods re-export under conditions of requirements observance determined in paragraph 1 of present article is permitted also in case, if only part of imported goods is exported back.”;

41) to insert the part two to paragraph 2 of **article 211** as follows:

“Upon the placement of consignment part of imported goods under customs regime of re-export, refund of paid amounts is fulfilled according to quantitative ratio of this part to the part of imported goods.”;

42) to eliminate words “, with the exception of safety requirements of goods and measures in the sphere of export control” in subparagraph 2) of **article 212**;

43) to change words “import to the Republic of Kazakhstan and export from” with words “transit through the territory” in subparagraph 1) of paragraph 1 of **article 213**;

44) to eliminate the second sentence of paragraph 3 of **article 223**;

45) to change the word “duties” with the word “payments” in article 225;

46) to eliminate **article 228**;

47) to insert words “, with the exception of requirements in the sphere of export control” to **article 252**;

48) in paragraph 3 of **article 264**:

to change words “overseas institutions” with the word “overseas-institutions”

to insert words “from country of residence” after the word “goods”

49) subparagraph 1) of paragraph 2 of **article 275** to set forth as follows:

“1) international mail dispatches are sent by juridical persons under conditions that:

customs value of declared consignment exceeds ninety monthly calculation indices determined by the Republican budget law for corresponding financial year;

measures of non-tariff regulation have been established in respect of these goods;

50) to eliminate words “, with the exception of customs duties for customs clearance of goods out of places determined for these purposes and out of working time of customs authorities” in **article 279**, paragraph 1 of **article 280**, **article 281**, paragraph 1 of **article 285**;

51) to insert words “of diplomatic representatives of foreign states as well as” after words “by Code for” to paragraph 1 of **article 283**;

52) to eliminate words “of the Republic of Kazakhstan” after the word “authorities” in paragraph 3 of **article 290**;

53) in **article 309**:

to insert the part two to paragraph 2 as follows:

“Expenses not indicated in the part one of present paragraph may not be included to the transaction price actually paid or subject to payment.”;

to insert paragraph 5-1 as follows:

“5-1. Participants of foreign-economic activity such as agents, dealers, distributors with exclusive rights of another one are considered as interdependent, if they will comply with one of the characteristics determined in subparagraph 5) of paragraph 5 of present article.”;

54) in **article 311**:

to eliminate paragraph 4;

to insert paragraphs 4-1, 4-2, 4-3, 4-4, 6 and 7 as follows:

“4-1. Insignificant differences in the appearance may not be the basis for the refusal in goods consideration as similar, if such goods meet the requirements of present article.

4-2. Transaction price with similar goods is accepted as the basis for customs value determination, if these goods:

1) were sold for import to the territory of the Republic of Kazakhstan:

2) were imported simultaneously with evaluated goods or not earlier than ninety calendar days prior to evaluated goods import;

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

4-3. If there are no cases of goods import in the same number and at the same commercial level (by wholesale, by retail), the value of similar goods imported in other number and at the other commercial level (by wholesale, by retail), may be used with price adjustment taking into consideration these differences.

4-4. If expenses value indicated in subparagraphs 1) and 2) of paragraph 2 of article 309 of present Code for similar goods differs from the value of such expenses for evaluated goods because of difference in distance and transport types, customs value estimated at the transaction price with similar goods, shall be correspondingly adjusted.”;

“6. Adjustment stipulated in paragraphs 4-3 and 4-4 of present article, shall be fulfilled on the basis of reliable and documentary confirmed information.

7. If upon the appliance of present method more than one transaction price of similar goods is revealed, then for estimation of customs value of imported goods the lowest of them is applied.”;

55) to insert paragraph 7 to **article 312** as follows:

“7. Customs authority has no right to require the information on customs value confirmation from foreign person. At that information given by goods manufacturer for customs value estimation, may be checked by customs authorities by approbation of manufacturer and on the assumption of prior notification and receipt of consent of the government of manufactures country.”;

56) to eliminate the second sentence of paragraph 1 of **article 314**;

57) to change the word “may” with the word “has the right” in the first paragraph of paragraph 2 of **article 316**;

58) to insert the word “(exported)” after the word “imported” to subparagraph 1) of paragraph 4 of **article 317**;

59) in **article 318**:

to eliminate words “, occurred at the registration date of customs declaration,” in the fifth paragraph of subparagraph 2) of paragraph 1;

to change the word “double” with words “2,5-times” in paragraph 5;

to insert paragraph 8 as follows:

“8. Terms and procedures of the registration of customs value adjustment are determined by customs authorities in accordance with **article 384** of present Code. Check of customs value adjustment is fulfilled by customs authorities in terms determined in the **article 440** of present Code.”;

60) in subparagraph 3) of paragraph 1 of **article 320**:

to insert words “and documents indicated in paragraphs 1 and 2 of **article 316** of present Code,” after words “information presented by declarant”;

to insert the second sentence as follows:

“At that customs authority shall inform the declarant on made decision in the written form in time not more than two working days.”;

61) to eliminate the word “state” in paragraph 5 of **article 321**, paragraphs 3 of **articles 326** and **343**, paragraph 2 of **article 354**, paragraph 4 of **article 355**, the part one of paragraph 1 of **article 421**;

62) paragraph 1 of **article 323** to set forth as follows:

“1. Customs duties are paid before or at the day of customs declaration registration, with the exception of cases upon the application of preliminary or periodical declaring procedure as well as upon changes of periods of customs duties payments.”;

63) to insert words “of customs authorities on payment of revised amounts of customs duties or recovery of non-paid amounts of customs duties as well as by requests” after words “by requests” in article 327;

64) in paragraph 1 of article 338:

to insert words “goods and” after the word “transportation” to subparagraph 2);

to insert subparagraphs 10) and 11) as follows:

“10) upon periodical declaring of goods in accordance with article 388 of present Code;

11) upon goods release in accordance with articles 392, 393 of present Code.”;

65) to insert words “and set-off” after the word “Refund” to heading of article 44;

66) **article 346** to set forth as follows:

“Article 346. Refund and set-off of excessive paid amounts of customs duties and taxes

1. Difference between amounts of customs duties and taxes actually paid and subject to payment to the budget is acknowledged as excessive paid amounts of customs duties and taxes in accordance with present Code and tax legislation of the Republic of Kazakhstan.

2. To receive refund or set-off of customs duties and taxes the payer has the right to apply to customs authority that fulfilled customs clearance, storage, customs goods and vehicles accompaniment, issue of licenses, making of preliminary decision, with application for presentation of confirmation of availability of excessive paid amounts of customs duties and taxes in time not later than five years from the payment date of excessive paid amounts.

3. Copies of following documents shall be presented together with application for presentation of confirmation of availability of excessive paid amounts of customs duties and taxes:

1) payment document confirming payment of amounts;

2) customs declaration cleared by customs authority, on which customs payments and taxes have been charged and paid in, presented in case of customs declaration clearance;

3) other documents made up by customs authorities upon goods storage, customs accompaniment of goods and vehicles, issue of licenses, making of preliminary decision for which fulfillment customs payments have been made, presented in cases when payment of customs payments has been made without customs declaration clearance.

4. Period of application consideration for presentation of availability of excessive paid amounts of customs payments and taxes confirmation shall not exceed ten working days from the date of payer's application submission.

5. Excessive paid amounts of customs duties and taxes are subject to the refund or set-off by tax authorities on application of the payer in accordance with the procedure and terms determined by tax legislation of the Republic of Kazakhstan, with the exception of cases stipulated in paragraph 7 of present article.

6. Upon the disclosure of the fact of excessive payment after collection of customs payments and taxes, the customs authority shall inform the payer on the amount of excessive paid customs payments and taxes not later than thirty calendar days from the date of such fact disclosure.

7. By the payer's application customs authorities fulfill set-off on account of further customs payments and taxes on such type of customs payment or tax, on which excessive paid amount exists.”;

67) to insert words “ of customs payments and taxes on the same type of customs payment or tax” after the word “of amounts” to subparagraph 2) of paragraph 2 of article 348;

68) in article 349:

to change the word “double” with words “2,5-times” in paragraph 2;

to insert paragraphs 2-1, 2-2 and 2-3 as follows:

“2-1. Penalty charge is not fulfilled to arisen debt amount of a payer acknowledged as the bankrupt from the moment of decision-making by the court or in which respect the decision on compulsory liquidation has been made, or determination on application of rehabilitation procedure has been made from the effectiveness date of such decision or determination.

2-2. The penalty is not charged to creditors of compulsorily liquidated banks for untimely debt pay off in case, if such liquidation of service bank is the only reason of debt's arising from the moment of the effectiveness of the decision on compulsory bank liquidation.

2-3. The penalty is not charged to debt amount from the effectiveness moment of court decision on the acknowledgement of natural person as missing till its cancellation.”;

69) in article 351:

to insert words “on the same type of customs payment or tax” after the word “of amounts” to the heading;

to insert words “of customs payments and taxes on the same type of customs payment or tax” after the word “of amounts” to paragraph 1;

paragraph 3 to set forth as follows:

“3. Set-off of excessive paid amounts of customs payments and taxes on account of debt repayment on the same type of customs payment or tax, or deposit is fulfilled in accordance with the procedure determined by customs affairs authorized body.”;

70) in paragraph 1 of article 352:

to insert words “of customs payments and taxes” after the word “of amounts”;

to insert words “on the same type of customs payment and tax” after the word “of debt”;

71) to eliminate paragraph 4 of article 363;

72) to eliminate words “of the Republic of Kazakhstan” in the part two of article 373;

73) to insert subparagraph 3-1) to article 375 as follows:

“3-1. to attract experts in the order determined by customs affairs authorized body.”;

74) in paragraph 2 of article 379:

to insert words “, with the exception of requirements on goods safety” to subparagraph 2) of the part one;

to insert the word “, incomplete” after the word “temporary” in the part two;

in the part three:

to insert the word “, incomplete” after the word “temporary”;

to change words “of articles 387 and 388” with words “of articles 387-388-1”

to insert the second sentence to the part four as follows:

“At that in case of customs duties and taxes payment, the customs authority official makes up the customs receipt voucher.”;

75) in article 380:

to insert words “payment or” after words “under conditions” to paragraph 3;

to insert paragraph 5 as follows:

“5. Cargo customs declaration for goods imported to customs territory of the Republic of Kazakhstan with infringement of customs rules, is presented during thirty calendar days from the date of coming into legal force of:

1) court decision on bringing the person to criminal (administrative) liability or exemption of criminal (administrative) liability;

2) decision of authorized body (official) on person’s bringing to administrative liability or exemption of administrative liability;

3) decision of court or authorized body (official) on discontinuance of the proceedings on the fact of customs rules infringement.”;

76) in article 382:

to insert words “. In case of preliminary declaring procedure application, indicated documents are presented before goods and vehicles release, while upon the periodical declaring procedure in respect of the participants of foreign-economic activity related to the category of minimum risk declaration in accordance with article 470 of present Code, they are presented before goods and

vehicles release on the complete cargo customs declaration.” to the second paragraph of subparagraph 6) of paragraph 5;

to insert paragraph 7 as follows:

“7. Authorized body on customs affairs has the right to shorten the list of documents necessary for customs purposes upon application of simplified procedure of customs registration stipulated in the article 371 of present Code.”;

77) in article 383:

to insert words “, or application-declaration according to form determined by corresponding authorized state body” to the second paragraph of subparagraph 1), the third paragraph of subparagraph 3), subparagraph 12), the forth paragraph of subparagraph 13), subparagraph 16;

to eliminate the third paragraph of subparagraph 1);

to eliminate subparagraph 6);

the third paragraph of subparagraph 10) to set forth as follows:

“certificate of conformance on products safety presentation of which is obligatory in accordance with the legislation of the Republic of Kazakhstan, or application-declaration according to form determined by corresponding authorized state body, with the exception of goods (exhibits) assigned for exhibitions without further selling.”;

78) to insert words “application of the preliminary declaring procedure” after the word “of cases” to subparagraph 4) of paragraph 3 of article 384;

79) to insert the forth sentence to paragraph 6 of article 385 as follows:

“At that withdrawn cargo customs declaration is subject to cancellation in the order determined by customs affairs authorized body.”;

80) the second sentence of paragraph 1 of article 386 to set forth as follows:

“Customs duties and taxes are paid before the release of goods and vehicles.”;

81) in article 387:

to insert the part three to paragraph 2 as follows:

“In case if particular customer has not been specified at the moment of temporary customs declaration submission, then by permission of customs authority one temporary customs declaration for goods delivery is submitted within the framework of one foreign trade agreement (contract) with further submission of several complete cargo customs declarations and sales agreements (contracts) according to number of actual customers.”;

paragraph 6 to set forth as follows:

“6. Declarant shall submit the complete cargo customs declaration not later than thirty calendar days after consignment of goods delivery declared in temporary cargo customs declaration, but no more than ninety calendar days from the registration date of temporary customs declaration.

Upon goods transportation under agreements with terms of price determination, upon transfer of ownership right beyond the bounds of customs territory of the Republic of Kazakhstan, indicated period is calculated from registration date of the bill of lading and acceptance-transfer-ownership certificate used for price and number determination. In case if several transport documents have been made for declared consignment, indicated period is calculated from registration date of the last transport document.”;

82) in article 388:

to change words “of specified period of time” with words “of thirty calendar days” in paragraph 1;

paragraph 5 to set forth as follows:

“5. Customs duties and taxes are paid before or at the registration date of complete cargo customs declaration, with the exception of excisable goods.”;

to insert paragraph 5-1 as follows:

“5-1. Customs duties and taxes on excisable goods are paid before or at the date of periodical customs declaration registration.”;

paragraph 7 to set forth as follows:

“7. Periodical declaring is fulfilled by submission of periodical customs declaration before the beginning of the delivery period on the assumption of guaranteeing of customs duties and taxes payment. Guaranteeing of customs duties and taxes payment is not applied to the participants of foreign-economic activity related to the category of minimum risk in accordance with article 470 of present Code. At that periodical customs declaration is filled in for common consignment.”;

in paragraph 9:

to insert the word “(of export)” after the word “of import”;

to insert the word “(exported)” after the word “imported”;

83) to insert article 388-1 as follows:

“Article 388-1. Incomplete customs declaration

1. If the declarant has no all information necessary for the completion of customs declaration for reasons not depending on him, the submission of incomplete customs declaration is permitted under condition that information necessary for goods release, calculation and payment of customs payments and confirming observance of non-tariff regulation measures is stated in the declaration in accordance with the legislation of the Republic of Kazakhstan as well as the information allowing to identify goods according to set of their quantitative and qualitative characteristics.

Upon the submission of incomplete customs declaration the declarant takes obligation to submit missing information in the written form and in the period of time not exceeding thirty calendar days from the registration date of incomplete customs declaration by customs authority.

2. If customs authority accepts incomplete customs declaration, the same terms and requirements are applied including the order of calculation and payment of customs payments and taxes stipulated by present Code, in case if at the first time complete and properly filled in customs declaration is submitted.

3. Completion order of incomplete customs declaration and cases of its use are determined by customs affairs authorized body.”;

84) in article 389:

to insert subparagraph 3) to paragraph 4 as follows:

“3) to persons in respect of which the legal proceedings on bankruptcy has been instituted or decision on carrying out of non-judicial procedure of liquidation has been made.”;

to insert subparagraph 3) to paragraph 6 as follows:

“3) after institution of legal proceedings on bankruptcy or decision-making on carrying out of non-judicial liquidation procedure.”;

85) to insert words “of application-declaration” after the word “certificates” to subparagraph 2) of article 390;

86) subparagraph 1) of article 400 to set forth as follows:

“1) presence in the staff not less than one specialist on customs clearance, and in the presence of the branch – not less than one specialist on customs clearance in every branch of customs broker activity.”;

87) to eliminate subparagraph 4) of paragraph 2 of article 401;

88) in article 413:

to change words “other information permitting customs authorities to reveal infringing goods” with words “detailed information on goods being, at the opinion of the rights possessor, infringing, permitting customs authorities to reveal such goods” in subparagraph 3) of paragraph 3;

the part two of paragraph 4 to set forth as follows:

“Description of differences of infringing goods is submitted together with presentation of application.

At the opportunity goods samples containing the object of intellectual property and infringing goods are submitted as well.”;

Paragraph 5 to set forth as follows:

“5. Customs affairs authorized body considers the application in time not exceeding thirty calendar days from the date of its receipt and makes the decision on goods entry in register.

To check reliability of information presented by the declarant, the customs affairs authorized body has the right to inquire third persons as well as corresponding state bodies about documents confirming declared information. Said persons shall present requested documents during ten calendar days from the date of the inquiry receipt.

In the presence of sufficient reasons the customs affairs authorized body has the right to extend the application’s consideration period, but no more than to three months.

Customs affairs authorized body’s decision on goods entry into register is registered by the order of the chief of the customs affairs authorized body.

Decision on the refusal to enter goods into register is made in case if the declarant presents unreliable information as well as upon impossibility to confirm indications of goods infringement.

The declarant is informed on the customs affairs authorized body’s decision in the written form.”;

89) to insert paragraph 4 to article 416 as follows:

“4. Upon presentation of evidences on institution of proceedings at the suit of intellectual property rights violation, terms of goods release suspension established in paragraph 2 of present article as well as terms of goods temporary storage are extended till suit decision coming into force.”;

90) subparagraph 1) of article 420 to set forth as follows:

“1) by natural persons or sent in international postal dispatches if such goods;”;

91) to insert the word “,incomplete” after the word “temporary” to paragraph 2 of article 440;

92) to change words “or person substituting him” with words “of person substituting him or authorized official of check-point on customs border of the Republic of Kazakhstan” in the part one of paragraph 1 of article 448;

93) to change the word “identification marks” with words “means of identification” in paragraph 3 of article 453;

94) in article 459:

paragraph 1 to set forth as follows:

“1. Inspection of the participants of foreign-economic and other activity in the sphere of customs affair is the inspection fulfilled by customs authorities of the execution of customs or other legislation of the Republic of Kazakhstan, which observance control is imposed on customs authorities. Inspections of the participants of foreign-economic and other activity in the sphere of customs affair are subdivided into types and fulfilled on bases stipulated in paragraph 3 of present article. Procedure of the inspections of the participants of foreign-economic and other activity in the sphere of customs affair is determined by the customs affairs authorized body.”;

to insert paragraph 3 as follows:

“3. Inspections of foreign-economic and other activity in the sphere of customs affair are subdivided into following types:

1) scheduled – previously planned inspection of specified participant of foreign-economic and other activity in the sphere of customs affair. Scheduled inspection is set on following bases:

presentation and confirmation of reference status of the participant of foreign-economic activity to the category of minimum risk in accordance with the article 470 of present Code;

observance of restrictions and terms on application and disposal of conditionally released goods;

observance of terms and requirements of customs regimes;

observance of currency legislation of the Republic of Kazakhstan;

observance of terms of licenses issued by customs affairs authorized body;

official appeals of state control (supervision) authorities;

application of preventive measures for risk prevention;

2) unscheduled – inspection set on following bases:

obtaining of information evidencing violation of requirements of customs legislation of the Republic of Kazakhstan presented by state control (supervision) authorities as well as according to the results of information analysis containing in databases and data banks of the customs affairs authorized body and state control (supervision) authorities;

inspection of information obtained in the result of data exchange with tax, customs and law-enforcement bodies of foreign states;

cases stipulated by criminal-procedural legislation of the Republic of Kazakhstan;

3) raid (special assignment) – inspection fulfilled by law-enforcement and other state bodies of the Republic of Kazakhstan jointly with customs authorities;

4) cross – inspection fulfilled in respect of third persons in case if upon the fulfillment of inspections customs authorities need to obtain additional information connected with said persons with the purpose to confirm the reliability of information presented by examined subject;

5) documentary – inspection not requiring of order registration and fulfilled immediately by customs authorities on the basis of study and analysis of information containing in cargo customs declarations, goods-accompanying and other documents presented by the participants of foreign-economic activity upon customs clearance of goods and vehicles. Documentary inspection is fulfilled immediately on the location of customs authority.”;

95) to insert article 459-1 as follows:

“Article 459-1. Periodicity of inspections of the participants of foreign-economic and other activity in the sphere of customs affair

1. Inspections of the participants of foreign-economic and other activity in the sphere of customs affair are fulfilled by customs authorities with following periodicity:

1) scheduled – not more often than one time a year in respect of specified participant of foreign-economic and other activity in the sphere of customs affair;

2) raid – in accordance with periods determined by law-enforcement and other state bodies of the Republic of Kazakhstan.

2. Restrictions are not provided in following cases:

1) upon the fulfillment of unscheduled inspections – said inspections are set: upon obtaining the information evidencing on violation of the requirements of customs legislation of the Republic of Kazakhstan, presented by state control (supervision) authorities as well as based on the results of

analysis of the information contained in databases and data banks of customs affairs authorized body and state control (supervision) authorities; for verification of information obtained in the result of data exchange with tax, customs and law-enforcement bodies of foreign states as well as in cases stipulated by criminal-procedural legislation of the Republic of Kazakhstan;

2) upon the fulfillment of cross inspections – said inspections touch certain questions of interrelation of the examined subject and third person;

3) upon the fulfillment of documentary inspections – said inspections are fulfilled by customs authorities by means of repeated inspection of customs declaration and documents presented for customs clearance that are at the disposal of customs authority.

3. Periodicity of inspections of the participants of foreign-economic and other activity in the sphere of customs affair being the subjects of small-scale entrepreneurship, is determined in accordance with the legislation of the Republic of Kazakhstan.”;

96) the second sentence of subparagraph 5) of paragraph 1 of article 464 to set forth as follows:

“Withdrawal is fulfilled after provision of the participant of foreign-economic and other activity in the sphere of customs affair with opportunity to copy withdrawn documents.”;

97) paragraph 7 of article 465 to set forth as follows:

“7. One copy of the inspection act is given to the participant of foreign-economic and other activity in the sphere of customs affair under the signature or in the different way confirming the fact of the inspection act receipt.”;

98) to insert words “, of Chairman of National Security Committee of the Republic of Kazakhstan, Manager of the Administration of the President of the Republic of Kazakhstan, chief of the custodial service of the President of the Republic of Kazakhstan” after words “of the Bank of the Republic of Kazakhstan” to paragraph 3 of article 471;

99) to change words “funds of state budget” with words “of budget funds” in paragraph 2 of article 489;

100) to eliminate words “of the Republic of Kazakhstan” after the word “of authorities” in paragraph 6 of article 511;

101) to eliminate words “of the Republic of Kazakhstan” after the word “of authorities” in paragraph 3 of article 520;

102) in article 522:

to eliminate the word “state” in paragraph 1;

paragraph 3 to set forth as follows:

“3. The period of service (work) is included into the record of service giving the right to the coefficient determination for long service to the official salary in accordance with the legislation on civil service.”;

103) in article 526:

to change words “of the republican budget” with words “of budget funds” in subparagraph 1) of paragraph 3;

to change words “of the republican budget, the lump-sum compensation” with words “of budget funds, the lump-sum in the order determined by the Government of the Republic of Kazakhstan” in the first paragraph of paragraph 4.

Article 2. Present Law comes into force from the date of its official publication.

