

# **THE CUSTOMS CODE OF THE REPUBLIC OF TAJIKISTAN**

This Code shall establish the legal, economic and organizational principles of the customs affairs and shall be aimed at protecting the sovereignty and economic security of the Republic of Tajikistan, enhancing the links of the economy of the Republic of Tajikistan within the system of the global economic relations, safeguarding the rights of individuals, economic entities and state bodies, and ensuring the observance by them of their obligations in the area of customs affairs.

## **SECTION I GENERAL PROVISIONS**

### **CHAPTER 1 BASIC PROVISIONS**

#### **Article 1**

#### **Customs regulation and customs affairs in the Republic of Tajikistan**

1. Customs regulation consists of establishing the procedures and rules complying of which persons exercise the right to convey goods and means of transport across the customs border of the Republic of Tajikistan (hereinafter referred to as the customs border). Customs regulation shall be executed in accordance with this Code and other normative legal acts of the Republic of Tajikistan.
2. Customs affairs shall constitute the totality of methods and means ensuring compliance with measures of customs tariff regulation, prohibitions and restrictions that are established in accordance with the legislation of the Republic of Tajikistan in the area of state regulation of foreign economic activities relating to conveyance of goods and means of transport across the customs border.
3. The government of the Republic of Tajikistan shall perform the overall administration of customs affairs in accordance with the legislation of the Republic of Tajikistan. The authorized body on customs affairs shall ensure direct realization for customs purposes of the objectives in the area of customs affairs and uniform application of the customs legislation of the Republic of Tajikistan by all customs bodies within the territory of the Republic of Tajikistan.
4. The Republic of Tajikistan shall participate in international cooperation in the area of customs regulation in order to harmonize and unify legislation of the Republic of Tajikistan with norms of international law and with generally accepted international practices.

#### **Article 2**

#### **Entering into force of normative legal acts of the Republic of Tajikistan in the area of customs affairs**

1. Normative legal acts of the Republic of Tajikistan in the area of customs affairs, officially published within the first and (or) second months of the quarter, shall enter into force on the first date of the month of the quarter directly following the quarter in which they were published. If normative legal acts of the Republic of Tajikistan in the area of customs affairs are published within the third month of the quarter, they shall enter into force on the first date of the second month of the quarter directly following the quarter in which they were officially published.
2. The provisions of paragraph 1 of this Article shall not be applied if other term of the entering into force is stipulated in the normative legal acts in the area of customs affairs relating to entering into force.

#### **Article 5**

#### **Retroactivity of normative legal acts of the Republic of Tajikistan in the area of customs affairs**

1. Normative legal acts, regulating legal relations in the area of customs affairs, shall not be effective with regard to legal relations arisen prior to their entering into force unless otherwise is specified in these acts or in the acts concerning their entering into force.
2. The norms establishing or toughening the responsibility or assigning additional obligations on the objects of customs legal relations shall not be retroactive.

The norms softening the responsibility assigned on the participants of customs legal relations shall be retroactive.

#### **Article 6**

##### **Requirements for Customs Legislation Acts, Other Normative Legal Acts of the Republic of Tajikistan, Acts of the Authorized Body on Customs affairs**

1. Provisions of customs legislation acts and normative legal acts in the area of customs affairs shall be formulated in such a way as to ensure that every legal entity or a natural person shall know exactly what are its/his/her rights and obligations as well as what actions, when and how (under which procedures) are to be performed when conveying goods and means of transport across the customs border.
2. The provisions of legal acts of the authorized body on customs affairs may not contradict the provisions of customs legislation acts and other normative legal acts of the Republic of Tajikistan or establish requirements, prohibitions and restrictions which are not provided for by the customs legislation acts and other normative legal acts of the Republic of Tajikistan. Normative legal acts of the authorized body on customs affairs shall be mandatory and shall be applied in coordination with the state authorized body including the authorized body in the area of foreign trade activities.
3. Nobody may be held responsible for a violation of customs rules if such a violation was caused by collision (vagueness) of legal norms established by normative legal acts in the area of customs affairs.
4. Normative legal acts of the authorized body on customs affairs relating to the rules and legitimate interests of the persons in the area of entrepreneurial and other business activities may be appealed in the judicial order in accordance with the legislation of the Republic of Tajikistan.

#### **Article 7**

##### **Use of Customs and Tariff Regulation Measures and Prohibitions and Restrictions Established in Compliance with Normative Legal Acts of the Republic of Tajikistan**

Measures of customs and tariff regulation and prohibitions and restrictions established in compliance with normative legal acts of the Republic of Tajikistan effective on the date of registration of a customs declaration shall be used in the area of customs affairs.

#### **Article 8**

##### **Method of Calculation of Deadlines Established by this Code**

1. Dates of start and expiry of time periods established by this Code or even occurrence dates shall be determined under the procedure stipulated by this Code.
2. If this Code does not establish a special procedure for calculation of time periods, then the rules established by legislation of the Republic of Tajikistan shall be used for determination of the date of start and the date of expiry of time periods for customs purposes, considering the provisions of Paragraph 3 of Article 129 of this Code.

#### **Article 9**

##### **Treatment of Information Received by Customs Authorities**

1. Any information received by customs authorities in accordance with normative legal acts, other legislative acts of the Republic of Tajikistan, acts of the authorized body on customs affairs may be used for customs purposes exclusively.
2. Customs authorities and customs officials, other persons who have access to information specified in Paragraph 1 of this Article by virtue of law or a contract, have no right to disclose, use for personal purposes or transfer to the third parties, including government agencies, information which constitutes the national, commercial, banking, tax or other secret protected by law as well as other confidential information, except for cases established by this Code and other normative legal acts of the Republic of Tajikistan. Customs authorities shall give the central executive bodies information provided to them, if such information is required by the said bodies for the execution of tasks set forth for them by the legislation of the Republic of Tajikistan, in the procedure agreed upon by both the authorized body on customs affairs and the relevant central executive body, meeting the requirements of legislation of the Republic

of Tajikistan for protection of the national, commercial, banking, tax or other secret protected by law as well as other confidential information.

Executive bodies, their officials and other persons who by virtue of law have access to the information received from the customs authorities, have no right to disclose, distribute, use for personal purposes or transfer the said information to the third parties, except for the cases established by legislation of the Republic of Tajikistan.

3. Information specified in Paragraph 1 of this Article, which constitutes the national, commercial, banking, tax or other secret protected by law as well as other confidential information shall have special regimes of storage and access.

4. The loss of documents containing the national, commercial, banking, tax or other secret protected by law as well as other confidential information, disclosure of such information, use of it for personal purposes or its transference to the third parties shall entail a liability envisaged by legislation of the Republic of Tajikistan.

## **Article 10**

### **Basic Terms Used in this Code**

1. Basic terms used in this Code are as follows:

1) Customs operations – separate actions with regard to goods and means of transport performed by persons and customs authorities during customs clearance of goods and means of transport

2) Taxes – value-added tax and excise tax levied by customs authorities in connection with conveyance of goods across the customs border in accordance with the legislation of the Republic of Tajikistan

3) Internal taxes - value-added tax and excise tax levied by customs bodies on circulation of goods on the territory of the Republic of Tajikistan in accordance with the legislation of the Republic of Tajikistan

4) Carrier - a person conveying goods across the customs territory and (or) conveyance of goods under the customs control within the territory of the Republic of Tajikistan or being responsible for use of means of transport

5) customs broker (representative) – an intermediary who performs customs operations on behalf and (or) on the instruction of a declarant or another person who undertakes the responsibility or who is given the right to perform customs operations in compliance with this Code

6) importation of goods and (or) means of transport into the customs territory of the Republic of Tajikistan – actual crossing by goods and (or) means of transport of the customs border and all the ensuing consequent operations with the goods and (or) means of transport stipulated by this Code prior to their release by customs authorities

7) means of transport – any river vessel (including self-propelled and dumb barges and lighters as well as hydrofoils), hovercraft, aircraft, automotive vehicle (including trailers, semi-trailers and combined vehicles) or a railway rolling-stock unit which are used in international transportation for charged carriage of persons (passengers) or for charged or free industrial or commercial transportation of goods as well as their regular spare parts, accessories and equipment, fuels, oil and lubricants contained in their regular refill tanks, if these are transported together with the means of transport

8) declarant - a person who declares goods or in whose name is a declaration is made

9) customs declaration – a document of an established format containing information required for submission to the customs body in compliance with this Code

10) conveyance of goods and (or) means of transport the customs border –undertaking activities to import goods and (or) means of transport to the customs territory of the Republic of Tajikistan or to export goods and (or) means of transport from this territory by any method

11) illegal conveyance of goods and (or) means of transport across the customs border – undertaking actions for importing goods and (or) means of transport into the customs territory of the Republic of Tajikistan or for exporting them from this territory in violation of the procedure established by this Code

12) release of goods – actions of customs authorities to permit goods to be used or disposed by the persons concerned in accordance with a customs regime

13) conditional release – release of goods and means of transport with restrictions and provisions on the use and disposal thereof

14) authorized body on customs affairs – a relevant state body authorized by the

government of the Republic of Tajikistan to ensure direct realization for customs purposes of the objectives in the area of customs affairs and uniform application of the customs legislation of the Republic of Tajikistan by all customs bodies within the territory of the Republic of Tajikistan.

15) customs authorities – the authorized body in the area of customs affairs and its subordinate customs bodies of the Republic of Tajikistan, except in cases when customs bodies of foreign states are specified in this Code

16) goods - any sort of movable property conveyed across the customs border both for commercial and non-commercial purposes as well as vehicles attributed to immovables conveyed across the customs border. Vehicles specified in sub-Paragraph 7 of this Paragraph shall not be considered as goods

17) domestic goods – goods which have for customs purposes the status of goods being in free circulation on the customs territory of the Republic of Tajikistan, i. e. goods which have not been exported from the customs territory of the Republic of Tajikistan, goods which have been wholly produced in the Republic of Tajikistan, goods released for free circulation on the customs territory of the Republic of Tajikistan, and goods made in the Republic of Tajikistan using goods wholly produced in the customs territory of the Republic of Tajikistan or using goods released for free circulation on the customs territory of the Republic of Tajikistan

18) foreign goods – goods not specified as domestic goods

19) goods placed under the customs control – foreign goods imported into the customs territory of the Republic of Tajikistan prior to their release for free circulation and their de facto crossing of the customs border for exportation or prior to their destruction as well as domestic goods being exported from the customs territory of the Republic of Tajikistan prior to their de facto crossing of the customs border

20) free circulation – circulation of goods on the customs territory of the Republic of Tajikistan without prohibitions and restrictions stipulated by customs legislation of the Republic of Tajikistan

21) customs control – a whole set of measures taken by customs authorities to ensure compliance with the customs legislation of the Republic of Tajikistan

22) a customs regime – a customs procedure which determines a whole set of requirements and provisions, including the procedure for charging customs duties and taxes and applying of prohibitions and restrictions established by normative legal acts of the Republic of Tajikistan with regard to goods and means of transport as well as the status of goods and means of transport for customs purposes depending on the purpose of their conveyance across the customs border and their use on the customs territory of the Republic of Tajikistan or beyond of its boundaries

23) a customs procedure – a whole set of provisions which stipulate the procedure for performing customs operations and determine the status of goods and means of transport for customs purposes

24) export of goods and (or) means of transport from the customs territory of the Republic of Tajikistan – submission of a customs declaration or performance of actions specified in point 2 of this sub-Paragraph, directly aimed at exporting goods and (or) means of transport as well as all the ensuing consequent operations with goods and (or) means of transport stipulated by this Code prior to their actual crossing of the customs border.

Entry of the customs control zone by a natural person leaving the Republic of Tajikistan, entry of the border checkpoint on the national border of the Republic of Tajikistan by an automobile vehicle in order to leave the customs territory of the Republic of Tajikistan delivery of goods to transport organizations or delivery of international mail to postal organizations for sending outside the customs territory of the Republic of Tajikistan, actions of a person/entity directly aimed at actual crossing by goods and (or) means of transport of the customs border outside locations established in compliance with legislation of the Republic of Tajikistan are all attributed to actions directly aimed at exportation of goods and (or) means of transport from the customs territory of the Republic of Tajikistan

25) status of goods and vehicles for customs purposes – the existence or absence of prohibitions and restrictions for the use and disposal of goods and means of transport established by this Code

26) persons concerned – persons whose interests are directly and personally/individually concerned by decisions, actions (inaction) of customs authorities with regard to goods and (or) means of transport, unless otherwise ensuing from this Code

27) persons – natural persons and legal entities, unless otherwise ensuing from this Code

28) foreign persons – persons not specified as domestic persons

29) domestic persons – a citizen of the Republic of Tajikistan, stateless person who has permanent residence in the Republic of Tajikistan, individual entrepreneur registered in the Republic of Tajikistan in accordance with the legislation of the Republic of Tajikistan as well as a legal entity established in compliance with the legislation of the Republic of Tajikistan

30) domestic legal entity – legal entity established in accordance with legislation of the Republic of Tajikistan

31) freight forwarder – a person acting under the agreement of transport freight in accordance with the civil legislation of the Republic of Tajikistan

32) commercial documents - invoice, shipping and packing lists and other documents which are used in compliance with international legal acts ratified by the Republic of Tajikistan, with normative legal acts of the Republic of Tajikistan or with established traditions used for business transactions when carrying out external economic or other activities and which by virtue of law, contract, agreement of the parties or business traditions are used for confirmation of the effect of the transaction related to conveyance of goods across the customs border, unless otherwise ensuing from this Code

33) customs documents – documents drawn up for customs purposes

34) transportation (conveyance) documents – a bill of lading, invoice or other documents confirming the existence and the content of a contract for transportation of goods and accompanying goods and means of transport during international transportation

2. All other terms shall be used in this Code in the meaning determined by other normative legal acts of the Republic of Tajikistan.

## **CHAPTER 2**

### **BASIC PRINCIPLES FOR CONVEYANCE OF GOODS AND MEANS OF TRANSPORT ACROSS THE CUSTOMS BORDER**

#### **Article 11**

#### **Conveyance of Goods (Including Hard Currency and Currency Values) and Means of Transport Across the Customs Border**

1. All persons shall have an equal right to convey goods and means of transport across the customs border according to the procedure established by this Code, except for the cases stipulated by this Code, by other normative legal acts of the Republic of Tajikistan and by international legal acts ratified by the Republic of Tajikistan.

2. Goods and means of transport shall be conveyed across the customs border under the procedure established by this Code.

The procedure for conveyance of currency of the Republic of Tajikistan, securities nominal price of which is valued in the currency of the Republic of Tajikistan, conveyance of foreign currency and other currency values across the customs border shall be regulated by this Code and by other normative legal acts of the Republic of Tajikistan.

#### **Article 12**

#### **Compliance with Prohibitions and Restrictions Imposed When Conveying Goods Across the Customs Border**

1. Goods, which in compliance with normative legal acts of the Republic of Tajikistan are prohibited for importation into the customs territory of the Republic of Tajikistan, shall be retained by customs authorities and the measures shall be taken stipulated by the legislation of the Republic of Tajikistan. These goods are subject to immediate exportation from the customs territory of the Republic of Tajikistan, unless otherwise established by this Code or other normative legal acts of the Republic of Tajikistan. The carrier shall export the said goods. In case of impossibility to export the goods or in case of non-execution of immediate exportation these goods shall be subject to placement in temporary storage warehouses or other places that constitute zones of customs control (Article 403) at the expense of persons mentioned in Article 15 of this Code. Time limit for temporary storage of such goods is three days unless another time limit is established by other normative legal acts of the Republic of Tajikistan with regard to certain categories of goods. Upon expiry of this time period the said goods shall be disposed of in compliance with Chapter 58 of this Code.

Goods restricted for importation into the customs territory of the Republic of Tajikistan shall be allowed for importation (and in the cases specified by this Code these goods shall be released by customs authorities) provided that the requirements and provisions set forth by normative legal acts of the Republic of Tajikistan and international legal acts ratified by the Republic of Tajikistan have been complied with.

2. Goods prohibited for exportation shall not be subject to actual exportation from the customs territory of the Republic of Tajikistan.

Goods exportation of which from the customs territory of the Republic of Tajikistan is restricted shall be permitted for exportation provided that the requirements and conditions set forth by normative legal acts and international legal acts ratified by the Republic of Tajikistan have been complied with.

3. The customs authorities shall not reimburse expenses borne by persons mentioned in Article 15 of this Code, by declarants, carriers or other persons as a result of their compliance with prohibitions and restrictions imposed on importation of goods to the customs territory of the Republic of Tajikistan or their exportation from this territory.

#### **Article13**

#### **Customs Clearance and Customs Control**

1. All goods and means of transport conveyed across the customs border shall be subject to customs clearance and customs control in the procedure and on the terms stipulated by this Code.

2. When executing customs clearance and exercising customs control the customs authorities and customs officials shall not be entitled to set requirements and to impose restrictions which are not stipulated by customs legislation acts or by other normative legal acts of the Republic of Tajikistan.

#### **Article14**

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

1. No one shall have a right to use and to dispose of goods and means of transport prior to their release other than in the procedure and the terms stipulated by this Code.

2. After their release, the goods and means of transport shall be used and disposed of in compliance with the declared customs regime.

#### **Article15**

#### **The Obligation to Perform Customs Operations for Release of Goods**

The following persons shall have the duty to perform customs operations for release of goods, unless otherwise established by this Code:

1) in case goods are conveyed across the customs border in compliance with an external economic transaction contract concluded by a domestic person - the domestic person who concluded such an external economic transaction contract or on whose behalf or upon instruction of which this transaction contract was concluded

2) in case goods are conveyed across the customs border without conclusion of an external economic transaction contract by a domestic person:

3) a person having the right of ownership and (or) the right of using goods on the customs territory of the Republic of Tajikistan

4) other persons acting in the capacity that, in compliance with the civil legislation of the Republic of Tajikistan and (or) this Code, is sufficient for performance on their own behalf of legally significant actions with the goods placed under the customs control.

#### **Article 16**

#### **Guarantees of the Appropriate Fulfillment of Obligations Established by this Code**

In cases specified by this Code and by other normative legal acts of the Republic of Tajikistan the customs authorities shall be entitled to demand that persons provide guarantees of the appropriate execution by them of obligations established by this Code with regard to goods, including guarantees in the form of security of payment of customs levies in compliance with Chapter 46 of this Code.

### **CHAPTER 3**

### **ACTIVITIES IN THE AREA OF CUSTOMS**

#### **Article 17**

#### **Activities in the Area of Customs**

The activities of legal entities in the capacity of customs carriers, owners of temporary storage warehouses, owners of customs warehouses, duty free shops and of the customs brokers (representatives) shall be allowed provided that they have been included in the Register of the customs

carriers, the Register of owners of temporary storage warehouses, the Register of owners of customs warehouses or the Register of customs brokers (representatives) respectively (hereinafter in this Chapter referred to as Registers of persons carrying out activities in the area of customs).

#### **Article 18**

##### **Registers of Persons Carrying out Activities in the Area of Customs**

1. Registers of persons carrying out activities in the area of customs shall be maintained by the authorized body on customs affairs in compliance with the procedure established thereof.
2. The authorized body on customs affairs shall be obliged to ensure regular (no less than once in every three months) promulgation in their official publications of the registers of persons carrying out activities in the area of customs.

#### **Article 19**

##### **Inclusion of Legal Entities in the Registers of Persons Carrying out Activities in the Area of Customs**

1. Legal entities shall be included in the registers of persons carrying out activities in the area of customs in compliance with the terms established by this Code. No payment shall be made for inclusion to these registers.
2. A legal entity shall apply to the customs bodies with a written application for inclusion in one of the registers of persons carrying out activities in the area of customs. The application shall contain data as stipulated by this Code and also this legal entity shall present documents confirming the information stated in the application according to a list of confirmation documents established by this Code.

3. Documents envisaged by Paragraph 2 of this Article may be presented in the original or photocopies certified in compliance with the established procedure.

Upon completion of considering the application the customs body shall be obliged to return to the applicant at the request the original documents which had been presented to the customs bodies.

The customs body shall review an application within a period of time not exceeding 30 days from the date the application was received. The customs body shall forward to the authorized body on customs affairs the opinion to make a decision on the inclusion of the applicant in the relevant register thereupon. The decision on inclusion of the applicant in the relevant register shall be registered by way of issuance to the applicant of a certificate of inclusion in the specified register. The applicant shall be entitled to undertake the relevant activities in the area of customs from the date on receiving the certificate.

The customs body shall have the right to refuse to include the applicant into the relevant register only in case an applicant fails to comply with terms set forth for the inclusion in the relevant register by this Code. A decision on refusal shall be brought to the applicant's attention in written form immediately thereupon.

5. The customs body that considers an application, shall be entitled to request the third parties, and also state bodies, for the documents confirming the information given by the applicant. The said parties shall be obliged to provide the requested documents within 10 days after the receipt of this request.

#### **Article 20**

##### **A Certificate of Inclusion in One of the Registers of Persons Carrying out Activities in the Area of Customs**

1. A certificate of inclusion in one of the registers of persons carrying out activity in the sphere of customs (hereinafter referred to as 'the certificate') shall be issued in compliance with the format established by the authorized body on customs affairs. The certificate shall contain information as stipulated by this Code. The certificate shall not be transferred to another person.
2. A legal entity (its assignee) included in one of the registers of persons carrying out activities in the area of customs shall be obliged to inform the customs bodies in writing about a change of information and data presented in its application as stipulated by Paragraph 2 of Article 19 of this Code or in accompanying documents attached to the application within five days from the date the relevant changes occurred or from the date when the entity came to know about these changes.

The customs body within five working days shall review the compliance of the newly submitted information with the conditions set forth for the inclusion of a legal entity in the relevant register and in case of change of the information that is to be indicated in a certificate the customs body shall consider issuance of a new certificate in compliance with the procedure established by Paragraph 4 of Article 19 of this Code.

3. A certificate may be revoked by the customs body only in cases stipulated by Articles 98, 113, 145, 231 and paragraph 4 of Article 263 of this Code.

The customs body shall bring the decision to revoke a certificate to the attention of a legal entity with regard to which such a decision was made, in written form stating well-reasoned grounds for this decision not later than the day following the day when this decision was made. The said decision shall be handed in to the head or another authorized representative of the legal entity on conditions of a written receipt from them or using a different form confirming the fact and the date of receipt of this decision by them. If the said persons evade receiving this decision, then the decision shall be sent to them by registered mail.

A decision to revoke a certificate shall come into effect upon expiry of 15 days from the date when such a decision was made.

The format of the decision to revoke a certificate shall be approved by the authorized body on customs affairs.

4. Revocation of a certificate shall entail expulsion of the legal entity carrying out activities in the area of customs from the relevant register.

5. An application for inclusion in the relevant register after revocation of a certificate may be submitted when the reasons which caused the revocation have been eliminated, and in case the certificate was revoked based on repeated bringing of the legal entity to administrative responsibility - upon expiry of the time limit within which the person is deemed to be under the administrative reprimand (punishment).

#### **Article 21**

##### **Expulsion of a Legal Entity from the Register of Persons Carrying Out Activities in the Area of Customs**

1. A legal entity shall be subject to expulsion from the registers of persons carrying out activities in the area of customs based on the following:

- 1) by the mentioned entity's own wish – from the day following the day when the customs bodies received the application of the entity in written form for exclusion from the relevant register
- 2) upon expiry of the validity term of the certificate established by Paragraph 2 of Article 996, Paragraph 3 of Article 111 and Paragraph 2 of Article 142, part 3 of Article 263 of this Code – from the day following the day when the validity term of the certificate has expired
- 3) when making a decision on revocation of a certificate – from the date when such a decision comes into effect
- 4) in case of liquidation of the legal entity – from the day following the day when the record was made by the registration bodies in the Single State Register of Legal Entities stating that this legal entity is in the process of liquidation in compliance with legislation of the Republic of Tajikistan
- 5) in case of cessation of activity of a legal entity as a result of reorganization, except in case of its transformation – from the day following the day when reorganization of the legal entity is considered to be completed in compliance with legislation of the Republic of Tajikistan

2. Expulsion of a legal entity from the registers of persons carrying out activities in the sphere of customs shall not exempt this legal entity (its assignee) from the obligation to complete customs operations with regard to transportation or storage of goods placed under the customs control or to perform other actions with regard of which the obligation arose prior to the expulsion of the legal entity from the relevant register in compliance with the procedure established by this Code.

#### **C H A P T E R 4**

##### **PROVIDING WITH INFORMATION AND CONSULTING**

#### **Article 22**

##### **Obtaining Information on the Reasons for a Decision Made or an Action (Inaction) Taken by a Customs Authority or by a Customs Official**

1. A person with regard to whom a customs authority or a customs official made a decision or performed an action as well as a person with regard to whom no decision was made or an action to be taken was not taken within the established time limit, shall be entitled to apply to this customs authority with a request for information about the reasons and the grounds for the decision made or an action taken, or about the reasons for non-decision or non-performance of an action, if this concerns the rights and lawful interests of the said persons directly and personally.
2. The request shall be submitted within six months from the date a decision was made, an action (inaction) took place, or from the date of expiry of the time limit for the decision to be made or for an action (inaction) to take place, or from the date when the person/entity came to know about the decision made or an action (inaction) taken.
3. The persons concerned may apply with a request for providing the required information both in oral and in written form. An oral request for information shall be subject to consideration by the customs authority on the day of receipt of the said request. When a written request for information is submitted, the reply shall be provided in writing within 10 days from the date the said request was received.

#### **Article 23**

#### **Information on Normative Legal Acts in the Area of Customs Affairs**

1. The authorized body on customs affairs and other customs bodies shall ensure a free and unpaid-for access to information on the legal acts in the area of customs affairs, which are currently in effect, including access with the use of information technologies.
2. Customs bodies shall ensure access to information on legal acts which are being prepared as well as on changes and amendments made to the legal acts in the area of customs which have not yet come into effect, including access with the use of information technologies, except in cases when a preliminary notification on the legal acts which are being prepared will prevent proper exercise of the customs control or will make for the reduction of its efficiency.
3. The authorized body on customs affairs shall ensure promulgation in its official publications of the legal acts adopted by this body as well as of the customs legislation acts and other normative legal acts of the Republic of Tajikistan in the area of customs affairs.

#### **Article 24**

#### **Consulting on Issues in the Area of Customs Affairs and Other Issues within the Competence of the Customs Bodies**

1. The customs bodies shall provide the persons concerned with consultation on issues in the area of customs affairs as well as other issues within the competence of these bodies. The head of a customs authority (a substitute) shall appoint customs officials authorized to give consultations. Information requested by a the person concerned shall be provided at the earliest possible date but not later than one month after the date of receipt of the said request for information.
2. Consulting shall be done by customs bodies both in a written and in oral form free of charge. Upon the request of the person concerned the customs bodies shall be obliged to provide information in writing which shall not serve as a basis for making a decision or taking an action (inaction) by the customs bodies when performing customs operations with regard to goods and (or) means of transport.
4. The customs bodies shall not be responsible for losses incurred as a result of distortion of the text of a legal act published without their knowledge and control as well as for the losses caused as a result of incompetent consultations given by persons who are not authorized to give them.

### **C H A P T E R 5 C U S T O M S S T A T I S T I C S**

#### **Article 25**

#### **Customs Foreign Trade Statistics of the Republic of Tajikistan**

1. In order to analyze the situation with the foreign trade of the Republic of Tajikistan, to control receipt of customs payments by the national budget, exercise currency control, analyze the state, the dynamics and tendencies of development of foreign trade the Republic of Tajikistan, its trade balance and balance payment and its economy on the whole, the customs bodies shall collect and process

information on the conveyance of goods across the customs border and shall present the information of customs foreign trade statistics of the Republic of Tajikistan to the government of the Republic of Tajikistan and other bodies which are established by the legislation of the Republic of Tajikistan.

The authorized body on customs affairs shall present the data of customs foreign trade statistics of the Republic of Tajikistan to international organizations in compliance with the international legal acts ratified by the Republic of Tajikistan and with the legislation of the Republic of Tajikistan.

The authorized body on customs affairs shall publish data on customs foreign trade statistics of the Republic of Tajikistan in compliance with the procedure and on the terms established by the government of the Republic of Tajikistan.

2. Customs foreign trade statistics of the Republic of Tajikistan shall be maintained in compliance with this Code and with other normative legal acts of the Republic of Tajikistan.

3. Customs foreign trade statistics of the Republic of Tajikistan shall be kept in compliance with the methodology, which ensures comparability of data on mutual trade between the Republic of Tajikistan and its foreign trade partners.

#### **Article 26**

#### **Special Customs Statistics**

1. In order to ensure proper execution of the tasks set forth for the customs bodies, the said bodies shall maintain special customs statistics in compliance with the procedure established by the authorized body on customs affairs.

2. The customs bodies shall use the data of special customs statistics exclusively for customs purposes.

#### **Article 27**

#### **Documents and Information Used for Statistical Purposes**

1. Documents and information submitted by persons in compliance with the provisions of this Code shall be used for statistical purposes.

2. The provisions set forth by Article 9 of this Code shall cover the information used for statistical purposes.

### **C H A P T E R 6**

### **COUNTRY OF ORIGIN OF GOODS**

### **COMMODITY NOMENCLATURE OF FOREIGN ECONOMIC ACTIVITIES**

#### **Article 28**

#### **Scope of Application of this Chapter**

1. The country of origin of goods shall be determined in compliance with the provisions of this Chapter in all the cases when the application of measures of tariff and customs regulation as well as of prohibitions and restrictions established according to the normative legal acts of the Republic of Tajikistan depends on the country of origin of goods.

2. The rules for determination of the country of origin of goods shall be established to apply the tariff preferences or non-preferential measures of the trade policy.

#### **Article 29**

#### **Determination of the Country of Origin of Goods**

1. The country of origin of goods shall be defined as the country where goods were wholly produced (Article 30) or were undergone sufficient processing (Article 31) in compliance with the criteria established by this Code or in the procedure set forth by this Code. The country of origin of goods may be understood as a group of countries, customs unions of the countries, region or part of a country, if it is necessary to identify them for the purpose of determining the country of origin of goods.

2. Upon the request of a declarant or of another the person concerned the customs bodies shall adopt a preliminary decision on determining the country of origin of goods in compliance with Articles 41-44 of this Code.

**Article 30**  
**Goods Wholly Produced in a Given Country**

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

- 1) mineral products extracted from the subsurface of a country, from its territorial waters (seas) or from its continental shelf
- 2) vegetable products harvested or gathered in a given country
- 3) animals born and raised in a given country
- 4) products obtained from animals raised 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
- 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 (sea) of a given country, provided this country has the sole right to develop that soil or subsoil
- 9) scrap and waste (secondary raw materials) derived from manufacturing or other processing operations in a given country, as well as used items collected in a given country and fit only for processing into raw materials
- 10) products of high technologies obtained in the open space onboard a spacecraft if a given country is the State where this spacecraft is registered
- 11) goods produced in a given country solely from products referred to in sub-Paragraphs 1 –10 of this Article
- 12) electricity generated on the territory of a given country
- 13) intellectual property and cultural values.

**Article 31**  
**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 meeting the criteria for sufficient processing in compliance with the provisions of this Article.
2. If in compliance with Paragraph 4 of this Article there are no special requirements set forth as to how to determine the country of origin of specific types of goods imported into the customs territory of the Republic of Tajikistan or if no particular features of determining the country of origin of goods have been specified with respect to a certain country, then the following general rule shall be applied: goods are considered as originating in a given country if the operations on processing or manufacturing of goods result in a change in the classification code of the goods at the level of any of the first four digits according to the Commodity Nomenclature of the Foreign Economic Activities.
3. Regardless of the provisions established by Paragraph 2 of this Article, 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, re-packing)
  - 3) simple assembly operations and other operations the performance of which does not change essentially the state of goods in compliance with the list determined by the government of the Republic of Tajikistan
  - 4) mixing of goods, originating in various countries, if the characteristics of the finished product are not essentially different from the characteristics of the goods which have been mixed.
4. The following criteria for sufficient processing shall also be used for determining the country of origin of goods in compliance with the procedure established by the government of the Republic of Tajikistan:
  - 1) fulfillment of certain production or technological operations sufficient for regarding the country where such operations took place as the country of origin
  - 2) a change in the value of goods such that the percentage ratio of the cost of the materials used or of the added value reaches a fixed share of the price of the finished product (rule of ad valorem ratio).
5. When establishing the procedure for the application of the criteria for sufficient processing for certain categories of goods imported from those countries to which the Republic of Tajikistan grants tariff preferences, in order to grant tariff preferences the government of the Republic of Tajikistan shall

be entitled to determine terms and conditions for application of rules of direct purchase and direct shipment.

#### **Article 32**

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

1. When determining the country of origin of goods in unassembled or disassembled state, or of goods supplied in several lots as a result of the impossibility of their shipment in one lot for the reasons of production or transportation conditions, as well as in the event that a lot of goods is subdivided into several lots by mistake, upon the declarant's wish such goods shall be considered as a single commodity.

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, shipped in several lots, stating the reasons for such supply and providing specifications of each lot containing the classification codes of the goods in compliance with the Commodity Nomenclature of the Foreign Economic Activities, the value and country of origin of the goods in each lot, or documents confirming the incorrect subdivision of commodities into several lots

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

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

4) importation into the customs territory of the Republic of Tajikistan of all shipments of goods within a period of time not exceeding one year from the date of acceptance of the customs declaration by the customs body or from the date of expiry of the term for submission of the customs declaration in respect of the first lot of goods to customs. Upon a declarant's justified request, the mentioned period for shipping remaining lots of goods shall be extended by the customs authorities for a period of time required for importation of all lots of these goods.

3. Accessories, appliances, spare parts and tool kits to be used with machines, equipment, devices or vehicles shall be considered as having the same origin as the machines, equipment, devices or vehicles, provided that the accessories, appliances, spare parts and tool kits are imported and used together with the specified machines, equipment, devices or vehicles in a complete set and in the quantity usually supplied with these devices.

4. The packaging in which goods are imported into the customs territory of the Republic of Tajikistan shall be considered to have the same country of origin as the goods packed in them, except in cases when 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.

#### **Article 33**

##### **Confirmation of the Country of Origin of Goods**

1. In witness of the country of origin of goods the customs authorities shall be entitled to demand presentation of documents confirming the origin of goods from a given country in cases envisaged by Article 36 of this Code.

2. Declaration of origin of goods (Article 34), or, in cases stipulated by the government of the Republic of Tajikistan, certificate of origin of goods (Article 35) shall be the documents confirming the origin of goods from a given country.

#### **Article 34**

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

1. In compliance with this Code a declaration of origin of goods drawn up in an arbitrary form may serve as a document confirming the country of origin of goods provided that it contains information which allows to determine the country of origin of goods. Commercial or any other documents which are related to goods and which contain a statement of the country of origin made by a manufacturer, a seller or an exporter in connection with exportation of goods may be used as such a declaration.

2. When information on the country of origin of goods stated in the declaration of origin of goods is based on criteria other than those applied in the Republic of Tajikistan (Articles 30 and 31), then the country of origin of goods shall be determined in compliance with the criteria applied in the Republic of Tajikistan.

**Article 35**  
**Certificate of Origin of Goods**

1. 'Certificate of origin of goods' shall mean a document unambiguously proving the country of origin of goods and issued by the bodies or organizations authorized by that country or by the country of exportation, provided that in the country of exportation the certificate of origin is issued based on information received from the country of origin of goods.

When information on the country of origin of goods in the certificate of origin of goods is based on criteria for sufficient processing other than those applied in the Republic of Tajikistan (Articles 30 and 31), then the country of origin of goods shall be determined in compliance with the criteria applied in the Republic of Tajikistan.

2. When goods are exported from the customs territory of the Republic of Tajikistan, the certificate of origin of goods shall be issued by the bodies or organizations authorized by the government of the Republic of Tajikistan, whenever such a certificate is required under the terms of a contract, in compliance with the national regulations of the country of importation of goods or when the availability of this certificate is stipulated by international legal acts ratified by the Republic of Tajikistan.

The bodies or organizations which issued the certificate of origin of goods shall be obliged to keep a copy of it and other documents based upon which the origin of goods was determined, for at least four years from the day of its issuing.

3. The original certificate of origin of goods shall be submitted together with the customs declaration and with other documents required for customs clearance of goods imported into the customs territory of the Republic of Tajikistan. In case of the loss of the certificate, an officially certified copy shall be accepted.

4. If the certificate of origin is not completed properly (if it has erasures, blots or uncertified corrections, if the required signatures, stamps or seals are absent, if the information in the certificate does not allow to establish their relation to the declared goods, if the country of origin of goods or the criteria based upon which the country of origin was determined are not stated unambiguously in the certificate, when indication of such criteria is mandatory required in compliance with international legal acts ratified by the Republic of Tajikistan or normative legal acts of the Republic of Tajikistan) or if signs have been detected indicating that the certificate may contain unreliable information, the customs body shall be entitled to apply to the authorized bodies or organizations of the country which issued the certificate of origin of goods with a request for additional documents or clarifying information.

5. The customs body shall also be entitled to apply to the authorized bodies or organizations of the country, which issued the certificate of origin of goods, with a request to present additional documents or clarifying information in order to execute selective inspection. Such selective inspection shall not prevent goods from being released based on information about the country of their origin specified at their clearance from customs.

**Article 36**  
**Submission of Documents Confirming the Country of Origin of Goods**

1. At importation of goods into the customs territory of the Republic of Tajikistan a document confirming the country of origin of goods shall be submitted in case the Republic of Tajikistan gives tariff preferences to the country of origin of these goods in compliance with normative legal acts the Republic of Tajikistan or international legal acts ratified by the Republic of Tajikistan. In this case the document confirming the country of origin of goods shall be submitted to the customs body at the time of submission of the customs declaration. At the same time provision of tariff preferences may be conditioned by the need to submit the certificate of origin of goods in the established format stipulated by normative legal acts of the Republic of Tajikistan or international legal acts ratified by the Republic of Tajikistan.

The customs bodies shall be entitled to demand submission of a document confirming the country of origin of goods in other cases only when signs have been detected indicating that the declared information about the country of origin of goods, which affects the application of rates of customs duties, taxes and (or) prohibitions and restrictions established in compliance with normative legal acts of the Republic of Tajikistan, is unreliable.

2. Regardless of the provisions of Paragraph 1 of this Article, submission of a document confirming the country of origin of goods shall not be required when:

1) goods imported into the customs territory of the Republic of Tajikistan are declared for the customs regime of international customs transit or for the customs regime of temporary import with full exemption from payment of customs duties and taxes, except for the cases when the customs bodies have detected signs indicating that the goods originate from the country whose goods are prohibited for importation into the Republic of Tajikistan or for the transit across its territory in compliance with international legal acts ratified by the Republic of Tajikistan or normative legal acts of the Republic of Tajikistan

2) the total customs value of goods conveyed across the customs border shipped at the same time in the same way by the same shipper to the address of the same consignee, in the same vehicle under the same invoice and waybill makes up less than 400 fold of the statutory minimum monthly wage.

3) goods are conveyed across the customs border by natural persons in compliance with Chapter 37 of this Code

4) in other cases stipulated by international normative legal acts ratified by the Republic of Tajikistan or normative legal acts of the Republic of Tajikistan.

#### **Article 37**

##### **Additional Conditions for Release of Goods when Determining the Country of their Origin**

1. In case of absence of documents confirming the country of origin of goods, or in case of detection of signs indicating that the submitted documents have not been properly completed and (or) contain inadequate information, prior to submission of documents confirming the country of origin of goods or clarifying information:

1) customs duties with regard to goods shall be payable using the rates applied to goods originating from the countries the trade and political relations with which do not stipulate the most favored nation treatment regime, if the customs body have detected signs indicating that goods originate from the country the trade and political relations with which do not envisage the most favored nation treatment regime, or security of payment of customs duties using the said rates shall be provided

2) goods shall be released on condition of submission by the declarant of documents confirming fulfillment of the established restrictions, or on condition of providing the security of payment of antidumping or countervailing duties, if the customs body detected signs indicating that goods originate from the country import from which is restricted in compliance with normative legal acts of the Republic of Tajikistan or international normative legal acts ratified by the Republic of Tajikistan

3) goods shall not be released only in cases when the customs bodies detect signs indicating that goods may be originating from the country whose goods are prohibited for importation into the Republic of Tajikistan in compliance with international normative legal acts ratified by the Republic of Tajikistan and (or) normative legal acts of the Republic of Tajikistan.

2. With regard to goods specified in sub-Paragraph 1 of Paragraph 1 of this Article, preferential regime or the most favored nation treatment regime shall be applied (restored) provided that the country of origin of these goods has been confirmed prior to the expiry of one year from the day of acceptance of the customs declaration by the customs body. In this case the overpaid amounts of customs duties and taxes shall be refunded in accordance with Article 397 of this Code.

#### **Article 38**

##### **Commodity Nomenclature of the Foreign Economic Activities**

1. The Commodity Nomenclature of the Foreign Economic Activities shall be approved by the government of the Republic of Tajikistan based on the systems of classification of goods accepted in the international practice.

2. The Commodity Nomenclature of the Foreign Economic Activities shall be applied for taking regulatory measures of the customs and non-tariff regulation and other types of foreign economic activities, and for maintenance of the customs foreign trade statistics of the Republic of Tajikistan.

#### **Article 39**

##### **Maintenance of the Commodity Nomenclature of the Foreign Economic Activities**

The authorized body on customs affairs shall maintain the Commodity Nomenclature of the Foreign Economic Activities.

The authorized body on customs affairs shall:

- 1) represent the Republic of Tajikistan in international organizations on issues relating to the development, amendment, addition, interpretation and application of international principles of the Commodity Nomenclature of the Foreign Economic Activities
- 2) ensure monitoring of amendments and additions to the international principles of the Commodity Nomenclature of the Foreign Economic Activities, and monitoring of internationally accepted explanations and interpretations of these principles
- 3) make proposals to the government of the Republic of Tajikistan on bringing the Commodity Nomenclature of the Foreign Economic Activities into conformity with the international principles
- 4) ensure proposals are made in coordination with other interested government agencies with regard to further development, amendments and additions to the Commodity Nomenclature of the Foreign Economic Activities
- 5) draft and update a master copy of the Commodity Nomenclature of the Foreign Economic Activities
- 6) ensure publication of the Commodity Nomenclature of the Foreign Economic Activities, international explanations, guidelines and decisions on interpretation of international principles
- 7) develop, approve and ensure publication of all mandatory decisions pertaining to classification of certain categories of goods
- 8) carry out other functions required to maintain the Commodity Nomenclature of the Foreign Economic Activities.

#### **Article 40** **Classification of Goods**

1. When being declared to the customs bodies (Chapter 14), all goods shall be subject to classification, i. e. A classification code(s) based on the Commodity Nomenclature of the Foreign Economic Activities shall be determined with respect to the goods.
2. Upon the request of a declarant, the customs authorities shall make a preliminary decision with regard to the classification of goods in compliance with Articles 41-44 of the present Chapter.
3. In case of identification of violation of the rules for classification of goods when declaring them, the customs authorities shall be entitled to independently classify the goods.
4. The authorized body on customs affairs shall make decisions with regard to the classification of certain categories of goods and shall ensure publication of such decisions.
5. Decisions made by customs authorities with regard to the classification codes of goods shall be binding. Decisions made by customs authorities may be appealed by declarants in accordance with Chapter 7 of this Code.

#### **Article 41** **Adoption of a Preliminary Decision**

1. Upon the request of the person concerned, other customs bodies determined by the authorized body on customs affairs shall make a preliminary decision on the classification of goods under the Commodity Nomenclature of the Foreign Economic Activities with regard to specific goods, and on the origin of goods from a particular country (on the country of origin of goods).
2. The procedure for and the form of a preliminary decision on these issues shall be defined by the authorized body on customs affairs.

#### **Article 42** **Application for a Preliminary Decision**

1. An applicant shall submit to the relevant customs authority an application for a preliminary decision made out in written form.  
The application shall contain all information required for making a preliminary decision. The application shall be supplemented with samples and specimens of goods, description of the goods, photographs of them, drawings, sketches, commercial, technical and other documents.  
The application for a preliminary decision shall be considered within a time limit established by the law of the Republic of Tajikistan “Concerning requests of citizens”.
2. When the information submitted by the applicant in his/her/its application for a preliminary decision is not sufficient for making a preliminary decision, the customs authorities within 30 days from the day of receipt of such an application shall notify the applicant of the need to provide additional information

with establishing of a time limit for its submission. If the requested information has not been provided within the established time limit, the application for making a preliminary decision shall be declined. Declining an application for making a preliminary decision shall not prevent the applicant from making a repeated application to the customs authorities for making a preliminary decision, provided the reasons for which the previous application was denied are rectified.

**Article 43**  
**Legal Value and Validity of a Preliminary Decision**

A preliminary decision shall be binding for all the customs bodies. A preliminary decision shall be effective for three years from the date it was made, provided it was not changed, revoked or annulled in compliance with Article 44 of this Code.

**Article 44**  
**Annulment, Change or Suspension of a Preliminary Decision**

1. The customs bodies may decide to annul, to change or to revoke a preliminary decision made by them or by their subordinate customs bodies (may make a decision on annulment, change or revocation of a preliminary decision adopted by them or by a subdivision of the customs bodies) only in cases established by this Article.

A decision on annulment, change or revocation of a preliminary decision shall be forwarded to the person who was issued a preliminary decision, in writing not later than the day following the day on which the decision on annulment, change or revocation of a preliminary decision was made.

2. A preliminary decision shall be annulled if such a decision was made on the basis of forged documents submitted by the applicant. The annulment of a preliminary decision shall come into effect starting from the date of making this preliminary decision.

3. A preliminary decision on the classification of goods shall be changed in case the authorized body on customs affairs makes a decision on the classification of specific goods, which is binding for all the customs bodies, as well as when errors made in the course of making a preliminary decision are discovered.

An amendment to a preliminary decision shall come into effect in the time period specified in the decision on amending a preliminary decision, but not earlier than after three months from the day of making the decision on amending a preliminary decision.

4. A preliminary decision made by the customs bodies may be revoked in the following cases:

1) in case of change of the Commodity Nomenclature of Foreign Economic Activities, or when the World Customs Organization adopts the classification decisions, which are mandatory for application in the Republic of Tajikistan

2) in case international legal acts ratified by the Republic of Tajikistan or normative legal acts of the Republic of Tajikistan relating to the issues of determination of the country of origin of goods establish other requirements and terms for determination of the country of origin of goods.

A decision on revocation of a preliminary decision shall be made not later than three days after publication of the above-mentioned legislative acts and shall come into effect as of the date these acts enter into force.

5. A decision on amendment or termination of the preliminary decision on the country of origin may be re-considered by the court.

**CHAPTER 7**

**APPEALING DECISIONS, ACTIONS (INACTION) OF CUSTOMS AUTHORITIES AND  
CUSTOMS OFFICIALS**

**Article 45**  
**Right to Appeal**

1. Any person shall be entitled to appeal a decision, actions (inaction) of a customs body or of a customs official, if such decision, actions (inaction), in the person's opinion, infringes upon his/her rights, freedoms or lawful interests, creates obstacles to their fulfillment, or unlawfully imposes a responsibility.

**Article 46**  
**The Procedure for Appeal**

1. Decisions, actions (inaction) of customs authorities or customs officials may be appealed to customs authorities, prosecutor's office and (or) to the court.

Filing an appeal of a decision, actions (inaction) of a customs body of a customs official to customs authorities shall not exclude the possibility of simultaneous or consequent filing of a similar appeal to prosecutor's office or a court. An appeal of a decision, actions (inaction) by a customs body or by a customs official filed to customs authorities and prosecutor's office or a court shall be considered by these same authorities.

2. The procedures for filing, considering and satisfying an appeal forwarded to the prosecutor's office or courts shall be established by the legislation of the Republic of Tajikistan.

3. The procedures for filing, considering and satisfying appeals of decisions, actions (inaction) by the customs bodies or by customs officials which are forwarded to customs bodies shall be established by this Chapter and shall be applied in case of appeal of any decisions, actions (inaction) of customs authorities or of customs officials, except for appeal of resolutions of customs authorities (customs officials) on cases of administrative offences.

**Article 47**  
**Procedures for Filing an Appeal of a Decision, Actions (Inaction) of a Customs Authorities or of a Customs Official**

1. An appeal of a decision, actions (inaction) of a customs authority shall be filed with a superior customs authority.

An appeal of a decision, actions (inaction) of a customs official shall be filed with the customs authority where this customs official serves (replaces a public post), and an appeal of a decision, actions (inaction) of a head of a customs authority shall be filed with a superior customs authority.

An appeal of a decision, actions (inaction) of a customs authority or of a customs official may be filed both directly with a superior customs authority and via the customs authority a decision, actions (inaction) of which or of a head of which is appealed.

2. A customs authority or a head of a customs authority a decision, actions (inaction) of which is appealed shall forward the appeal within a period of five days from the day of its receipt to a superior customs authority along with confirming documents and materials thereon.

When the appeal of a decision, actions (inaction) of a customs authority or of a customs official is filed with a customs authority which is not authorized to consider the appeal, then the appeal within five days shall be forwarded to the customs authority which is obliged to consider this appeal in compliance with this Article, with written notification of the appellant.

**Article 48**  
**Time Limit for Filing an Appeal Of a Decision, an Action (Inaction) of a Customs Authority or of a Customs Official**

An appeal of a decision, actions (inaction) of a customs authority or of a customs official may be filed within one month and in case of an appeal of a decision on imposing an administration punishment may be filed within ten days:

1) from the date that the person discovered or should have discovered that his/her rights, freedoms or lawful interests were infringed upon, or obstacles were created for their realization, or any responsibility that is not stipulated by the law was imposed on him/her

2) from the date of expiration of the time limit for making a decision or for taking actions by a customs authority or by a customs official when making the decision or taking the actions by them is stipulated in compliance with this Code.

**Article 49**  
**Renewal of a Time Limit for Filing an Appeal Of a Decision, Actions (Inaction) of a Customs Authority or of a Customs Official**

1. In case of failure to comply with the established time limit for filing an appeal for good reasons, based on application of the appellant this time limit may be renewed by the customs authority entitled to consider this appeal.

2. Renewal of an expired deadline for filing an appeal shall be expressed in the de facto acceptance of an appeal of a decision, actions (inaction) of a customs authority or of a customs official for consideration.

#### **Article 50**

##### **Format for and Contents of an Appeal of a Decision, an Action (Inaction) of a Customs Authority or of a Customs Official**

1. An appeal of a decision, actions (inaction) of a customs authority or of a customs official shall be filed in written form and shall be signed by the appellant.
2. An appellant shall not be obliged to attach to his/her/its appeal documents proving the circumstances pointed out in the appeal. If submission of such documents is significantly important for consideration of the appeal and if these documents are not available with the customs authority a decision, actions (inaction) of which or of a customs official employed by which are appealed, then the customs authority considering this appeal shall be entitled to ask for these documents from the appellant. In this case the time limit for consideration of an appeal of a decision, actions (inaction) of a customs authority or of a customs official shall be suspended until the appellant presents documents requested by the customs authority, but for a suspension period not to exceed three months. In case of the appellant's failure to present documents requested by the customs authority a decision on the appeal shall be made regardless of the arguments, which have not been supported by documentary proof.

#### **Article 51**

##### **Consequences of Filing an Appeal of a Decision, an Action (Inaction) of Customs Body or of a Customs Official**

1. Filing an appeal of a decision, actions (inaction) of a customs authority or of a customs official shall not suspend the execution of the decision, actions (inaction) with respect to which the appeal is filed.
2. When there are sufficient grounds to believe that the appealed decision, actions do not comply with the legislation of the Republic of Tajikistan as well as when non-suspension of the execution of the decision, actions may be irreversible, then the customs authority considering the appeal shall be entitled to suspend the execution of the appealed decision, actions completely or partially until the appeal is essentially decided upon.

#### **Article 52**

##### **Grounds for Refusal of Essential Consideration of an Appeal Of a Decision, Actions (Inaction) of a Customs Body or of a Customs Official**

1. A customs body shall refuse to consider an appeal of a decision, actions (inaction) of a customs authority or of a customs official essentially if 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 for filing an appeal, or the request to restore an expired deadline for filing an appeal was rejected.
2. A decision to refuse essential consideration of an appeal of a decision, actions (inaction) of a customs authority or of a customs official shall be made within a period not exceeding three days from the day the appeal is received.
3. Decision of a customs authority to refuse essential consideration of an appeal of a decision, actions (inaction) of a customs authority or of a customs official may be appealed to a superior customs authority or in court.

#### **Article 53**

##### **Withdrawal of an Appeal of a Decision, an Action (Inaction) of a Customs Authority or of a Customs Official**

1. An appellant may withdraw his/her appeal of a decision, actions (inaction) of a customs authority or of a customs official at any stage and any moment prior to the moment when a decision is made on the appeal.
2. A repeated appeal concerning the same issues may be filed within the time limit established by Article 48 of this Code.

#### **Article 54**

**Customs Authorities Considering Appeals of Decisions, Actions (Inaction) of a Customs Authority or of a Customs Official**

1. An appeal of a decision, actions (inaction) of a customs authority shall be considered by a superior customs authority.
2. An appeal of a decision, actions (inaction) of a customs official shall be considered by the customs authority employing the official, whereas an appeal of a decision, actions (inaction) of the head of a customs authority shall be considered by his/her superior customs authority.
3. On behalf of the customs authority, the head of the customs authority or an official authorized by the head of the customs authority shall make a decision with regard to the appeal of a decision, actions (inaction) of the customs authority or of its official. In the process, the appeal of a decision, actions (inaction) of a customs authority or of a customs official may not be considered by the customs official who made the decision or performed the actions (inaction) subject to appeal, or by his/her subordinate.

**Article 55**

**Time Limit for Considering an Appeal of a Decision, an Action (Inaction) of a Customs Authority or of a Customs Official**

1. Customs authorities shall consider an appeal of a decision, actions (inaction) of a customs authority or of a customs official thereon, within a period not exceeding one month starting from the day the appeal is received by the customs authority, which is entitled to consider it and in cases not requiring additional examination and review – within a period up to fifteen days.  
In cases when the customs authority considering an appeal of a decision, actions (inaction) of a customs authority or of a customs official deems it necessary to extend the time limit for considering the appeal, the head of this customs authority may extend the time limit for a period up to one more month. The appellant shall be notified in writing of the decision to extend the time limit and shall be given the reasons for extension. The total period for considering an appeal may not exceed two months.

**Article 56**

**Decision of the Customs Authorities on an Appeal of a Decision, Actions (Inaction) of a Customs Authority or of a Customs Official**

1. The customs authority a decision, actions (inaction) of which or of the customs official employed by which is acknowledged as unlawful shall take an action for implementation of the decision of a customs authority to satisfy the appeal of the decision, actions (inaction) of the customs authority or of the customs official, within a period of 5 days from the day the decision to satisfy the appeal is received by the customs authority the decision, actions (inaction) of which was acknowledged as unlawful, unless the decision to satisfy the appeal prescribes a different time limit for taking action for implementation of this decision.
5. When a customs official who is considering on behalf of the customs authority an appeal of a decision, actions (inaction) of a customs authority or of a customs official detects signs indicating that a customs official is guilty of non-fulfillment or of improper fulfillment of his/her official duties, the customs official considering the appeal shall take measures to subject the official guilty of non-fulfillment or of improper fulfillment of his/her official duties to a disciplinary action in compliance with the established procedures.
5. Within the time limit stipulated by Article 55 of this Code, a copy of the decision made as a result of consideration of the appeal of a decision, actions (inaction) of a customs authority or of a customs official shall be forwarded to the appellant.
4. A decision of a customs authority on an appeal of a decision, actions (inaction) of a customs authority or of a customs official may be appealed to a superior customs authority or in court or economic court.

**Article 57**

**Simplified Procedures for Appealing Decisions, Actions (Inaction) of a Customs Official**

1. A decision, actions (inaction) of an official of a custom-house or of a customs post may be appealed under simplified procedures in cases when the value of goods conveyed across the customs border does not exceed an equivalent to 400 times the amount of the minimum monthly wage.

2. The simplified procedure for appealing a decision, actions (inaction) of a customs official shall mean a verbal appeal by a person to a superior official of a custom-house or of a customs post respectively, and in cases of appealing a decision, actions (inaction) of the head of a customs post – to the head of a custom-house in the area of jurisdiction of which this customs post is located.
3. An appeal of a decision, actions (inaction) of a customs official under simplified procedures shall be subject to immediate consideration and a decision thereupon shall be made without delay.
4. When appealing a decision, actions (inaction) of a customs official under simplified procedures, upon request of the appellant an official of the customs authority considering the appeal shall draw up a statement of consideration of the appeal under simplified procedures, stating information on the customs official considering the appeal and on the appellant as well as a brief description of the appeal and the decision made thereon. In case of refusal to consider an appeal against a decision, actions (inaction) of a customs official under simplified procedures, the reasons for such refusal shall be stated in the statement. The authorized body on customs affairs shall establish the format of the statement. The statement of consideration of an appeal of a decision, actions (inaction) of a customs official under simplified procedures shall be signed by the official of the customs authority considering the appeal and by the appellant. A copy of the statement of consideration of an appeal against a decision, actions (inaction) of a customs official under simplified procedures shall be handed to the appellant.
5. Consideration of an appeal against a decision, actions (inaction) of a customs official under simplified procedures and making a decision thereon shall not serve as an obstacle for filing an appeal of the decision, actions (inaction) of a customs authority or of a customs official in compliance with the general rules.

## **SECTION II CUSTOMS PROCEDURES**

### **SUB-SECTION 1 CUSTOMS CLEARANCE**

## **C H A P T E R 8 BASIC PROVISIONS PERTAINING TO CUSTOMS CLEARANCE**

### **Article 58 Scope of Application of this Chapter**

The provisions of this Chapter shall apply to all customs operations performed with regard to goods and means of transport conveyed across the customs border.

### **Article 59 Procedure for Conducting Customs Clearance**

1. Customs clearance shall be conducted in compliance with the procedure determined by this Code, by other normative legal acts of the Republic of Tajikistan adopted in compliance with this Code.
2. Requirements of customs bodies when conducting customs clearance must be justified and limited to the requirements set forth in compliance with this Code and necessary for ensuring compliance with the customs legislation of the Republic of Tajikistan.
3. The procedure and the technologies of customs clearance shall be established depending on the kinds of goods conveyed across the customs border, the type of transport used for their conveyance, and the category of persons conveying the goods and means of transport.
4. Customs operations shall be applied equally to all goods regardless of the country of their origin, the country of departure and destination.

### **Article 60 Commencement and Termination of Customs Clearance**

1. Customs clearance of goods and vehicles shall commence:
  - 1) when importing goods – at the moment of submission of a preliminary customs declaration or documents to the customs bodies in compliance with Article 72 of this Code (depending on which action is performed earlier), and in cases stipulated by this Code – at the moment of a verbal

declaration or performance of other actions proving the intent of the person to clear goods from customs

2) when exporting goods – at the moment of submission of the customs declaration, and in cases stipulated by this Code – at the moment of a verbal declaration or performance of other actions proving the intent of the person to clear goods from customs.

2. Customs clearance shall be terminated after customs operations have been carried out which are required in compliance with this Code for application of customs procedures to goods, for placement of goods under a customs regime or for ending the term of a customs regime if this customs regime is valid for a certain time period, and for calculating and levying customs payments.

#### **Article 61**

##### **Permission of the Customs Authorities for the Performance of Customs Operations**

1. If a permission from the customs bodies is required for the performance of certain customs operations, such a permission shall be issued immediately after the authorized customs official makes sure that the conditions required for obtaining such a permit set forth by this Code are met, within a period of time not exceeding the time limit for checking the customs declaration and other documents and for inspecting goods (Paragraph 1 of Article 400).

If checking compliance with the terms and conditions for giving permission and for issuing a permit of the customs bodies for the performance of customs operations may be completed after the permit has been issued without detriment to exercising customs control and if, in case of non-compliance with these terms and conditions which is detected later, violations of the customs legislation of the Republic of Tajikistan may be eliminated, then a permit of the customs bodies for performance of customs operations shall be issued prior to conducting such an inspection.

2. If this Code stipulates that permission of customs bodies for performance of customs operations is to be given by the customs bodies in writing, the procedure for issuance of such a permit and the format of the permit shall be established by the authorized body on customs affairs.

3. Taking by a customs body appropriate actions shall serve as a permission of a customs body.

#### **Article 62**

##### **Location and Time for Performing Basic Customs Clearance Operations for Goods**

1. Customs clearance of goods shall be performed in the places where the customs bodies are located and within their official business hours.

2. Upon a well-reasoned request by the declarant or by another person concerned, when clearing goods from customs, certain customs operations may be performed outside locations designated for these purposes, and outside of the official business hours of customs bodies, in compliance with Articles 465 and 466 of this Code.

#### **Article 63**

##### **Documents and Data Required for Customs Clearance**

1. When undergoing customs clearance, persons defined by this Code, shall be obliged to submit to customs bodies the documents and data required for the purposes of customs clearance.

When clearing goods customs bodies shall be entitled to demand submission of only those documents and data which are necessary for ensuring compliance with the customs legislation of the Republic of Tajikistan and presentation of which is stipulated in accordance with this Code.

2. Lists of documents and data, requirements set forth to the data, which are necessary for customs clearance and applicable to specific customs procedures and customs regimes, shall be established by the authorized body on customs affairs in compliance with this Code. At the same time the authorized body on customs affairs shall be entitled to shorten the lists of documents and data required for customs clearance established by this Code, considering the category of persons conveying goods and means of transport, types of goods, the purposes of using goods, requirements of customs regimes or depending on the type of transport used for the conveyance of goods across the customs border. The time limit for submission of documents and data required for customs clearance shall be established by the authorized body on customs affairs, unless otherwise established by this Code.

3. Lists of documents and data required for customs clearance shall be subject to official promulgation. Normative legal acts of the authorized body on customs affairs which establish lists of documents and data required for customs clearance shall come into effect in accordance with Article 4 of this Code.
4. The format of customs documents shall be determined by the authorized body on customs affairs, unless otherwise established by this Code and other normative legal acts of the Republic of Tajikistan.
5. In order to simplify and to expedite the course of customs clearance, the authorized body on customs affairs shall conclude agreements with the customs bodies of foreign countries on mutual recognition of documents used for customs purposes.
6. Customs bodies shall not be authorized to refuse to accept documents required for customs clearance because of minor inaccuracies that do not alter the main information stated in the documents for determining the amount of customs payments, and do not affect decisions made by the customs bodies with regard to the application of prohibitions and restrictions established in compliance with normative legal acts of the Republic of Tajikistan. In case of refusal by a customs authority to accept the said documents this customs authority shall notify the person, which submitted these documents, of the reasons for refusal. Upon this person's request the customs authority shall give the said notification in writing.
7. Documents required for customs clearance may be submitted in the original or in photocopy certified either by the person/entity submitting them, by the declarant or by the authorized bodies, which issued such documents, or officially certified by the notary. When submitting photocopies of the said documents certified either by the person/entity who/which submitted them or by the declarant, the customs bodies in case of need shall check conformity of photocopies of these document to their originals, and then shall return the original documents to the person/entity who/which presented them.
8. Documents required for customs clearance may be submitted to customs electronically in compliance with this Code.

#### **Article 64**

#### **Presence of the Persons Concerned and their Representatives When Conducting Customs Clearance**

Persons authorized with regard to goods shall have the right and upon the demand of the customs bodies shall be obliged to be present during customs clearance.

#### **Article 65**

#### **The Language Used in the Course of Customs Clearance**

Customs clearance, including filling out documents required for customs clearance, shall be conducted in the state language or in the language of inter-ethnic communication, except in cases stipulated by this Code. The authorized body on customs affairs shall be entitled to define other cases in which customs authorities may accept and use for customs purposes documents and data filled out in foreign languages which are known and understood by customs officials.

#### **Article 66**

#### **Customs Clearance and Control by Other Government Agencies**

Customs clearance may be completed only after exercising sanitary-quarantine, quarantine phyto-sanitary, veterinary and other types of state control over import of goods into the customs territory of the Republic of Tajikistan or their export from this territory, provided that goods are subject to such control in compliance with the legislative acts of the Republic of Tajikistan and with other normative legal acts of the Republic of Tajikistan, considering the provisions of Paragraph 3 of Article 77 of this Code.

#### **Article 67**

#### **Priority Order for Customs Clearance**

When importing onto the customs territory of the Republic of Tajikistan and exporting from this territory, goods required for liquidation of consequences of natural calamities, accidents and disasters, as well as perishable goods, live animals, radio-active materials, international mail and express cargoes, information and other materials for mass media, intended for the use by supreme government

agencies, and other similar goods shall be cleared from customs under simplified procedures and in the priority order.

**Article 68**  
**Special Simplified Procedures of Customs Clearance for Certain Persons**

1. The authorized body on customs affairs shall establish special simplified procedures for customs clearance for the following persons:

1) persons against which there are no resolutions on the cases of administrative violations in the area of customs affairs which have entered into force but unexecuted as of the day of the application of these persons to customs bodies for application of special simplified procedures.

persons who as of the day of their application to the customs bodies do not use special simplified procedures and no resolutions on cases of administrative violations in the area of customs affairs have come into effect but have not been implemented

2) persons maintaining the system of record-keeping and registration of their commercial documentation using the procedures established by the authorized body on customs affairs in such a way that allows the customs bodies to compare information contained in the system with data submitted to the customs bodies in the course of customs clearance of goods

3) persons carrying out external economic activity for at least three years.

2. A person/entity applying for special simplified procedures of customs clearance shall file a written application with the customs bodies requesting application of special simplified procedures of customs clearance. The application shall contain information on the applicant and his/her external economic activity. The applicant shall be obliged to provide a written commitment to maintain the system of record-keeping and registration of his/her commercial documentation in such a way that allows that customs bodies to compare data contained in this system with information submitted to the customs bodies in the course of customs clearance of goods, as well as a written commitment to provide access of customs officials to the said system of record-keeping and registration.

3. Special simplified procedures of customs clearance shall be applicable to persons importing goods onto the customs territory of the Republic of Tajikistan, and may envisage submission of a periodic customs declaration (Article 136), release of goods on presentation of data required for identification of goods (Article 150), conducting customs clearance in places of location of such persons, storage of goods in their own warehouses, and other simplified procedures stipulated by this Code.

4. Special simplified procedures of customs clearance may not contain any provisions that exempt persons from the requirement to comply with regulations and conditions set forth by this Code and by other normative legal acts of the Republic of Tajikistan, in terms of completeness and timeliness of payment of customs levies, observance of prohibitions and restrictions established in compliance with normative legal acts of the Republic of Tajikistan, as well as from the requirement to observe customs regimes.

**CHAPTER 9**  
**ENTRY OF GOODS TO THE CUSTOMS TERRITORY OF THE REPUBLIC OF TAJIKISTAN**

**Article 69**  
**Location and Time of Entry of Goods and Means of transport into the Customs Territory of the Republic of Tajikistan**

1. Delivery of goods and vehicles to the customs territory of the Republic of Tajikistan shall be allowed at checkpoints at the national frontier of the Republic of Tajikistan established in compliance with the legislation of the Republic of Tajikistan, during the official business hours of the customs bodies (Article 466). In other places goods and means of transport may arrive into the customs territory of the Republic of Tajikistan in compliance with normative legal acts of the Republic of Tajikistan.

The Government of the Republic of Tajikistan shall be entitled to establish checkpoints at the national border of the Republic of Tajikistan for delivery of certain categories of goods to the customs territory of the Republic of Tajikistan.

2. After crossing the customs border the carrier shall be obliged to deliver goods and means of transport imported to the admission checkpoint or places specified in Paragraph 1 of this Article (points of delivery), and to present them to the customs bodies. Altering the condition of goods or

breaking the integrity of their packaging at that, as well changing, removal, destruction or damaging seals, stamps and other means of identification put on goods or attached to them shall not be permitted.

3. The customs bodies shall be obliged to provide information in a common language about admission checkpoints at the national border of the Republic of Tajikistan, restrictions imposed thereupon, and about the official business hours of the customs bodies.

4. The provisions of this Article shall not be applicable to goods conveyed by marine, internal water vessels and aircraft crossing the customs border of the Republic of Tajikistan without stopping at a port or airport located on the customs territory of the Republic of Tajikistan.

#### **Article 70**

##### **Measures to Take in Case of Accident, Force Majeure and Other Circumstances**

1. In cases when delivery of goods from the point of crossing the customs border to the point of delivery is interrupted, as well as when a marine, internal water vessel or aircraft force-lands on the customs territory of the Republic of Tajikistan due to accident, force majeure or other circumstances impeding delivery of goods or landing at designated locations, the carrier shall be obliged to take all measures to ensure the safety of goods and vehicles, to report the circumstances and location of the goods to the nearest customs authority immediately thereon, and to transport the goods or to make arrangements for their transportation (if the carrier's vehicle is damaged) to the nearest customs authority or to another location specified by the customs authority.

2. The customs authorities shall not reimburse expenses borne by carriers or by other persons as a result of fulfillment of the requirements of this Article.

#### **Article 71**

##### **Prior Notification of the Customs Bodies on Delivery of Goods and Vehicles into the Customs Territory of the Republic of Tajikistan**

Administration of a checkpoint at the national frontier of the Republic of Tajikistan (management of an airport, airdrome, river port, railway station, or station) shall notify the customs bodies on the location and time of arrival of vehicles to the check-point of admission via the national frontier of the Republic of Tajikistan in advance, using the procedures agreed upon by the administration of the said check-point of admission and by the customs bodies in compliance with normative legal acts of the Republic of Tajikistan.

#### **Article 72**

##### **Submission of Documents and Data upon Delivery of Goods and Means of transport into the Customs Territory of the Republic of Tajikistan**

1. Upon delivery of goods and means of transport to the customs territory of the Republic of Tajikistan the carrier shall be obliged to submit documents and data stipulated by Articles 73 - 76 of this Code to the customs bodies, depending on the type of transport used for the international transportation.

The authorized body on customs affairs shall be entitled to shorten lists of data stipulated by Articles 73 - 76 of this Code. The customs bodies shall not be entitled to demand presentation of other information from the carrier.

If documents stipulated by Articles 73 - 76 of this Code do not contain all the necessary information, the carrier shall be obliged to provide the lacking information to the customs bodies by way of presenting other documents available with the carrier or additional documents drawn up by the carrier in an arbitrary form.

2. The carrier shall be entitled to submit documents and data to the customs bodies prior to the actual delivery of goods and means of transport to the customs territory of the Republic of Tajikistan.

3. The carrier shall be entitled to submit documents (part of documents) electronically in compliance with this Code and using the procedures established by the authorized body on customs affairs.

4. When the carrier submits documents made in foreign languages, in case of need the customs bodies shall be entitled to demand translation to the state language or language of international communication of only those information, which are stipulated by Articles 73 - 76 of this Code.

5. On behalf of the carrier documents and data may be submitted by any other person/entity acting on his/her/its behalf.

**Article 73**  
**Documents and Data Presented During International**  
**Transportation by Motor Transport**

1. During international transportation by motor transport the carrier shall provide the following information to the customs bodies:
  - 1) information on the state registration of the vehicle
  - 2) the name and address of the carrier of goods
  - 3) the name of the country of departure and the country of destination of goods
  - 4) the name and address of the consignor and the consignee of goods
  - 5) information on the seller and the buyer of goods in compliance with commercial documents available with the carrier
  - 6) information on the number of cargo items, their marking and the types of packaging of goods
  - 7) the names and codes of goods in compliance with international requirements to commodity description and encoding on the level of at least the first four digits
  - 8) gross weight of cargoes (in kilograms) or the volume of goods (in cubic meters), except for large-size cargoes
  - 9) information on the availability of goods prohibited or restricted for importation onto the customs territory of the Republic of Tajikistan
  - 10) information on the place and date of making the international invoice and motor waybill.
2. The carrier shall provide information specified in Paragraph 1 of this Article by way of submitting the following documents to the customs bodies:
  - 1) documents for the vehicle
  - 2) international invoice and motor waybill
  - 3) commercial documents for the carried goods available with the carrier.

**Article 74**  
**Documents and Data Presented during International Transportation by Marine and (or)**  
**Internal Water Transport**

1. During international transportation by marine and (or) internal water transport the carrier shall provide the following information to the customs bodies:
  - 1) information on registration of a vessel and on its national identity
  - 2) the name and description of the vessel
  - 3) the family name of the captain
  - 4) the family name and address of a ship agent
  - 5) information on the number of passengers on the vessel, their first names, family names, nationality (citizenship), dates and places of birth, the name of the port of boarding and disembarkation
  - 6) information on the quantity and composition of crew members
  - 7) the name of the port of departure and the port of call of the vessel
  - 8) the names, total quantity and description of goods
  - 9) information on the number of cargo items, their marking and the types of packaging of goods
  - 10) the names of the port of loading and the port of discharge of goods
  - 11) numbers of consignments or other documents confirming the availability and the content of a marine/internal water transportation agreement for goods subject to discharge in this port
  - 12) the names of ports of discharge of goods remaining onboard the vessel after discharge in this port
  - 13) the names of initial ports of departure of goods
  - 14) the name of vessel stores and supplies available on the vessel and their quantity
  - 15) description of placement of goods on the vessel
  - 16) information on the presence (absence) of international mail items onboard a vessel
  - 17) information on the presence (absence) of goods prohibited or restricted for importation into the customs territory of the Republic of Tajikistan onboard a vessel, including the national currency of the Republic of Tajikistan and hard currency values available with crew members, medications containing narcotic substances, strong medicines, psychotropic and poisonous substances
  - 18) information on the presence (absence) onboard a vessel of dangerous goods, including firearms and ammunition.
2. The carrier shall provide information specified in Paragraph 1 of this Article by way of submitting the following documents to the customs bodies:
  - 1) general declaration

- 2) cargo declaration
- 3) declaration of vessel stores and supplies
- 4) declaration of personal belongings of the crew members
- 5) the vessel role
- 6) the list of passengers
- 7) the document prescribed by the World Postal Convention
- 8) consignments or other documents confirming the existence and the content of an agreement for marine/internal water transportation.

**Article 75**  
**Documents and Data Presented during International**  
**Transportation by Air Transport**

1. During international transportation by air transport the carrier shall provide the following information to the customs bodies:

- 1) indication of signs of national identity and registration marks of a vessel
- 2) the flight number, the track, ports of departure and destination of the vessel
- 3) the name of the user/operator of the vessel
- 4) information on the quantity of crew members
- 5) information on the number of passengers onboard, their family names and initials, names of their places of boarding and disembarkation
- 6) specification of types of goods
- 7) the number of airway bill, the quantity of places (cargo items) on each airway bill
- 8) names of places of loading and unloading of goods
- 9) information on the quantity of in-flight stores (supplies) loaded onto the vessel or unloaded from it
- 10) information on the presence (absence) of international mail items onboard the vessel
- 11) information on the presence (absence) of goods prohibited or restricted for importation into the customs territory of the Republic of Tajikistan onboard the vessel, including the national currency of the Republic of Tajikistan and hard currency values available with the crew members, medications containing narcotic substances, drastic medicines, psychotropic and poisonous substances, firearms and ammunition.

2. The carrier shall be obliged to provide information specified in Paragraph 1 of this Article by way of submitting the following documents to the customs bodies:

- 1) a standard document of a carrier envisaged by international agreements in the sphere of civil aviation (a general declaration)
- 2) a document containing information on goods carried onboard the air vessel (cargo register)
- 3) a document containing information on in-flight stores (supplies) onboard a vessel
- 4) air waybills
- 5) a document containing information on passengers traveling onboard a vessel and information on their luggage (passenger register)
- 6) a document prescribed by the World Postal Convention.

**Article 76**  
**Documents and Data Presented during International**  
**Transportation by Railway Transport**

1. During international transportation by railway transport the carrier shall provide the following information to the customs bodies:

- 1) the name and address of the consignor of goods
- 2) the name and address of the consignee of goods
- 3) the name of the station of departure and destination of goods
- 4) information on the quantity of cargo items, their marking and the types of packaging of goods
- 5) the names and codes of goods in compliance with the Harmonized System of Commodity Description and Encoding or with the External Economic Activity Commodity Nomenclature on the level of at least the first four digits
- 6) gross weight of cargoes (in kilograms)
- 7) identification numbers of containers.

2. The carrier shall provide information specified in Paragraph 1 of this Article by way of submitting the following documents to the customs bodies:

- 1) bill of lading
- 2) commercial documents for the carried goods available with the carrier.

#### **Article 77**

#### **Operations with Goods and Vehicles at the Point of Delivery**

1. Upon delivery of goods and submission of the appropriate documents and data to the customs bodies accordingly, the goods may be unloaded or reloaded (Article 78), placed to temporary storage warehouse (Chapter 12), declared for a certain customs regime or to internal customs transit (Chapter 10).
2. Goods shall acquire the status of goods placed for temporary storage starting from the moment of their presentation at the place of delivery. Upon expiry of the maximum time limit for temporary storage (Article 103) the customs bodies shall dispose of these goods in compliance with Chapter 57 of this Code.
3. When checking goods the importation of which to the Republic of Tajikistan is prohibited or restricted in compliance with normative legal acts of the Republic of Tajikistan, and when ensuring compliance with the prohibitions and restrictions also lies within the competence of other government agencies, the customs bodies shall ensure coordination of such activities and their simultaneous execution.
4. Vehicles shall be subject to customs clearance in compliance with Chapter 36 of this Code.

#### **Article 78**

#### **Unloading and Reloading (Transshipment) of Goods at the Point of Delivery**

1. Goods shall be unloaded and reloaded (transferred) from a vehicle, which arrived to the customs territory of the Republic of Tajikistan, at the point of delivery and during the official business hours of the customs bodies in areas specially designated for these purposes.  
Goods may be unloaded and reloaded (transferred) in other places and (or) outside of the established business hours of the customs bodies only with permission of the customs bodies, which may be granted on request of the person concerned in compliance with Articles 465 and 466 of this Code.
2. Areas of unloading and reloading (transfer) of goods shall be the customs control zones. The said areas must be designed and equipped in such a way as to ensure safety of goods and to exclude the possibility of access to them by persons who do not take part in the performance of cargo operations.
3. Upon request of the person/entity performing cargo operations with goods in a river port, the goods may be located in areas of unloading, reloading (transfer) without placement in temporary storage areas, for the period of time required to perform the said cargo operations, but not exceeding the time limit established in compliance with Article 103 of this Code.
4. In the event of loss of goods or transfer of goods to third parties without the permission of customs bodies, the person/entity performing cargo operations shall be responsible for payment of customs duties and taxes in compliance with this Code.
5. Unloading of goods prohibited for importation in the Republic of Tajikistan in compliance with normative legal acts of the Republic of Tajikistan shall be prohibited.

### **CHAPTER 10**

### **INTERNAL CUSTOMS TRANSIT**

#### **Article 79**

#### **Internal Customs Transit**

1. 'Internal customs transit' shall mean the customs procedure when foreign goods are conveyed through the customs territory of the Republic of Tajikistan without payment of customs duties and taxes and without imposition on them of economic prohibitions and restrictions established in compliance with normative legal acts of the Republic of Tajikistan.
2. Internal customs transit shall be employed when transporting goods from the point of their delivery to the location of the customs point of destination (Article 92), from the place of location of goods at the moment of their declaration to the place of their exportation from the customs territory of the Republic of Tajikistan, between temporary storage warehouses, bonded warehouses, as well as in other cases of transportation of foreign goods through the customs territory of the Republic of Tajikistan if no security is provided for payment of customs levies for the goods.

3. The provisions of this Chapter shall not be applicable to goods conveyed by air transport, provided that an air vessel when making a regular international flight at the point of delivery of goods comes in the land as a via point on the way to destination port or is forced to land for technical reasons without partial discharge of goods, as well as to the goods conveyed by pipelines and electric power lines.

4. Any carrier, including the customs carrier, may transport goods under the domestic customs transit procedure.

## **Article 80**

### **Permit for Internal Customs Transit**

1. The internal customs transit shall be allowed with the written permission of the customs body in the region of the activities of which the conveyance of goods is started in accordance with the customs procedure of the internal customs transit (customs body of departure).

2. The permit for internal customs transit shall be issued to the following persons:

1) carrier

2) freight forwarder if he (she) is a domestic person

3) persons mentioned in paragraph 6 of this Article

3. The permit for internal customs transit shall be issued in fulfilment of the following requirements:

1) if the importation of goods to the Republic of Tajikistan is not prohibited in accordance with normative legal acts of the Republic of Tajikistan

2) if with respect to imported goods the border control and other types of state control at the place of their arrival have been conducted when goods are subject to such control in accordance with normative legal acts of the republic of Tajikistan at the place of their arrival

3) if permissions and (or) licenses are provided with respect to goods in case when the conveyance of these goods on the customs territory of the Republic of Tajikistan is allowed with these permissions and (or) licenses according to normative legal acts.

4) If a transit declaration (Article 81) with respect to goods is submitted

5) If a vehicle is equipped properly in the case when goods are transferred with customs seals and stamps (Article 84)

6) If the identification of goods is provided (Article 86)

7) If measures to ensure the compliance with customs legislation of the Republic of Tajikistan (Article 86) are taken

3. The permit for internal customs transit shall be issued upon the submission of goods to the customs body of departure immediately after the customs body verified the fulfilment of provisions established by paragraph 3 of this Article but not later than 24 hours from the date of acceptance of the transit declaration (Article 81). The transit declaration shall be accepted by a customs body within 30 minutes, if it meets all established requirements.

When issuing a permit for internal customs transit the customs body of departure shall establish a time limit for internal customs transit (Article 82) and determine the place of delivery of goods (Article 85).

4. The authorised body on customs affairs shall be entitled to adopt decisions on non-admission of a carrier and a freight forwarder to internal customs transit who repeatedly failed to fulfil obligations on conveyance of goods in accordance with internal customs transit that was established by effective resolutions on imposition of an administrative penalty on the matters of administrative violations in the area of customs affairs as if at least one of the said resolutions is not fulfilled or this carrier or freight forwarder has not fulfilled an obligation on payment of customs duties and taxes in accordance with Article 90 of this Code. The said decision shall be cancelled within five days after the payment of the administrative penalty and also the payment of customs duties and taxes in accordance with Article 90 of this Code about which the carrier or a freight forwarder with respect to which this decision is taken shall be notified in written form within the said time limit.

5. When conveying goods under the internal customs transit to the place of delivery

(Article 85) not being a location of the customs body, a permit for internal customs transit shall be issued to the person who will provide the storage of goods or performing other operations with goods in accordance with this Code in the place of delivery. In this case the said person shall fulfil obligations and shall bear responsibility which are determined by this Chapter for a freight forwarder given the provisions of paragraph 5 of Article 92 of this Code.

6. If a permit for internal customs transit may not be issued as a result of non-fulfilment of provisions established by points 1-2 of paragraph 3 of this Article, the customs body shall have the right to allow the conveyance of goods to the temporary storage warehouse or other places

which are not zones of customs control provided that the means of transport on which the goods are transported are escorted by customs.

Note:

1. For the purpose of application of this Chapter means of transport also include a vehicle on which goods are transported on the customs territory of the Republic of Tajikistan.
2. For the purposes of application of this Chapter a freight forwarder is a person acting on the basis of a contract of transport freight in accordance with civil legislation of the Republic of Tajikistan.

### **Transit declaration**

1. The customs body of departure shall use as a transit declaration any commercial, transport (shipment) documents and (or) customs documents containing the information said in Paragraph 2 of this Article.
2. To obtain a permit for internal customs transit a carrier (freight forwarder) shall submit to the body of departure the following information:
  - 1) name and location of a consignor (consignee) of goods in accordance with shipment documents
  - 2) about the country of departure (country of destination) of goods
  - 3) name and location of a carrier of goods or a freight forwarder if a freight forwarder obtains a permit for internal customs transit
  - 4) on means of transport on which goods are conveyed on the customs territory of the Republic of Tajikistan and in case of transportation by motor vehicles – also the information on the driver
  - 5) on types and names, quantity and value of goods in accordance with commercial, transport (shipment) documents, weight and volume, codes of goods under the Harmonized System of description and coding of goods and Commodity Nomenclature of Foreign Economic Activities on the level of first four digits
  - 6) on the total number of quantity of shipment places
  - 7) on the point of destination of goods
  - 8) on a planned transshipment of goods and other shipment operations on the way
  - 9) on the planned time limit of transformation of goods (Article 82)
  - 10) on the route if the transportation of goods shall be carried out under definite routes (Paragraph 3 of Article 86)
3. The authorized body on customs affairs shall have the right to reduce the list of information shown in Paragraph 2 of this Article taking into account the categories of persons conveying goods and means of transport, types of goods and also based on the mode of means of transport.
4. If documents submitted in accordance with Paragraph 1 of this Article do not contain all information said in Paragraph 2 of this Article, these information shall be provided additionally by including missing information in written form into the transit declaration. The form of a transit declaration and the procedure for its drawing up shall be established by the authorized body on customs affairs.
5. The customs body shall have no right to demand from the carrier or a freight forwarder the submission of other information except for the information said in Paragraph 2 of this Article.
6. A customs official shall make a note of acceptance of the documents submitted in accordance with Paragraph 1 of this Article as a transit declaration on such documents in the form and in the procedure which shall be established by the authorized body on customs affairs.
7. A transit declaration may be submitted electronically. Procedure for submitting a transit declaration electronically and the procedure for using it during internal customs transit shall be established by the authorized body on customs affairs, in compliance with this Code.
8. In cases stipulated by international legal acts ratified by the Republic of Tajikistan, the documents specified by such acts shall be used as a transit declaration.

### **Article 82**

#### **Time Limit for Internal Customs Transit**

1. The time limit for internal customs transit may not exceed the period of time calculated on the basis of the rate of 2000 kilometers per month in case of conveyance by motor and railway transport, and in

case of conveyance by air transport this time limit may not exceed three days from the day of obtaining a permission for internal customs transit.

2. When getting permission for internal customs transit the time limit for internal customs transit shall be determined by the customs point of departure within the range of time period established by Paragraph 1 of this Article, based on the application of a carrier (freight-forwarder), the normal time period for transportation of goods, type of transport and the capacity of a vehicle, its itinerary and other transport conditions.

3. Upon a justified request of the person concerned the customs bodies shall extend the established time limit for internal customs transit within the period of time established by Paragraph 1 of this Article. In case a carrier when transporting goods under the internal customs transit procedure is unable to deliver goods within the initially established time limit as a result of an accident or force majeure, with permission from the customs bodies given in written form the time limit for internal customs transit may be extended for a period of time exceeding the maximum time limit established by Paragraph 1 of this Article.

### **Article 83** **Ensuring Identification of Goods and Documents thereon**

1. The customs body of departure shall identify goods conveyed under the internal customs transit procedure to ensure the possibility of detection by the customs point of destination (Paragraph 1 of Article 92) of traces of withdrawal of goods, adding goods into the vehicle or performing any other operations with goods, if the said operations may have been performed during transportation of these goods under the internal customs transit procedure.

2. The customs bodies shall be entitled to use the following means for the purpose of identification of goods:

- 1) putting customs seals and stamps onto a vehicle, container or a detachable body
- 2) digital, alphabetic or other marking, putting identification marks, putting seals and stamps on certain cargo items and packages
- 3) affixing or punching stamps
- 4) taking samples and specimens of goods
- 5) description of goods and vehicles
- 6) use of sketches, scale drawings, photographs, video recordings, illustrations
- 7) use of sketches, scale drawings, photographs, video recordings, illustrations made by customs officials
- 8) other means allowing to identify goods, including stamps of the sender of goods.

3. Goods shall be identified by way of putting customs seals and stamps on a vehicle, container or a detachable body, provided that the terms and conditions set forth by Article 84 of this Code are complied with.

In other cases goods shall be identified using other means specified in Paragraph 2 of this Article.

4. The customs bodies shall recognize customs seals, stamps or other means of identification used by customs bodies of foreign countries, except in the following cases when:

- 1) customs seals, stamps or other means of identification are considered by the customs point of departure as insufficient or unreliable in compliance with the criteria determined by Paragraph 1 of Article 84 of this Code
- 2) the customs body of departure performs the customs examination of goods.

If customs bodies recognize customs seals and stamps or other means of identification put by customs bodies of foreign countries, then the same prohibitions imposed in compliance with this Code for changing, removal, destruction or damaging the customs seals, stamps and other means of identification put by the customs bodies of the Republic of Tajikistan shall also apply to them.

5. For customs purposes the customs bodies shall identify transportation (conveyance) documents as well as commercial documents for goods available with the carrier.

The customs bodies shall be entitled to use the following means for the purpose of identifying documents:

- 1) putting seals and stamps on the documents
- 2) sticking special stickers, special safety protection devices
- 3) placement of documents required for customs purposes to cargo compartments of vehicles, containers or detachable bodies, on which customs seals and stamps are then affixed
- 4) placement of documents required for customs purposes to safe packages.

**Article 84**  
**Equipping Means of Transport, Containers and Detachable Bodies when Conveying Goods under Customs Seals and Stamps**

1. Vehicles, containers or detachable bodies may be allowed for transportation of goods under customs seals and stamps provided that the customs seals and stamps may be affixed directly onto the vehicles, containers or detachable bodies which are designed, constructed and equipped in such a way as to:

- 1) allow for the affixation of customs seals and stamps in an easy and reliable way
- 2) prevent the opportunity to take goods out of the sealed section of a cargo compartment of a vehicle or to add goods into it without leaving any visible traces of unsealing the cargo compartment of a vehicle or of breaking or damaging the customs seals and stamps
- 3) ensure the absence of hidden places to conceal goods in a vehicle and in its cargo compartments
- 4) provide for easy access to all places where goods may be located, for customs inspection.

2. A vehicle, container or a detachable body shall be considered as meeting the requirements set forth for them by Paragraph 1 of this Article, provided that the vehicle, container or a detachable body comply with the technical standards and requirements established by the authorized body on customs affairs.

3. When a vehicle, container or a detachable body were not approved for transportation of goods under customs seals and stamps in advance, the customs body of departure shall make a decision on approving the vehicle, container or the detachable body for transportation under customs seals and stamps.

The customs body of departure shall make this decision on the day of application for it by a the person concerned.

4. Compliance of a vehicle, container or a detachable body with the requirements specified in Paragraphs 1 and 2 of this Article may be confirmed in advance by way of obtaining a certificate of approval of the vehicle, container or the detachable body for transportation of goods under customs seals and stamps.

The certificate of approval of a vehicle, container or a detachable body for transportation of goods under customs seals and stamps may be issued:

- 1) based on an individual application
- 2) depending on the type of design and technical construction (series) of vehicles, containers or detachable bodies.

The certificate of approval of a vehicle, container or a detachable body for transportation of goods under customs seals and stamps shall be issued by customs bodies upon the request of the person concerned for it within a period of time not later than five days after the day of receipt of the application. The certificate shall be valid until any changes occur to the technical design and technical construction of a vehicle, container or a detachable body.

When the rights of ownership/property of a vehicle, container or a detachable body are transferred to another person/entity, the certificate of approval of the vehicle, container or the detachable body for transportation of goods under customs seals and stamps shall retain its validity.

The format of the certificate of approval of a vehicle, container or a detachable body for transportation of goods under customs seals and stamps as well as the procedures for its issuance shall be established by the authorized body on customs affairs.

5. The customs bodies shall not require advance approval of a vehicle, container or a detachable body for transportation of goods under customs seals and stamps, except in cases when:

- 1) goods are transported by a customs carrier (Chapter 11)
- 2) advance approval is envisaged by international legal acts ratified by the Republic of Tajikistan.

**Article 85**  
**Point of Delivery of Goods Under the Internal Customs Transit Procedure**

1. The point of delivery of goods under the internal customs transit shall be established by the customs point of departure based on information on the point of destination specified in transportation (conveyance) documents. The customs control zone located in the area of activities of the customs point of destination shall be the point of delivery of goods (Paragraph 1 of Article 92). Goods transported from the point of their delivery (Article 69) hereto shall be conveyed to the location of the customs bodies (Article 464).

2. In case of change of the point of destination in compliance with legislation of the Republic of Tajikistan in the sphere of transport under the domestic customs transit procedure the carrier shall be

entitled to apply to the customs bodies with a request to change the point of delivery of goods. In this case the carrier shall submit an application regarding the change of the point of destination to any customs bodies located on the way of his/her/its itinerary, drawn up in an arbitrary form, together with documents confirming the change of the point of destination and documents stipulated by Paragraph 3 of Article 92 of this Code.

The customs bodies shall make a decision on changing the point of delivery of goods within a period of time not later than the day following the day of receipt of the relevant application and documents specified in the first paragraph of this Paragraph. This decision shall be made out by way of terminating the domestic customs transit procedure with regard to goods the point of delivery of which was changed, and by issuance of a new permit for domestic customs transit (Article 80). The new permit for domestic customs transit shall be issued on the day when the decision to change the point of delivery of goods was made.

#### **Article 86**

#### **Measures for Ensuring Compliance with Customs Legislation of the Republic of Tajikistan Under the Internal Customs Transit Procedure**

1. Transportation of goods and means of transport in compliance with the internal customs transit procedure shall be permitted provided that the following conditions are met:

- 1) if goods are not prohibited for importation into the customs territory of the Republic of Tajikistan or from exportation from the customs territory of the Republic of Tajikistan
- 2) if a transit declaration is made out in compliance with Article 81 of this Code
- 3) if one of the measures for ensuring delivery of goods and means of transport in compliance with Paragraph 2 of this Article is taken.

2. The following shall constitute measures for ensuring delivery of goods and means of transport under the internal customs transit procedure:

- 1) securing payment of customs levies and taxes by paying to the cash office of the customs authority
- 3) bank guarantee
- 4) conveyance of goods by a customs carrier
- 5) customs escort of goods
- 6) other measures stipulated by international legal acts ratified by the Republic of Tajikistan.

A person conveying goods and means of transport shall be entitled to choose any of the above-mentioned measures.

3. When conveying goods under the internal customs transit procedure by railway transport, the provisions of Paragraph 2 of this Article shall not apply.

4. Measures for ensuring delivery of goods and vehicles under the internal customs transit procedure shall not be applicable when conveying goods in compliance with international legal acts ratified by the Republic of Tajikistan, by air transport and customs carriers.

5. The list of goods conveyed across the territory of the Republic of Tajikistan with mandatory security of payment of customs levies and taxes shall be made and approved by the Government of the Republic of Tajikistan.

6. In cases envisaged by normative legal acts of the Republic of Tajikistan, the Government of the Republic of Tajikistan shall be entitled to establish routes for transportation of certain categories of goods under the internal customs transit procedure. In other cases routes shall be determined for transportation of certain categories of goods, with regard to which frequent cases of violation of the customs legislation of the Republic of Tajikistan during their conveyance across the customs border have been registered, or prohibitions and restrictions are imposed with regard to such goods in compliance with normative legal acts of the Republic of Tajikistan. The carrier shall declare the route hereto. The route declared by the carrier shall be mandatory for him/her for transportation of goods. Change of the route shall be allowed only with the written permission of the customs body.

#### **Article 87**

#### **Customs Escort**

1. 'Customs escort procedure' shall mean the escort of means of transport conveying goods under the internal customs transit procedure by customs officials exclusively for the purpose of ensuring compliance with the customs legislation of the Republic of Tajikistan during internal customs transit.

2. The customs bodies shall be entitled to make a decision to use customs escort in the following cases:

- 1) when no security of payment of customs levies was provided in compliance with subparagraph 1 of paragraph 2 of Article 86 of this Code
  - 2) when conveying certain categories of goods defined based on the risk management and analysis system in compliance with this Code
  - 3) when the carrier at least once within a year since the day of application for permission for internal customs transit failed to deliver goods to the point of their delivery, which is confirmed by the resolution setting an administrative penalty for the case of administrative violation in the area of customs that has come into effect
  - 4) in case of re-exportation of goods which were delivered to the Republic of Tajikistan by mistake or goods prohibited for importation to the Republic of Tajikistan, provided that the point of the actual crossing of the customs border by these goods at their exportation does not coincide with the location of these goods
  - 5) in case of transportation of goods in compliance with Paragraphs 6 and 7 of Article 80 of this Code
  - 6) in case of transportation of goods with regard to which prohibitions and restrictions are imposed in compliance with normative legal acts of the Republic of Tajikistan.
5. Customs fees shall be charged for customs escort in the amount determined by government of the Republic of Tajikistan.

#### **Article 88**

#### **Obligations of a Carrier Under the Internal Customs Transit**

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

- 1) within the period of time established by the customs body of departure to deliver goods and documents for them to the point of delivery of goods, following certain routes if they are determined or declared
- 2) to ensure safety of goods, customs seals and stamps or other identification means, if used
- 3) prevent reloading, unloading, loading and other cargo operations with goods without permission of the customs bodies, except for transloading of goods to another vehicle in cases stipulated by Paragraph 1 of Article 89 of this Code.

#### **Article 89**

#### **Transloading, Unloading, Loading and Other Cargo Operations with Goods**

1. Transloading, unloading, loading and other cargo operations with goods conveyed under the domestic customs transit procedure shall be allowed with permission of the customs point of departure (Paragraph 1 of Article 80) or of the customs authority in whose activity area the cargo operation is performed accordingly. When goods may be transloaded from one vehicle onto another without damaging the affixed customs seals and stamps, such transshipment shall be permitted upon preliminary notification of the customs bodies.
2. The customs bodies may refuse to give permission for performing cargo operations with goods only in cases when these operations may result in the loss of goods or change of their properties

#### **Article 90**

#### **Responsibilities of a Carrier and Freight-Forwarder Under the Internal Customs Transit Procedure**

1. When a carrier, or a freight-forwarder, in case permission for internal customs transit was obtained by a freight-forwarder, fails to deliver foreign goods to the customs body of destination (Paragraph 1 of Article 92), the carrier or the freight-forwarder shall be obliged to pay customs duties and taxes for import of the goods in compliance with this Code.

If the carrier transfer goods to the consignee or to another person/entity without permission of the customs bodies, the person/entity who came to possession of the said goods shall bear the responsibility for payment of customs duties and taxes, provided that this person/entity knew or must have known about violations of the customs legislation of the Republic of Tajikistan when receiving such goods and that his/her knowledge or the obligation to have known is established.

2. A carrier and a freight-forwarder shall not bear responsibility for payment of customs duties and taxes in case goods are destroyed or lost irrevocably due to an accident, force majeure or due to natural deterioration or diminution under normal conditions of transportation (conveyance).

Customs bodies shall not be entitled to demand from a carrier or a freight-forwarder payment of customs payments for goods based on the fact that the route of transportation of goods did not follow the established itinerary or that goods were not transported within the established period of time for internal customs transit, provided that all other terms and provisions set forth by this Chapter are complied with.

3. When goods are transloaded from one vehicle to another under the internal customs transit procedure, the carrier (freight-forwarder) who obtained permission for domestic customs transit shall be responsible for payment of customs duties and taxes.

4. When goods are conveyed under the internal customs transit procedure by railway transport, the railway administration which lost the goods or released them without permission of the customs bodies shall be responsible for payment of customs duties and taxes. The customs bodies shall demand payment of customs levies from the administration of the railway station of destination. The provisions of this Paragraph shall not apply to the cases when permission for the internal customs transit is obtained by a freight-forwarder, as well as to the cases when goods are conveyed in the direct combined transportation, if a permission for internal customs transit is given to a carrier of another type of transport.

#### **Article 91**

#### **Measures to be Taken in Case of Accident and (or) Force Majeure and Obstructing Conveyance of Goods and Means of Transport Under the Internal Customs Transit**

In case of accident and (or) force majeure, a carrier shall be obliged to:

- 1) take all required measures to ensure safety of goods and means of transport
- 2) immediately inform the appropriate authorized state body about the event with the follow-up notification of the nearest customs authority thereupon. The customs body that has received the information shall immediately notify the customs body of departure and the customs body of destination thereof, and shall to make a decision on the possibility of further transporting goods under the internal customs transit procedure.

Customs authorities shall not reimburse expenses borne by the carrier as a result of the measures stipulated by this Article.

#### **Article 92**

#### **Termination of the Internal Customs Transit Procedure**

1. The customs body where the internal customs transit procedure is completed (the customs body of destination) shall register the completion of internal customs transit of goods as soon as possible, but no later than 24 hours after the moment the arrival of a vehicle is registered, provided that no violations of the customs legislation of the Republic of Tajikistan were discovered by this customs body during examination of documents and identification of goods, by way of issuing a certificate of termination of the internal customs transit procedure to the carrier in the format established by the authorized body on customs affairs.

2. The customs body of destination shall register the arrival of a vehicle to the point of delivery of goods within two hours from the moment of submission by the carrier of documents specified in Paragraph 3 of this Article to the customs body of destination and immediately after the registration shall issue a written statement to the carrier confirming arrival of vehicle using the format established by the authorized body on customs affairs.

3. In order for the internal customs transit procedure to be completed, the carrier shall be obliged to present goods and to submit the transit declaration (Article 81) as well as other documents relating to the goods to the customs body of destination within one hour from the moment of arrival of a vehicle to the point of delivery of goods, and in case of arrival outside of the officially established business hours of the customs body – within one hour from the moment this customs authority opens for work. When goods are conveyed by railway transport the time limit for submission of the mentioned documents may not exceed 12 hours.

4. Means of transport shall be placed in the customs control zone at the point of delivery of goods until the internal customs transit procedure is completed.

Placement of means of transport in the customs control zone shall be permitted 24 hours a day.

5. When conveying goods to the point of their delivery that is not the location of customs bodies (Paragraph 6 of Article 80), the internal customs transit procedure may be completed without presentation of goods to the customs point of destination.

The person who obtained permission for internal customs transit shall be obliged to accept goods for storage, to ensure that no operations are performed with goods that alter the state of goods, resulted in damage to their packaging, or involve any use and disposal of goods until the customs bodies certifies delivery of goods at a temporary storage warehouse, customs warehouse or at another place assigned as the point of delivery of goods in compliance with the rules and regulations set forth by this Chapter. In this respect goods shall be placed in separate premises or in an enclosed area fenced in by perimeter, and provided with plates carrying information that allows to identify goods.

In order for the domestic customs transit procedure to be completed, within twenty-four hours from arrival of a vehicle to the point of delivery of goods, documents confirming acceptance of goods shall be submitted to the customs body of destination along with documents specified in Paragraph 3 of this Article. Within three days from the day of submission of these documents the customs bodies shall certify the delivery of goods using the format and the procedure established by the authorized body on customs affairs.

## **Chapter 11** **THE CUSTOMS CARRIER**

### **Article 93** **The Customs Carrier**

1. A domestic legal entity included in the Register of Customs Carriers may act as a customs carrier.
2. A customs carrier shall convey goods placed under the customs control in cases and on conditions established by this Code.
3. A customs carrier shall be entitled to limit the region of its activities to the activities area of one or several customs bodies.
4. Relations of customs carriers with consignors or with freight-forwarders shall be regulated on a contractual basis. Refusal of a customs carrier to make a contract shall not be permitted, provided that there are acceptable conditions for its signing.

### **Article 94** **Terms for Inclusion in the Register of Customs Carriers**

The following shall be the terms for inclusion in the Register of customs carriers:

- 1) carrying out activities on conveyance of goods within at least two years
- 2) security of payment of customs levies in accordance with Article 384 of this Code
- 3) availability of a license for conveying goods, provided that this type of activities is subject to licensing in compliance with legislation of the Republic of Tajikistan
- 2) possession (under the right of ownership, private economic property, operational management or under lease hold) of means of transport used for conveying goods, including means of transport suitable for conveying goods under customs seals and stamps (Article 84)
- 3) a liability insurance contract, as the liability may ensue from damage caused to goods entrusted to the carrier under a transportation agreement, or as a result of infringement of obligations that have arisen from the agreement. The insured amount may not be less than 6000 times of the statutory minimum monthly wage.

Note: For the purposes of this Article means of transport used for transportation of goods on the customs territory of the Republic of Tajikistan are also considered as means of transport.

### **Article 95** **Application for Inclusion in the Register of Customs Carriers**

1. A legal entity may be included in the Register of customs carriers based on its application, which meets the requirements established by Articles 93 and 94 of this Code.
2. An application for inclusion in the Register of customs carriers shall contain the following information:
  - 1) a request for inclusion in the Register of customs carriers, addressed to the customs bodies
  - 2) information about the name, the organizational and legal form, location, and open bank accounts of the applicant as well as on the amount of the charter (aggregate) capital that has been fully made up, charter fund, or share payments of an applicant

- 3) information of the time period during which the applicant has been conveying goods
  - 4) information on the applicant's intent to limit the region of its activity to the activity area of one (several) customs bodies or not to limit the region of its activity
  - 5) information on means of transport in possession (the total number, technical specifications) which the applicant intends to use for carrying out activities in the capacity of a customs carrier, including information on means of transport suitable for transportation of goods under customs seals and stamps (Article 84)
  - 6) information about security for payment of customs levies in accordance with Article 384 of this Code
  - 7) information about liability insurance contract(s) of the civil liability of an applicant
3. A license for transportation of goods, if such type of activity is subject to licensing in compliance with legislation of the Republic of Tajikistan, shall be attached to the application for inclusion in the Register of customs carriers, together with the following documents confirming the information provided in the application:
- 1) foundation documents and a document confirming the fact that a record about the legal entity was made in the Unified State Register of legal entities
  - 2) a certificate of state registration of the legal entity
  - 3) a certificate of the applicant's registration with tax authorities
  - 4) documents confirming the right of ownership of means of transport that are intended for carrying out activities in the capacity of a customs carrier
  - 5) certificates of admission of means of transport for transportation of goods under customs seals and stamps
  - 6) documents confirming the amount of the charter (aggregate) capital that has been fully made up, the amount of the charter fund or share payments of an applicant
  - 7) documents confirming security of payment of customs levies in accordance with Article 384 of this Code
  - 7) documents from banks confirming that the relevant accounts were opened in these banks
  - 8) an insurance policy.

#### **Article 96**

##### **Certificate of Inclusion in the Register of Customs Carriers**

1. A certificate of inclusion in the Register of customs carriers shall contain the following information:
  - 1) the name of the customs carrier, indication of its organizational and legal form and its location
  - 2) information relating to the size and form of the security of customs levies payable in accordance with Article 384 of this Code
  - 2) indication of the region of activities of the customs carrier (in case the customs carrier limits the region of its activity to the activity area of one or several customs bodies).
2. A certificate of inclusion in the Register of customs carriers shall be valid for three years.

#### **Article 97**

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

The customs carrier shall be obliged:

- 1) to fulfill the terms and requirements stipulated by this Code with regard to transportation of goods placed under the customs control
- 2) to keep records of goods being transported under the customs control and submit reports on transportation of such goods to customs bodies (Article 405)
- 3) to pay customs duties and taxes in the case specified by Paragraph 1 of Article 90 of this Code
- 4) to keep confidentiality of the information received from the consignor, consignee or a freight-forwarder.

#### **Article 98**

##### **Withdrawal of a Certificate of Inclusion in the Register of Customs Carriers**

The customs body may withdraw a certificate of inclusion in the Register of customs carriers in the following cases:

- 1) in case of non-compliance by the customs carrier with at least one of the terms for inclusion in the Register of customs carriers stipulated by Article 94 of this Code

- 2) in case of failure of the customs carrier to fulfill its obligations envisaged by sub-Paragraph 3 of Article 97 of this Code
- 3) in case of repeated bringing of the customs carrier to administrative responsibility for commitment of administrative violations in the area of customs, related to failure of the customs carrier to fulfill its obligations.

## **CHAPTER 12**

### **TEMPORARY STORAGE OF GOODS**

#### **Article 99**

##### **Temporary Storage of Goods**

‘Temporary storage’ shall mean the customs procedure under which foreign goods are stored under the customs control without payment of customs duties and taxes and without application of restrictions established in compliance with normative legal acts of the Republic of Tajikistan, prior to their release in compliance with a certain customs regime, or placement under another customs procedure.

#### **Article 100**

##### **Temporary Storage Warehouses**

1. Temporary storage of goods shall be performed in temporary storage warehouses unless otherwise stipulated by this chapter.  
Temporary storage warehouses shall be specially assigned and equipped premises or open grounds that meet the requirements set forth in Article 107 of this Code.
2. Temporary storage warehouses shall be recognized as the customs control zone.
3. Goods may be placed at any temporary storage warehouse given the restrictions stipulated by this Code.

#### **Article 101**

##### **Placement of Goods into Temporary Storage Warehouses**

1. Any foreign goods including those imported to the customs territory of the Republic of Tajikistan with the infringement of the established procedure in accordance with normative legal acts of the Republic of Tajikistan (paragraph 1, Article 12) shall be placed into the temporary storage warehouses.
2. Goods that can damage other goods or require special storage conditions shall be stored at the warehouses or separate premises of temporary storage warehouses that are equipped specially for the storage of such goods with fulfillment of the obligatory requirements established in compliance with normative legal acts of the Republic of Tajikistan.
3. Temporary storage warehouses may be also used for storage of goods in cases stipulated by Articles 418 and 435 of this Code.

#### **Article 102**

##### **Documents Required for Placing Goods into a Temporary Storage Warehouse**

1. When placing goods into a temporary storage warehouse a brief declaration shall be submitted by the carrier or by the person authorized with regard to goods to the customs body. A brief declaration shall be submitted no later than the following working day after the submission of goods and means of transport to the customs body. A brief declaration shall not be submitted if within this time period the goods are placed under a certain customs regime. The format of a brief declaration and the procedure for its completion shall be established by the authorized body on customs affairs.  
Concurrently with a brief declaration the documents containing information on the name and location of consignor (consignee) of goods in compliance with transport (conveyance) documents, on the country of departure and country of destination of goods, names of goods, their quantity, number of cargo places, nature and types of packing and marking of goods, invoice price, gross weight of goods (in kilograms) or volume of goods (in cubic meters) as well as the data on classification codes of goods in compliance with the Harmonized Commodity Description and Coding System or the Commodity Nomenclature of the Foreign Economic Activities at the level of no less than first four marks.  
The authorized body on customs affairs shall be entitled to shorten the list of the data specified in the second subparagraph of this paragraph given the type of transport, types of goods and categories of

persons conveying goods and means of transport.

2. For placing goods into the temporary storage warehouse the following documents shall be used:

- 1) documents stipulated by Articles 73-76 of this Code - in case of placing goods into a temporary storage warehouse located in the place of arrival of goods
- 2) documents stipulated by Article 81 of this Code - in other cases of placing goods into a temporary storage warehouse.

If the submitted documents do not contain the information specified in subparagraph 2 of paragraph 1 of this Article the person placing goods into a temporary storage warehouse shall be obliged to provide the missing information by submission of other available documents or additional documents drawn up by him (or other person on his behalf) in a free form to the customs body.

3. When placing goods into a temporary storage warehouse the customs body shall not have the right to require the information not stated in subparagraph 2 of paragraph 1 of this Article.

### **Article 103**

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

1. The time limit for temporary storage of goods shall be two months.

Upon a well-reasoned request of the person concerned the customs body shall extend the said time limit. The authorized body on customs affairs shall set the procedure for extension of the time limit.

The maximum time limit for temporary storage of goods shall be four months unless otherwise is stipulated by this Article.

2. Perishable goods shall be stored in a temporary storage warehouse within the time limits of their quality preservation that allow to use such goods for their own purposes but no later than the time limit stipulated in paragraph 1 of this Article.

3. In cases stipulated by paragraph 1 of Article 12 and paragraph 8 of Article 418 of this Code the temporary storage of goods shall be executed within the time limits stipulated in these Articles. Extension of these time limits shall not be permitted.

4. Expiration of the time limit of temporary storage of goods shall be started from the day of their placing into a temporary storage warehouse or the day when they acquire the status of goods under the temporary storage in compliance with this Code. In case of application of the internal customs transit when conveying goods from the place of arrival to the customs territory of the Republic of Tajikistan up to the place of location of the customs body the expiration of the time limit of the temporary storage of these goods shall be started anew from the day of completion of the internal customs transit.

5. Upon expiration of the time limits stipulated by this Article goods shall be disposed of in compliance with Chapter 57 of this Code.

### **Article 104**

#### **Operations with Goods under the Temporary Storage**

1. The persons authorized with respect to goods and their representatives shall be entitled to carry out normal operations with goods under the temporary storage required to ensure their preservation in an unaltered state (including inspection and measurement of goods, their displacement within the temporary storage warehouse) provided that these operations shall not entail change of the status of goods, damage of their packing or change of the imposed means of identification.

2. The operations not said in paragraph 1 of this Article (including taking samples and specimens of goods, reparation of damaged packing as well as the operations required for preparation of goods for removal from the temporary storage warehouse and their subsequent transportation) may be performed by the persons authorized with respect to goods and their representatives with the permission of the customs body.

The customs body shall be entitled to refuse to issue a permission for performing such operations only in case if their execution leads to the loss of goods or change of their status.

### **Article 105**

#### **Worn Out, Broken or Damaged Goods**

Goods which are worn out, broken, or damaged as a result of an accident and (or) a force majeure during their temporary storage shall be subject to placement under a certain customs regime to be determined by the declarant, as if they were imported to the customs territory of the Republic of Tajikistan in a worn out, broken or damaged state.

**Article 106**  
**Types of Temporary Storage Warehouses**

1. Temporary storage warehouses shall be of open or closed types.
2. Temporary storage warehouses shall be the warehouses of an open type if they are available for storage of any goods and use by any persons.
3. Temporary storage warehouses shall be of a closed type if they are assigned for the storage of goods of the owner of the warehouse (Article 108) or for the storage of certain goods including those limited in circulation and (or) requiring special storage conditions.

**Article 107**  
**Requirements to Construction, Equipping and Location of Temporary Storage Warehouses**

1. Premises or open grounds assigned for the use as a temporary storage warehouse shall be constructed and equipped in the way to ensure the preservation of goods, preclude the possibility of access by unauthorized persons (those which are not the warehouse staff, unauthorized with respect to goods or not representatives of the persons having such authorization) to the stored goods and to ensure performance of the customs control.
2. The secured territory equipped for parking of means of transport conveying the goods for the time period required for completion of the internal customs transit shall be adjacent to the premises and open grounds assigned for the use as the temporary storage warehouses. This territory shall be a customs control zone. The means of transport conveying the goods that are under the customs control may enter this territory during 24 hours day.
3. In compliance with paragraphs 1 and 2 of this Article the authorized body on customs affairs shall establish obligatory requirements to construction, equipping and location of temporary storage warehouses to ensure execution of the customs control.
4. Upon the decision of the customs body certain requirements stipulated in this Article with regard to the construction and equipping of warehouses of a closed type located on the territory of the enterprises and whose owners are the persons executing the production activities may not be applied if the criteria set forth in paragraph 1 of this Article are met.

Note.

For the purposes of application of this Chapter “means of transport” shall mean the vehicle conveying goods through the customs territory of the Republic of Tajikistan.

**Article 108**  
**Owners of Temporary Storage Warehouses**

1. The owner of a temporary storage warehouse may be a domestic legal person included in the Register of owners of temporary storage warehouses.
2. The owner of a temporary storage warehouse shall store goods placed under the customs control in cases and on the terms stipulated by this Code.
3. The relations of the owner of a temporary storage warehouse with the persons placing goods for storage shall be on a contractual basis. The refusal of the owner of temporary storage warehouse (except for the warehouse of a closed type used for the storage of goods of the owner of the warehouse) to sign a contract if there are applicable conditions for signing thereof shall not be permitted.
4. Customs authorities without their inclusion in the Register of owners of temporary storage warehouses (Article 115) may be the owners of the temporary storage warehouse. The authorized body on customs affairs shall be obliged to ensure regular (at least once in six months) publication of the list of temporary storage warehouses owned by customs authorities and changes made in this list in their official editions.

**Article 109**  
**Conditions for Inclusion in the Register of Owners of Temporary Storage Warehouses**

1. Conditions for inclusion in the Register of owners of temporary storage warehouses shall be:
  - 1) Ownership (being a property or operated or leased) of premises and (or) open grounds assigned for use as a temporary storage warehouse and meeting the stipulated requirements (Article 107)

- 2) Ensuring payment of customs levies in accordance with Article 384 of this Code
  - 3) Availability of the insurance contract of civil liability that may be accounted as a result of damage of the stored goods of other persons or breach of other provisions of the contract of storage with other persons. The insurance amount within which the insurer is obliged to reimburse the damage in each insured accident to the persons whose property was damaged shall be calculated based on the usable area of usable volume and determined on the basis of fivefold amount of the statutory minimum monthly wage per square meter of the usable area if an open ground is used as a customs warehouse and on the basis of double statutory minimum monthly wage per one cubic meter of usable volume if premises are used as a customs warehouse but not less than 8000-fold statutory amount of the minimum monthly wage.
2. If the ownership of premises and open grounds is based on a lease contract, such contract shall be made for the period not less than one year on the date of submission of the application for inclusion in the Register of owners of temporary storage warehouses.

#### **Article 110**

##### **Application on Inclusion in the Register of Owners of Temporary Storage Warehouses**

1. Inclusion in the Register of owners of temporary storage warehouses shall be performed based on the application of the person meeting requirements set forth in Articles 108 and 109 of this Code.
2. Application for inclusion in the Register of owners of temporary storage warehouses shall contain:
  - 1) Application to the customs body with the request for inclusion in Register of owners of temporary storage warehouses
  - 2) Information on the name, organizational and legal structure, location, open bank accounts, as well as on the size of completely formed charter (aggregate) capital, charter fund or shares of an applicant
  - 3) Information on the type of a temporary storage warehouse (for the storage of a closed type it shall be necessary to justify the necessity and expediency of the choice of such a type of the warehouse)
  - 4) Information on premises and (or) open grounds owned by the applicant and assigned for the use as a temporary storage warehouse, their location, construction, equipping, and logistics
  - 5) Information on security of payment of customs levies in accordance with Article 384 of this Code
  - 6) Information on the insurance contract (or contracts) of civil liability risk of the applicant.
3. The application for inclusion in the Register of owners of temporary storage warehouses shall be accompanied with the following documents confirming the declared information:
  - 1) Foundation documents or a document confirming the fact of registration of the legal entity in the Unified State Register of Legal Persons
  - 2) State registration certificate of a legal entity
  - 3) Certificate on registration of the applicant by the tax body
  - 4) Documents confirming the right of ownership of the premises and (or) open grounds assigned for the use as a temporary storage warehouse
  - 5) plans and drawings of the premises and open grounds assigned for the use as a temporary storage warehouse
  - 6) documents confirming the size of the fully established charter (aggregate) capital, charter fund or shares of the applicant
  - 7) documents confirming the security of customs levies in accordance with Article 384 of this Code
  - 8) Confirmation of the bank on accounts opened therein
  - 9) Insurance policy.
4. A separate application shall be submitted for each territorially separate premise and (or) an open ground assigned for the use as a temporary storage warehouse.

#### **Article 111**

##### **Certificate on Inclusion in the Register of Owners of Temporary Storage Warehouses**

1. Inclusion of the owner of temporary storage warehouse in the Register of owners of temporary storage warehouses shall be made for each territorially separate premise and (or) an open ground that are used as a temporary storage warehouse. A separate certificate on inclusion in the Register of owners of temporary storage warehouses shall be issued for each territorially separate premise and (or) an open ground.
2. Certificate on inclusion in the Register of owners of temporary storage warehouses shall contain:
  - 1) Name of the owner of a temporary storage warehouse, its organizational and legal structure and location

- 2) Information on the right of ownership of the premise and (or) an open ground used as a temporary storage warehouse
  - 3) Information on the size and form of security of customs levies in accordance with Article 384 of this Code
  - 4) Indication of the type of a temporary storage warehouse
  - 5) Indication of the location of a temporary storage warehouse.
3. Certificate on inclusion in the Register of owners of temporary storage warehouses shall be valid for three years.

**Article 112**  
**Obligations of an Owner of a Temporary Storage Warehouse**

1. The owner of a temporary storage warehouse shall be obliged to:
  - 1) fulfill the provisions and requirements set forth by this Code with respect to the storage of goods under the customs control
  - 2) Maintain records on the stored goods under the customs control and submit a report on the storage of such goods to customs authorities (Article 405)
  - 3) Ensure safety of goods stored at the temporary storage warehouse and means of transport located on the adjacent territory being the customs control zone
  - 4) Provide the possibility of twenty-four-hour placement of goods and means of transport in a temporary storage warehouse or on the adjacent territory being the customs control zone
  - 5) Preclude the possibility of access of unauthorized persons to goods and means of transport located in the stated temporary storage warehouse or on the adjacent territory being the customs control zone without the permission of the customs body
  - 6) Pay customs duties, taxes in case stipulated in paragraph 2 of this Article and in case stipulated in paragraph 1 of Article 90 of this Code if the owner of the temporary storage warehouse obtains the permission for internal customs transit.
2. The owner of a temporary storage warehouse shall bear responsibility for payment of customs duties, taxes with regard to the goods stored at the temporary storage warehouse in case of their loss or release without the permission of the customs body. The owner of a temporary storage warehouse shall not bear responsibility for payment of customs duties, taxes with regard to the goods stored in the temporary storage warehouse only in case if the goods are irrevocably lost due to the accident, force majeure or a natural loss under the normal conditions of storage.

**Article 113**  
**Withdrawal of the Certificate on Inclusion in the Register of Owners of Temporary Storage Warehouses**

The certificate on inclusion in the Register of owners of temporary storage warehouses shall be withdrawn in case of:

- 1) non-observance of at least one of the provisions of the inclusion in the Register of owners of temporary storage warehouses set forth by Article 109 of this Code
- 2) non-observance of liabilities stipulated in subparagraph 6 of paragraph 1 of Article 112 of this Code by the owner of a temporary storage warehouse
- 3) repeated bringing of the owner of a temporary storage warehouse to the administrative responsibility for administrative violations in the area of customs.

**Article 114**  
**Operations with Goods in Case of Exclusion of the Owner of the Temporary Storage Warehouse from the Register of Owners of Temporary Storage Warehouses**

In case of withdrawal of the certificate on inclusion in the Register of owners of temporary storage warehouses or exclusion of the owner of a temporary storage warehouse from the Register of owners of temporary storage warehouses under other reasons, the goods stored at a temporary storage warehouse shall be subject to placement to another temporary storage warehouse at his own expense within two months starting from the date following the date of exclusion. Starting from the date following the date of exclusion of the owner of a temporary storage warehouse from the Register of owners of temporary storage warehouses, placement of goods at the temporary storage warehouse shall not be permitted.

**Article 115**  
**Storage of Goods in Temporary Storage Warehouses of Customs Authorities**

1. The temporary storage warehouses of customs authorities shall be warehouses of an open type and shall meet the requirements set forth by Article 107 of this Code.

2. When storing goods at temporary storage warehouses of customs authorities the relations of customs authorities with the person placing goods at these warehouses shall be performed in compliance with this Code and Civil Code of the Republic of Tajikistan. The contract signed between the customs authority and the person placing the goods at the temporary storage warehouse shall meet the requirements of Civil Code of the Republic of Tajikistan established for the public contract. The refusal of the customs authority to sign the contract if there are applicable conditions to sign the said contract, shall not be permitted.

Acceptance of goods for storage by the customs authority shall be certified with giving to the person placing goods at the temporary storage warehouse the receipt in the form determined by the authorized body on customs affairs.

3. Rights, obligations and responsibility of customs authorities in respect to the storage of goods performed by these authorities shall be based on the essence of obligations in compliance with the general regulations on the storage, stipulated by the Civil Legislation of the Republic of Tajikistan taking into account the provisions stipulated by this Code.

The customs body shall bear responsibility for payment of customs duties, taxes with regard to the goods stored in a temporary storage warehouse only in case if the goods are disrupted, irrevocably lost as a result of an accident, force majeure or a natural loss under the normal conditions of storage.

6. The payment for storage of goods at a temporary storage warehouse of the customs authority shall be collected in compliance with the contract. The payment for the storage of goods in a temporary storage warehouse of the customs authority shall be established in accordance with normative legal acts of the Republic of Tajikistan.

**Article 116**  
**Details of Temporary Storage of Goods Transported by Railway**

1. Upon the request of the railway the temporary storage of goods transported by railway until their unloading directly to the means of transport located on the tracks of this railway in the places that are not temporary storage warehouses and which location is agreed with the customs authorities shall be permitted.

The said places shall be considered as the customs control zone. The railway shall be obliged to ensure the safety of goods and exclude the access of the unauthorized persons to them.

2. The goods stored in the means of transport in the customs control zone in compliance with this Article shall be considered as temporarily stored for customs purposes. Unloading of goods and their transfer to any other place shall be made with the permission of the customs authority.

3. In case of loss of goods stored in means of transport in the customs control zone or their release without permission of customs authorities the railway shall bear responsibility for payment of customs duties and taxes.

**Article 117**  
**Temporary Storage in the Warehouse of a Consignee**

1. The customs body may permit the temporary storage of goods in the warehouse of the consignee of goods in case of:

application of special simplified procedures for certain persons (Article 68)

the temporary storage of goods requiring special storage conditions is required if there are no any temporary storage warehouses equipped for storage of such goods in the reasonable proximity from the place of receiving goods

2. When issuing a permission for the temporary storage at the warehouse of the consignee of goods the customs authority shall be entitled to require security of payment of customs levies.

3. The consignee of goods shall be obliged to meet all other requirements of this Article in case of storage of goods at his warehouse. The storage of foreign goods owned by the third persons at the warehouse of a consignee of goods shall not be permitted.

**Article 118**  
**Placement of Goods in Temporary Storage Warehouse by Customs Authorities**

1. The goods may be placed into the temporary storage warehouse of the customs authority in cases stipulated by paragraph 1 of Article 12, Articles 418 and 435 of this Code. Remuneration for storage and reimbursement of losses to the owner of a temporary storage warehouse in the said cases shall be made at the expense of the persons determined by these articles.
2. In case if expenses for storage are made at the expense of the state budget they shall be compensated to the owner of the temporary storage warehouse by the customs authorities within necessary and officially confirmed expenses made by the owner of the temporary storage warehouse during the storage of goods.

**CHAPTER 13**  
**EXPORTATION OF GOODS AND MEANS OF TRANSPORT FROM THE CUSTOMS**  
**TERRITORY OF THE REPUBLIC OF TAJIKISTAN**

**Article 119**  
**Place and Time of Departure of Goods and Means of Transport from the Customs Territory of the Republic of Tajikistan**

1. Departure of goods and means of transport from the customs territory of the Republic of Tajikistan (hereinafter referred to as departure of goods and means of transport) shall be allowed at the checkpoints located at the state border of the Republic of Tajikistan established in compliance with normative legal acts of the Republic of Tajikistan during business hours of customs authorities (Article 466).
2. Provisions of this Article shall not apply to goods transported by marine vessels and aircrafts crossing the customs territory of the Republic of Tajikistan without making a stop at the port or airport located on the customs territory of the Republic of Tajikistan.

**Article 120**  
**Submission of Documents and Data**

1. Departure of goods and means of transport shall be performed only with the permission of the customs body.
2. The customs documents confirming the placement of goods under the customs regime provided for exportation of goods from the customs territory of the Republic of Tajikistan shall be submitted to the customs authority to obtain a permission of the customs authority for exportation of goods and means of transport.
3. Prior to departure of goods and means of transport the carrier shall be obliged to submit to the customs authority the documents and data set forth in Articles 73-76 of this Code depending on the mode of transport performing international transportation of goods. If the submitted documents do not contain information set forth in Articles 73-76 of this Code the carrier shall be obliged to inform the customs authority of the required information by submitting other documents available or additional documents drawn up by the carrier in an arbitrary form. The customs authority shall not be entitled to require from the carrier the submission of the documents not stipulated in Articles 73-76 of this Code. These documents and information may be submitted by any other person acting on behalf of the carrier.

**Article 121**  
**Loading of Goods on the vehicle Departing the Customs Territory of the Republic of Tajikistan**

1. Loading of goods on the vehicle departing the customs territory of the Republic of Tajikistan shall be allowed after the acceptance of the customs declaration by the customs authority and putting the stamp "The loading is permitted" on the consignment note by the customs authority except for the cases when during the customs clearance of the goods the customs authority does not require the presentation of goods for their checking and transportation of goods in compliance with the customs regime of the international customs transit.

2. With the aim of examination of the goods the customs officials shall be entitled to be present during the loading of goods on the vehicle departing the customs territory of the Republic of Tajikistan. In this case the loading of goods shall be performed in the places which location is agreed with the customs authorities and during the business hours of customs authorities.

Upon the request of the person concerned the customs authority shall be entitled to permit the loading beyond the established business hours of this authority in compliance with Article 466 of this Code.

#### **Article 122**

#### **Requirements to Goods During Their Departure from the Customs Territory of the Republic of Tajikistan**

1. Goods shall be actually exported from the customs territory of the Republic of Tajikistan in the same quantity and state as they were at the moment of their placement under the 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 conveyance, transportation and storage, and also change in the quantity of goods as a result of non-drainable residues in the means of transport.

2. Persons shall not bear a responsibility for non-observance of provisions of this Article in case if the loss or change of the state of goods happened as a result of an accident or force major and in cases provided for technical regulations and standards effective in the Republic of Tajikistan - in alteration of the information relating to the quantity of goods caused by the inaccuracy of measurement methods.

3. Upon the request of the declarant the customs authority shall confirm the quantity of the goods actually exported when submitting goods to the customs authority in the place of their departure.

### **Chapter 14**

#### **DECLARATION OF GOODS**

#### **Article 123**

#### **Goods Subject to Declaration**

Goods shall be declared to the customs authorities when conveying across the customs border or changing a customs regime and in other cases set forth by Articles 183, 184, 247 and 435 of this Code.

#### **Article 124**

#### **Declaration of Goods**

1. Declaration shall be made by submitting the reliable information on goods, their customs regime and other information required for customs purposes to the customs authority in an established form (written, oral, concludere, electronic).

Declaration of goods shall be made by the declarant or the customs broker (representative) at declarant's option.

2. In cases, which are not regulated by this Code, the form and the procedure for the declaration of goods shall be determined by the authorized body on customs affairs.

3. The list of the information to be stated in the customs declaration shall be limited only to the information that is required for calculation and collection of customs duties and taxes, formation of the customs statistics and application of the customs legislation of the Republic of Tajikistan.

4. In case of the use of the customs declaration as the reporting document for the purpose of the currency control executed by customs authorities the information required for these purposes shall be indicated in the customs declaration in compliance with the legislation on currency regulation and currency control of the Republic of Tajikistan.

5. The customs declaration shall be certified by the person who drawn it up and shall be signed by the employee of this person. The certification of the declaration shall be made by putting the stamp if the person who drawn up the declaration is obliged to have a stamp in compliance with the legislation of the Republic of Tajikistan.

6. The list of the information to be stated in the customs declaration and forms of its submission shall be subject to official publication. Normative legal acts of the authorized body on customs affairs establishing the list of the information to be stated in the customs declaration shall enter into effect in accordance with Article 4 of this Code.

#### **Article 125**

## **Place of Declaration of Goods**

1. The customs declaration shall be submitted to any customs authority authorized to accept customs declarations.
2. In order to ensure the effectiveness of control over the observance of the customs legislation of the Republic of Tajikistan the authorized body on customs affairs shall be entitled to establish certain customs bodies for declaration of certain types of goods only:
  - 1) in case of the need to use specialized equipment and (or) special knowledge for customs clearance of such goods as the cultural values, arms, military facilities and ammunition, radioactive and fissionable materials
  - 2) depending on the mode of transport used for international transportation of goods (motor, river, air, railway transport, pipelines and power transmission lines)
  - 3) when transporting certain types of goods across the customs border with respect to which frequent cases of violation of the customs legislation of the Republic of Tajikistan were fixed or prohibitions and restrictions were established in compliance with normative legal acts of the Republic of Tajikistan
  - 4) in case of the need to carry out the special control over certain goods containing the intellectual property items by the list established by the Government of the Republic of Tajikistan.
3. In case of submission of the customs declaration to the customs authority other than established in compliance with the paragraph 2 of this Article, the customs declaration shall be forwarded by the customs authority where the customs declaration was submitted to the appropriate customs authority. In this case the time of acceptance of the customs declaration (Article 132) shall be extended by the time required for its sending but for not more than two working days.
7. Normative legal acts of the authorized body on customs affairs establishing the places of declaration of certain types of goods shall become effective in accordance with Article 4 of this Code.

### **Article 126 Declarant**

1. The persons stated in Article 15 of this Code and any other persons authorized to dispose the goods on the customs territory of the Republic of Tajikistan in compliance with the civil legislation of the Republic of Tajikistan with fulfillment of the provision set forth in paragraph 2 of this Article shall be entitled to act as a declarant.
2. Only a domestic person may be a declarant except for the cases of conveyance of goods across the customs border by:
  - 1) natural persons for personal, family, household and other needs not connected with the their entrepreneurial activities
  - 2) foreign persons who enjoy customs preferences in compliance with Chapter 39 of this Code
  - 3) foreign companies having representative offices registered (accredited) on the territory of the Republic of Tajikistan in the established procedure when declaring customs regimes of temporary importation, re-export, transit and the customs regime of the release for free circulation of goods imported for own needs of such representative offices
  - 4) foreign carriers when declaring the customs regime of the transit
  - 5) in other cases when a foreign person is entitled to dispose goods on the customs territory of the Republic of Tajikistan not in the context of the foreign economic transaction in which one party is the domestic person.

### **Article 127 Rights and Obligations of Declarant**

1. When declaring goods and performing other customs operations required for the release of goods, the declarant shall be entitled:
  - 1) to examine and measure the goods subject to declaration including prior to submission of the customs declaration
  - 2) to take samples and specimen of the goods that are imported to the customs territory of the Republic of Tajikistan and are subject to declaration by him with the permission of the customs authority. No separate customs declaration for samples and specimen shall be submitted provided that such samples and specimen are stated in the customs declaration for the goods

- 3) to be present in the process of the customs inspection and examination of the goods being declared (Articles 412 and 413) and when customs officials take samples and specimen of the goods (Article 424)
  - 4) to be familiarized with the results of the tests of samples and specimen of the goods being declared by him available from the customs authorities
  - 5) to submit the documents and information required for declaration of goods in the electronic form in compliance with this Code
  - 6) to use other authorities and rights set forth by this Code.
2. When declaring goods and performing other customs operations, the declarant shall be obliged:
- 1) to submit the customs declaration and required documents and information to the customs authority (Article 131)
  - 2) to present the goods being declared at the request of the customs authority
  - 3) to pay the customs levies and to secure their payment in compliance with the Section III of this Code.

#### **Article 128**

##### **Details of Declaration of Goods of Different Names Contained in One Consignment**

1. Upon request of a declarant the goods of different names contained in one consignment may be declared with indication of one classification code of the Commodity Nomenclature of the Foreign Economic Activities provided that the following items conform to this classification code:
  - 1) customs duty rate of the highest level
  - 2) excise rate of the highest level exempted by the customs authorities
  - 3) value added tax rate of the highest level
  - 4) the codes of these goods coincide at the level of first four marks.
2. Information on the name and quantity of all goods contained in one consignment shall be declared by the declarant by submitting the list of the goods. Shipping specifications, packing lists, inventory and other similar documents may be used as such a list. The list of goods shall be considered for customs purposes as the integral part of the customs declaration.
3. If restrictions established in compliance with normative legal acts of the Republic of Tajikistan apply to the certain goods contained in one consignment, the declaration of such goods with indication of one classification code of the Commodity Nomenclature of the Foreign Economic Activities shall not release the declarant from fulfillment of the said restrictions.
4. In order to verify the fulfillment of provisions of paragraph 3 of this Article the customs authority shall be entitled to require from the declarant to submit more precise with regard to certain goods being declared.

#### **Article 129**

##### **Time Limit for Submission of Customs Declaration**

1. A customs declaration for goods imported to the customs territory of the Republic of Tajikistan shall be submitted no later than 15 days from the date of submission of the goods to the customs authorities in the place of their arrival into the territory of the Republic of Tajikistan or from the date of completion of the internal customs transit if the declaration of goods is performed not in the place of their arrival except for the cases set forth in Articles 150, 309 and 316 of this Code.
2. If the time limit stated in paragraph 1 of this Article is insufficient for the declarant to collect the required documents and information, upon a well-reasoned appeal of the declarant in written form the customs authority shall extend the time limit for submission of the customs declaration. The extension of the time limit for submission of the customs declaration shall not result in a violation of the time limit for temporary storage of goods.
3. When the time limit for submission of the customs declaration expires on a non-working day of the customs authority the expiration day shall be the following working day of the customs authority.
4. The customs declaration of the goods exported outside the customs territory of the Republic of Tajikistan shall be submitted prior to the exportation from the customs territory of the Republic of Tajikistan except for the cases set forth in Article 336 of this Code.

#### **Article 130**

##### **Preliminary Declaration of Goods**

1. The customs declaration for foreign goods may be submitted prior to their arrival onto the customs territory of the Republic of Tajikistan or prior to completion of the internal customs transit.
2. If the transport (conveyance) or commercial documents accompanying the goods shall be used for customs purposes, the customs authority shall accept copies of these documents certified by the declarant during the preliminary declaration of goods and if necessary, compare the data contained in the said copies with the data in the original documents upon their arrival onto the customs territory of the Republic of Tajikistan.
3. After completion of the review of the customs declaration and the payment of the customs duties and taxes payable prior to arrival into the customs territory of the Republic of Tajikistan, this customs declaration may be used as a single document necessary for the application of customs procedures with respect to goods.
4. If goods are not submitted to the customs authority accepted the customs declaration in compliance with paragraph 1 of this Article within 15 days from date of its submission, the customs declaration shall be considered as not submitted.

### **Article 131**

#### **Submission of Documents when Declaring Goods**

1. Submission of the customs cargo declaration shall be accompanied by submission to the customs authority of an electronic copy thereof and of documents required for customs purposes stipulated by this Article.

The structure of an electronic copy of the customs cargo declaration shall be established by the authorized body on customs affairs.

2. The declarant may submit copies of documents confirming the declared data, along with the presentation of an obligation to submit the original of the appropriate document within the time limit required to review the customs declaration, if the original of the document is mandatory for adopting a decision on the release of goods.

When the originals of some documents can not be submitted within the stated time limit, upon a well reasoned application by the declarant, the customs authorities shall permit to submit their 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 incorrect declaration of the data stated in the 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, then the customs authority shall make a note thereof for the declarant on copies of those documents, and shall state the name of the customs authority keeping the originals. This note shall be certified with the personal numbered stamp of the customs official.

4. The contracts, invoices, transport documents, documents confirming payment of customs duties and taxes shall be returned to the declarant after release of goods, and shall be kept for a period of three years from the date of registration of the customs cargo declaration.

5. Submission of the customs cargo declaration shall be accompanied by submission of the required documents to the customs authority, based on which the customs declaration is completed and which confirm the following:

1) the authorities of the declarant to submit the customs cargo 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 brokerage 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, 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 Tajikistan - transport documents

4) the customs value of goods - an invoice, pro forma invoice, specification, and other documents specified for the declaration and determination of the customs value of goods, in compliance with this Code

5) the origin of goods - a declaration of origin of goods or a certificate of origin of goods, in compliance with this Code

- 6) the payment or security of payment of customs duties and taxes, depending on the terms of the customs regime and the existence of preferences relating to payment of customs duties and taxes:
- a payment order with a notation of the bank regarding cash payment, or a cash receipt for a customs authority and the bank voucher in case of cash payment
  - documents proving security of payment of customs duties and taxes in compliance with this Code
- 7) the delivery of goods to the destination point - the transit declaration stipulated by this Code, or other documents in compliance with international legal acts ratified by the Republic of Tajikistan
- 8) fulfillment of prohibitions and restrictions established by normative legal acts of the Republic of Tajikistan – documents confirming the fulfillment of prohibitions and restrictions established by normative legal acts of the republic of Tajikistan
- 9) fulfillment of mandatory standard requirements when importing goods, regardless of the customs regimes declared - certificates. These certificates shall be submitted only in cases defined by the normative legal acts of the Republic of Tajikistan for goods subject to mandatory certification
- 10) the registration certificate of the participant in tax authorities of the Republic of Tajikistan.
6. In compliance with the requirements of the selected customs regimes other documents necessary for the customs purposes shall be submitted in addition to the main documents stated in paragraph 5 of this Article in the procedure established by the authorized body on customs affairs.
7. If the declarant pretends to obtain the privileges for payment of the customs levies including when declaring the customs regime providing for the full or partial exemption from payment of customs duties, taxes, for non-application of prohibitions and restrictions established in compliance with normative legal acts of the Republic of Tajikistan with respect to goods or for the reduction of the tax base, the declarant shall be obliged to submit the documents confirming the appropriate declared conditions to the customs authority.
8. To confirm the declared customs value the declarant shall be obliged to submit the documents justifying the declared customs value and the method of determination of the customs value selected by him.
9. If certain documents can not be submitted at the same time with the customs declaration, upon a well-reasoned appeal of the declarant in written form, the customs authorities shall permit submission of such documents by the time required for their obtaining but not later than 45 days after acceptance of the customs declaration unless other deadline for submission of certain documents and information is set forth in this Code. The declarant shall submit the written obligation on submission on of the documents by the fixed time .
10. In case of submission to the customs authority the documents that may be used during the customs clearance of other goods, upon the request of the declarant, the customs authority shall issue the written confirmation of the acceptance of such documents in a form established by the authorized authority on customs affairs. The confirmation shall be valid until making amendments in the submitted documents or prior to expiration of their validity time. The declarant may use the stated confirmation during the customs clearance of goods without additional submission of the accepted documents to the customs authority. The declarant shall be entitled to submit the said documents prior to lodging the customs declaration.

### **Article 132**

#### **Acceptance of Customs Declaration**

1. The fact of submission of the customs declaration and necessary documents shall be fixed on the date of their receipt by the customs authorities. Upon the request of the person submitting the customs declaration, the customs authority shall immediately issue the confirmation (including an electronic copy) on receipt of the customs declaration and submission of the necessary documents.
2. The submitted customs declaration shall be accepted by the customs authority on a day of its receipt except for the cases when:
- 1) the customs declaration is submitted to the customs authority not authorized to accept such customs declarations
  - 2) the customs declaration is submitted by unauthorized person
  - 3) the customs declaration does not contain necessary information (Article 124)
  - 4) the customs declaration is not signed or not certified properly or made up not in the established form
  - 5) when lodging the customs declaration the documents necessary for customs clearance are not submitted with the exception of the documents that may be submitted after acceptance of such customs declaration in compliance with paragraph 9 of Article 131 of this Code

- 6) the actions that should be made prior to or at the same time with the submission of the customs declaration with regard to the declared goods in compliance with this Code were not performed.
3. From the moment of acceptance the customs declaration shall become the document certifying the legally significant facts.
4. If the customs declaration has not been accepted by the customs authority, such declaration shall be considered for customs purposes as not submitted.
5. The customs authority shall inform the person submitted the declaration about the reasons of rejection not later than the following day after submission of declaration. Upon the request of the person submitted the customs declaration such notification shall be in written form.

### **Article 133**

#### **Amendments and Additions to the Data Stated in the Customs Declaration**

1. Based upon a well reasoned written appeal by the declarant, the data stated in a customs declaration may be amended or supplemented
2. Amendments and additions to the data stated in the customs declaration shall be allowed by the customs authority under the condition that:
  - 1) by the moment of acceptance of the declarant's appeal, the customs authority has not found out invalidation of the data stated in the customs declaration except for the cases of identification of inaccuracies not affecting adoption of the decision about release of goods
  - 2) by the moment of declarant's appeal the customs authority has not started examination of goods
  - 3) if the inserted amendments and additions do not effect a decision about release of goods and do not follow to the necessity to change the data effecting the determination of the amount of customs payments and application of the prohibitions and restrictions established in compliance with normative legal acts of the Republic of Tajikistan.
3. Customs officials shall not be entitled, on their own initiative, or upon the instruction or request of the persons concerned to fill out a customs declaration, amend or add the data declared in the customs declaration, except for adding data which are within the competence of customs authorities, and also amendments or additions of the encoded data used for machine processing if such data is available in an non- coded form in the customs declaration.

### **Article 134**

#### **Withdrawal of Customs Declaration**

1. Upon the written request of the declarant the accepted customs declaration for foreign customs goods may be withdrawn by him prior to the release of such goods to declare another customs regime. The withdrawal of the customs declaration shall be allowed with the written permission of the customs authority if prior to the receipt of declarant's request, the customs authority did not reveal the invalidation of the data stated in the customs declaration except for the cases of identification of inaccuracies which do not affect the decision on the release of goods. When issuing the permission for the withdrawal of the customs declaration, the customs authority shall establish the time limit for submission of a new customs declaration that may not exceed 15 days from the date of issue of the permission for withdrawal. The withdrawal of the declaration shall not extend the time limit for payment of the customs duties and taxes.
2. Upon the written request of the declarant the accepted customs declaration for domestic goods exported from the customs territory of the Republic of Tajikistan may be withdrawn regardless of the reasons of such withdrawal prior to exportation of the goods from the customs territory of the Republic of Tajikistan including after the issue of the permission for placement of goods under the declared customs regime. The withdrawal of the customs declaration shall be allowed by the customs authority in written form if prior to the receipt of declarant's request, the customs authority has not revealed invalidation of the data stated in the customs declaration except for the cases of identification of inaccuracies which do not affect the adoption of the decision on placement of goods under the declared customs regime. The time limit for submission of a new customs declaration for these goods shall not be established.

### **Article 135**

#### **Incomplete Customs Declaration**

1. If the declarant does not have all necessary information for filling in the customs declaration under the reasons beyond his control, the customs authority may allow to submit an incomplete customs declaration provided that the data necessary for release of goods, calculation and payment of customs levies which confirm the fulfillment of restrictions, established in compliance with normative legal acts of the Republic of Tajikistan and also allow to identify the goods based on the totality of their qualitative and quantitative characteristics are declared in it.

When submitting an incomplete customs declaration, the declarant shall undertake an obligation in written form to submit missing data by the time limit established by the customs authority but not later than 45 days from the day of acceptance of the incomplete customs declaration by the customs authority.

2. If the customs authority accepts an incomplete customs declaration, the same requirements and provisions of the customs legislation of the Republic of Tajikistan including the procedure for calculation and payment of the customs levies that apply in case when initially the full and properly completed customs declaration is submitted shall apply.

### **Article 136** **Periodic Customs Declaration**

1. When the same goods are conveyed across the customs border by the same person on a regular basis, the customs authority shall have the right to permit submission of a periodic customs declaration for all goods conveyed across the customs border of the Republic of Tajikistan within a certain period of time.

2. Goods shall be considered as being the same when they have the same classification code under the Commodity Nomenclature of the Foreign Economic Activities.

3. Goods shall be considered as being regularly conveyed across the customs border of the Republic of Tajikistan by the same person, when the same person delivers the same goods three or more times within thirty calendar days.

4. For customs purposes, the same goods conveyed across one and the same checkpoint and the customs clearance of which is made in one and the same customs authority within thirty calendar days under the same foreign trade agreement (contract), regardless of the quantities of the separate deliveries shall be deemed as a single shipment.

5. Customs payments and taxes shall be payable prior to or on the day of registration of a periodic customs declaration.

6. When clearing goods from customs using the procedure for periodic customs declaration, normative legal acts of the Republic of Tajikistan effective on the day of registration of a periodic customs declaration by customs authorities shall apply.

7. A periodic declaration of goods shall be performed by filing a periodic customs declaration prior to the delivery period (exportation or importation). In the process, a periodic customs declaration shall be filled out for a single consignment of goods.

8. The full customs cargo declaration that is filled out given the actual quantity of exported or imported goods, shall be submitted not later than ten calendar days after termination of the delivery period within which the goods were conveyed using the periodic declaration procedure.

9. When goods are imported in volumes different from those stated in the periodic customs declaration, a full customs cargo declaration shall be filled out given the actual quantity of the imported goods. In the process, a periodic customs declaration for the next delivery period shall be filled out taking such changes into account.

10. The procedure for customs clearance of goods using the periodic declaration shall be determined by the authorized body on customs affairs.

### **Article 137** **Particular Features of Declaration of Domestic Goods when Exporting from the Customs Territory of the Republic of Tajikistan**

1. When exporting domestic goods from the customs territory of the Republic of Tajikistan, upon the request of the declarant the simplified procedure for declaring shall be applied in compliance with Articles 135, 136 and 138 of this Code.

2. The simplified procedure for declaring of domestic goods shall be applied if this does not hamper the execution of the customs control and shall not exempt the declarant from fulfillment of requirements and conditions, established by this Code and other normative and legal acts of the

Republic of Tajikistan in terms the completeness and timeliness of payment of the customs levies, fulfillment of prohibitions and restrictions established in compliance with normative legal acts of the Republic of Tajikistan and also observance of customs regimes.

In case of refusal of the customs authority to apply the simplified procedure for declaring domestic goods, the customs authority shall notify the declarant in compliance with paragraph 5 of Article 132 of this Code indicating the conditions are to be followed for application of this procedure.

3. Goods conveying by pipelines or by electric power lines shall be declared in the procedure established by Chapter 40 of this Code.

### **Article 138**

#### **Periodic Temporary Declaration of Domestic Goods**

1. When exporting from the customs border of the Republic of Tajikistan of domestic goods, with respect to which precise information required for customs clearance can not be submitted, in accordance with normal implementation of foreign trade the periodic temporary declaring shall be allowed by filing a temporary customs declaration.

2. After departure of domestic goods from the customs territory of the Republic of Tajikistan a declarant shall lodge a full and duly filled out customs declaration for all domestic goods exported within a definite time period. The submission of a full and duly filled out customs declaration shall be executed within the period established by customs body at the application of the declarant. When establishing such a time limit, the time limit that necessary for the declarant to obtain the data sufficient for filing a full and duly filled out declaration shall be taken into account. The maximum time limit for filing a full and duly filled out customs declaration shall constitute 90 days from the day following the day of expiry of the time period for exportation of the goods being declared.

3. A declarant shall determine the time period within which it is assumed to export domestic goods being declared under the temporary customs declaration .

With regard to domestic goods subject to export customs duties or application of prohibitions and restrictions established in accordance with normative legal acts of the Republic of Tajikistan, this period may not exceed one calendar month and a temporary customs declaration shall be accepted by a customs body not earlier than 15 days prior to the start of this period.

4. A temporary customs declaration may include the data compiled based on the intention to export an approximate number of domestic goods within a definite time period, with conditional customs value (valuation) defined according to the number of domestic goods planned to be conveyed across the customs territory and also based on the consumer properties of domestic goods provided for the terms of the foreign economic transaction and the procedure for determination of their value as of the day of filing the temporary customs declaration.

Departure of domestic goods from the customs territory of the Republic of Tajikistan in the quantity exceeding the one declared in the temporary customs declaration shall not be permitted except for the cases set forth in paragraphs 1 and 2 of Article 122 of this Code.

5. When using a temporary customs declaration economic prohibition and restrictions established in accordance with normative legal acts of the republic of Tajikistan shall be applied on the day of the acceptance the declaration in question by a customs authority. The rates of export customs duties shall be applied on the day of acceptance of a temporary customs declaration by a customs authority with the exception of cases stipulated by this Code.

6. Export customs duties shall be paid along with filing a temporary customs declaration to the customs authority. If the amount of export customs duties payable is increased as a result of clarification of the data indicated in paragraph 2 of this Article, extra payment of export customs duties shall be made along with submission of a full and duly filled out customs declaration. Fines in this case shall not be charged. Refund of the overpaid and overcharged amounts of export customs shall be made in accordance with Article 396 of this Code.

The specific procedure for payment of export customs duties when exporting goods by a pipeline or by electric transmission shall be determined by Articles 312 and 314 of this Code.

7. Upon expiration of four months from the day of acceptance of a temporary customs declaration domestic goods were not exported from the customs territory of the Republic of Tajikistan the customs declaration in which these goods were declared for exportation shall be deemed ad non-submitted.

Upon a well-reasoned request of the person concerned, the customs authority shall extend the specified time limit but not for more than another four months.

## **CHAPTER 15**

## **CUSTOMS BROKER (REPRESENTATIVE)**

### **Article 139**

#### **Customs Broker (Representative)**

1. The domestic legal entity included in the Register of the customs brokers (representatives may act as a customs broker (a representative) (Article 140). A state enterprise may not act a customs broker (a representative).
2. A customs broker (representative) shall perform customs operations in compliance with this Code on behalf of the declarant or any other persons concerned upon their instruction.
3. A customs broker (representative) shall be entitled to restrict the field of his activity in respect to the performance of customs operations with certain types of goods in compliance with the Commodity Nomenclature of Foreign Economic Activities or in respect to goods conveyed across the customs border by certain modes of transport and also by performance of certain customs operations or by the region of activity within the region of activities of one (several) customs authority (authorities).
4. The relations between customs broker (representative) and declarants and other persons concerned shall be on a contractual basis. The refusal of the customs broker (representative) to sign a contract provided that there are acceptable conditions for its signing shall not be permitted.

### **Article 140**

#### **Terms for Inclusion in the Register of the Customs Brokers (Representatives)**

The terms for inclusion in the Register of the customs brokers (representatives) shall be as follows:

- 1) availability of at least two specialists on customs clearance with a qualification certificate (Article 146) in the applicant's staff
- 2) availability of completely formed initial charter (aggregate) capital, charter fund or shares of the applicant
- 3) security of customs and tax payments in accordance with Article 384 of this Code.
- 4) availability of the insurance contract of the civil liability that may occur as a result of damage caused on the property of the persons he/she represents or violation of the contract with these persons. The insurance amount may be not less than 6000-fold amount of the minimum statutory monthly wage.

### **Article 141**

#### **Application on Inclusion in the Register of the Customs Brokers (Representatives)**

1. Inclusion in the Register of customs brokers (representatives) shall be made based on the application of the person who meets the requirements set forth in Articles 139 and 140 of this Code.
2. Application for inclusion in the Register of the customs brokers (representatives) shall contain:
  - 1) Application to the customs authority with the request for inclusion in Register of customs brokers (representatives)
  - 2) Information on the name, organizational and legal structure, location, open bank accounts, as well as the list and location of its separate structural subdivisions through which the applicant plans to perform activities as a customs broker (representative) on the date of submission of an application
  - 3) Information on the amount of charter (aggregate) capital paid up, charter fund or shares of the applicant
  - 4) Information on the intention to limit the field of activities with performance of customs operations with respect to certain types of goods in compliance with the Commodity Nomenclature of Foreign Economic Activities or goods conveyed across the customs border by certain modes of transport and also with performance of certain customs operations or with operating in the region of activities within the region of activities of one (several) customs authority (authorities) or to perform his activity without such restrictions
  - 5) Information on availability of the specialists on customs clearance in the applicant's staff on the date of submission of the application
  - 6) Information on security of payment of the customs levies in accordance with Article 384 of this Code
  - 7) Information on a contract (contracts) concerning insurance of civil liability risk of the applicant.
3. The following documents confirming the declared data shall be attached to the application for inclusion in the Register of customs brokers (representatives):

- 1) foundation documents or a document confirming the fact of registration of the legal entity in the Unified State Register of Legal Entities
- 2) state registration certificate of a legal entity
- 3) certificate on registration of the applicant by the tax authority
- 4) qualification certificates of the specialists on customs clearance being the employees of the applicant
- 5) documents confirming the size of completely formed charter (aggregate) capital, charter fund or shares of applicant
- 6) documents confirming the security of payment of customs levies in accordance with Article 384 of this Code
- 7) confirmation from the bank about opening of accounts at these banks
- 8) insurance policy.

#### **Article 142**

##### **Certificate on Inclusion in the Register of the Customs Brokers (Representatives)**

1. Certificate on inclusion in the Register of customs brokers (representatives) shall contain:
  - 1) name, organizational and legal structure, location of the customs broker (representative) and its separate structural subdivisions fulfilling functions of the customs broker (representative)
  - 2) information on amount and form of security of payment of customs levies in accordance with Article 384 of this Code
  - 3) information on restriction of the field of activity of the customs broker (representative) if they are established.
2. The certificate on inclusion in the Register of the customs brokers (representatives) shall be valid during five years.

#### **Article 143**

##### **Rights of Customs Brokers (Representatives)**

1. When performing customs operations a customs broker (representative) shall enjoy the same rights as the person who authorizes him/her to represent his/her interests in relations with customs authorities.
2. The customs broker (representative) shall be entitled to act as the guarantor to customs authorities for fulfillment of obligations on payment of customs levies by the person he/she represents if the provision of security of payment is required in compliance with this Code.
3. The customs broker (representative) shall be entitled to require from the person he/she represents for documents and information necessary for customs clearance including those containing commercial, banking and other secret secured by law and other confidential information and to receive these documents and data by the deadline ensuring the fulfillment of requirements of this Code.
4. When signing a contract with the person he/she represents, the customs broker (representative) shall be entitled to:
  - 1) allow discounts in respect to the price and provide other privileges for certain categories of the persons he/she represents
  - 2) 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 Tajikistan.

#### **Article 144**

##### **Obligations and Responsibility of a Customs Broker (Representative)**

1. The obligations of a customs broker (representative) during customs clearance shall be based on the requirements and provisions established by this Code in respect to customs operations necessary for placement of goods under the customs regime or any other customs procedures. The fact of performing such operations shall not impose on the customs broker (representative) the obligation to perform operations related to the completion of the customs regime, as well as other obligations imposed only on the person stated in Article 15 of this Code, carrier or other person in compliance with this Code.
2. The customs broker (representative) shall pay customs duties and taxes if the content of the customs regime stated for declaration of goods provides for their payment. The customs broker (representative) shall bear the same responsibility as the declarant for payment for customs levies payable in accordance with this Code.

3. A customs broker (representative) and his/her employees shall not disclose or use for their own purposes or transfer to the other persons the information containing commercial, banking and other secret secured by law and other confidential information, except for the cases set forth by laws of the Republic of Tajikistan.
4. A customs broker (representative) shall be obliged to keep records on goods in respect to which the customs operations are performed and to submit the report on performed customs operations to the customs authorities (Article 405).
5. A customs broker (a representative) shall submit an electronic copy of the customs declaration upon the request if the customs body.
5. The liabilities and responsibility of a customs broker (representative) to customs authorities may be limited by the contract of the customs broker (representative) with the person he/she represents.

#### **Article 145**

#### **Withdrawal of Certificate on Inclusion in the Register of the Customs Brokers (Representatives)**

Certificate on inclusion in the Register of customs brokers (representatives) shall be withdrawn in case of:

- 1) non-observance of at least one of the provisions of inclusion in the Register of customs broker (representative) set forth by Article 140 of this Code by the customs broker (representative)
- 2) repeated bringing of the customs broker (representative) to the administrative responsibility relating to non-fulfillment of his(her) obligations for commitment of administrative violations in the area of customs affairs.

#### **Article 146**

#### **Specialist on Customs Clearance**

1. A customs clearance specialist is a physical person who meets the qualification requirements established by the authorized body on customs affairs and has a qualification certificate of the customs clearance specialist.
2. The customs clearance specialist shall perform his/her activity as the employee of the customs broker (representative).

#### **Article 147**

#### **Certification for Compliance with Qualification Requirements**

1. The certification in respect to compliance with qualification requirements (hereinafter referred to as certification) shall be the review of the qualification of physical persons who pretends for receiving a qualification certificate of the customs clearance specialist. Certification shall be performed in the form of a qualification examination. The persons who pass a qualification examination successfully shall obtain a qualification certificate of the customs clearance specialist. The validity of a qualification certificate of the customs clearance specialist shall not be limited.

2. The obligatory requirements to the candidates for obtaining a qualification certificate of the customs clearance specialist shall be:

- 1) availability of the document of higher education obtained at the local state accredited institutions of a higher professional education or availability of a document of a higher education obtained at the educational institution of a foreign state and certificate on equivalence of this document to the local document in the state format on a higher education
- 2) work experience at least two years.

The procedure for carrying out the certification, the list of the documents submitted with the statement on permission for certification, programs of the qualification exams and the exams procedure shall be determined by the authorized body on customs affairs. At that all persons meeting the requirements for candidates regardless of their special preparation to take an exam shall be permitted to take an exam. The customs authorities determined by the authorized body on customs affairs shall accept a qualification examination.

3. Each specialist on customs clearance shall be obliged to have training on professional development approved by the authorized body on customs affairs including 40 academic hours every two years starting from a year following the year of the receipt of a qualification certificate on customs clearance. The professional development training shall be conducted by the persons having the license for the right to train.

**Article 148**  
**The Grounds and Procedure for Annulment of a Qualification Certificate of a Customs Clearance Specialist**

1. A qualification certificate of a specialist shall be annulled in case of:
  - 1) the fact of receipt of a qualification certificate of a customs clearance specialist using forged documents is established
  - 2) a court sentence providing for the punishment by the cancellation of a right to perform activities as the customs clearance specialist for a certain period of time has entered into force
  - 3) a customs clearance specialist violates the requirements stipulated by paragraph 3 of Article 144 of this Code
  - 4) customs clearance specialist has been repeatedly brought to administrative responsibility for commitment of administrative violations in the area of customs affairs
  - 5) customs clearance specialist violates the requirement on having qualification development training programs established by paragraph 3 of Article 147 of this Code.
2. Decision on cancellation of a qualification certificate of a customs clearance specialist shall be made by the authorized body on customs affairs. This body shall make a well-reasoned decision on annulment of a qualification certificate of a customs clearance specialist. The copy of the said decision shall be forwarded to the person with respect to whom this decision is adopted within three days from the date of its proceeding.
3. A person whose qualification certificate on customs clearance is annulled shall be entitled to appeal a decision on annulment of the said qualification certificate in compliance with Chapter 7 of this Code.
4. A person whose qualification certificate on customs clearance is annulled shall not be entitled to apply again for obtaining a qualification certificate:
  - 1) within one year from the date of making a decision on cancellation of a qualification certificate if this certificate is annulled based on the grounds stipulated in subparagraphs 1 and 3 of paragraph 1 of this Article
  - 2) within a period set forth by the court sentence that became effective if a qualification certificate is annulled based on the subparagraph 2 of paragraph 1 of this Article
  - 3) within the period when a person is considered to be subjected to an administrative violation if a qualification certificate is annulled based on the subparagraph 4 of paragraph 1 of this Article.

**CHAPTER 16**  
**RELEASE OF GOODS**

**Article 149**  
**Grounds for Release of Goods**

1. Customs authorities shall release goods within the periods stipulated by Article 12 of this Code provided the following requirements are met:
  - 1) if in the process of customs clearance and examination of goods, customs authorities have not revealed any violations of the customs legislation of the Republic of Tajikistan, except for the cases when the revealed violations are not a basis for bringing the action of an administrative violation, when the revealed violations have been eliminated, and the goods that are the objects of the violation are not subject to seizure or confiscation, or may not be further required as material proof, in compliance with the legislation of the Republic of Tajikistan
  - 2) if licenses, certificates, permissions and (or) other documents confirming the fulfillment of restrictions established in accordance with normative legal acts of the Republic of Tajikistan and international legal acts ratified by the Republic of Tajikistan have been submitted to the customs authority with the exception of the cases when the said documents may be submitted after the release of goods
  - 3) if a declarant met necessary requirements and provisions for placement of goods under the selected customs regime, or application of the relevant customs procedure, in compliance with this Code
  - 4) if customs duties and taxes with respect to the goods have been paid, or security for payment of customs levies have been provided in compliance with Chapter 46 of this Code.
2. The release for free circulation of goods imported into the customs territory of the

Republic of Tajikistan shall be allowed provided the customs duties and taxes are paid to the budget. In case of default of payment of customs duties and taxes to the budget the goods are considered to be released conditionally. Upon the request of the person, who paid customs duties, taxes the authorized body in the area of finance shall provide the information on the receipt of payments to the budget. The authorized body in the area of finance shall immediately provide the information regarding the receipt of payments to the budget. to the customs body including by the electronic information exchange

3. The release of goods may be suspended in accordance with Article 441 of this Code.

4. The permit for placement of domestic goods, exported from customs territory of the Republic of Tajikistan, under the customs regime of the release of goods shall be issued by the customs body.

#### **Article 150**

##### **Release of Goods Prior to Submission of Customs Declaration**

1. When importing goods, stated in Article 67 of this Code, to the customs territory of the Republic of Tajikistan, and in case of application of special simplified procedures of customs clearance in accordance with Article 68 of this Code, the release of goods prior to submission of a customs declaration may be executed provided that the declarant

has submitted commercial or other documents, containing the information that allow to identify goods and also the documents and information confirming fulfillment of restrictions established by normative legal acts of the Republic of Tajikistan, except for the cases when such documents and information may be submitted after the release of goods, customs duties were paid or their payment was secured in the procedure determined by Chapter 46 of this Code.

2. The release of goods prior to the submission of customs declaration is allowed provided that the declarant has undertaken obligations in written form regarding submission of customs declaration and necessary documents and information within the time period established by the customs authority that may not exceed 45 days from the day of the release of goods, unless other period for submission of certain documents and information is stipulated by this Code.

3. When releasing goods prior to the submission of a customs declaration, the rates of customs duties, taxes, foreign exchange rates and restrictions set by normative legal acts of the Republic of Tajikistan effective at the day of the release of goods, shall be applied.

#### **Article 151**

##### **Conditional Release**

1. Goods are subject to the conditional release in the following cases:

1) if preferential duties, taxes are connected with restrictions in use and disposal of goods in accordance with the legislation of the Republic of Tajikistan.

2) if goods are placed under customs regimes of customs warehouse, free warehouse, free customs zone, duty free trade, processing of goods on the customs territory, processing of goods for free circulation, temporary import, re-export, international customs transit, destruction, as well as special customs regimes as applied to the goods imported to the customs territory of the Republic of Tajikistan

3) if goods are released without submission of documents and information confirming the compliance with restrictions established in accordance with normative legal acts of the Republic of Tajikistan.

2. The conditionally released goods, with respect to which the preferential customs duties and taxes are applied in accordance with the legislation of the Republic of Tajikistan, may be used only for the purposes compliant with the conditions of granting these privileges.

The goods that have been released by the customs authority without submission of documents confirming the fulfillment of restrictions established by normative legal acts of the Republic of Tajikistan shall not be transferred to third parties, including by selling them or alienated any other way. In cases if restrictions for import of the goods in question have been set in connection with the review of the quality and safety of these goods, these goods shall not be used (operated, consumed) in any form.

3. The conditionally released goods shall have the status of foreign goods and shall be placed under the customs control.

4. The goods released for free circulation are considered conditionally released if the payment of customs duties and taxes is postponed or will be made on installments or the amounts of customs duties and taxes are not transferred to the budget.

**Article 152**  
**Time Limit for Release of Goods**

1. Customs authorities shall release goods in accordance with Article 149 of this Code no later than two working days from the day of the receipt of the customs declaration, submission of other necessary documents and information as well as from the moment of submission of goods to customs authorities, except for the case when the time limit for the examination of goods is extended in accordance with paragraph 2 of Article 400 of this Code.
2. In case of application of a preliminary declaration (Article 130), the release of goods shall be executed after their submission to the customs authority.

**Article 153**  
**Additional Provisions for Release of Goods**

1. If in the process of the review of the customs declaration, other documents submitted during declaration, and examination of the declared goods, the customs authority discovers non-compliance with the provisions of the release as stipulated by Article 149 of this Code, the release of goods shall not be executed.

The customs authority shall immediately inform the declarant which terms exactly were not fulfilled and exactly which actions sufficient for compliance with the terms of release of goods in accordance with provisions of this Article the declarant shall undertake.

2. If the customs authority discovered that when declaring goods the false information was declared that affect the amount of customs duties and taxes payable, in cases stipulated by this Code, the customs authority shall immediately request the declarant to adjust the data and recalculate the amount of customs duties and taxes payable. In its request, the customs authority shall specify the data necessary to adjust for the goods to be released.

3. If the customs authority has revealed the signs indicating that the data given in declaration of goods and affecting the amount of customs duties payable may be unreliable or the declared information are not properly confirmed, the customs authority holds any kind of additional examination stipulated by this Code in the procedure stipulated by this Code.

The customs authority shall release goods provided that the payment of customs levies is secured and that customs payments may be additionally levied based on the results of the review. The customs authority shall inform the declarant in written form the amount of the required security for payment of customs levies.

4. If the customs authority has revealed the unreliable data in the declaration of goods that affect the application of prohibitions and restrictions established in accordance with normative legal acts of the Republic of Tajikistan, in cases stipulated by this Code, the customs authority sends the request to the declarant to adjust these data and submit the documents confirming the compliance with appropriate restrictions. In its request the customs authority shall specify which data shall be adjusted and which documents confirming the fulfillment of appropriate restrictions shall be submitted.

5. If the customs authority has revealed the signs indicating that the declared information which affect the application of prohibitions or restrictions with respect to goods set in accordance with normative legal acts of the Republic of Tajikistan may be inadequate or the declared information is not properly confirmed, the customs authority holds any kind of additional examination as provided by this Code in the procedure stipulated by this Code.

The release of goods shall be executed by the customs authority provided that the declarant has submitted documents confirming the fulfillment of appropriate restrictions. The customs authority informs the declarant in written form which particular documents shall be submitted.

6. In cases stipulated by paragraphs 2 and 4 of this Article, the goods shall be released no later than the day following the day of declarant's fulfilling the requirement of the customs authority and paying additional amounts of customs duties, taxes, if required, except for the cases when the goods have been withdrawn or arrested in accordance with the criminal procedural legislation of the Republic of Tajikistan or the Administrative Delinquency Legislation of the Republic of Tajikistan

In cases stipulated by paragraphs 3 and 5 of this Article, the goods shall be released no later than the day following the day of placing the security for payment of customs levies and (or) from the moment of submission of documents confirming the compliance with relevant restrictions.

If as a result of adjustment of the declared information, the amounts of customs duties and taxes payable is reduced in comparison with the one declared by the declarant, the goods shall be released before the requirements said in paragraphs 2 and 3 of this Article are fulfilled.

7. The actions, stipulated by this Article shall be performed by the declarant within the deadlines of temporary storage established in accordance with this Code.

#### **Article 154**

##### **Release of Goods in Case of Institution of Proceeding on Administrative Violation**

In case of discovery of institution of proceeding on Administrative Violation, goods may be released in accordance with Article 153 of this Code upon the resolution of the head of the customs authority, whose official has instituted the proceeding prior to completion of the proceeding on the case, provided that the goods are not confiscated as material proof or arrested in accordance with the administrative delinquency legislation of the Republic of Tajikistan.

### **SUB SECTION 2 CUSTOMS REGIMES**

#### **CHAPTER 17 GENERAL PROVISIONS PERTAINING TO CUSTOMS REGIMES**

#### **Article 155**

##### **Types of Customs Regimes**

The following types of customs regimes have been established for the purpose of applying the customs legislation of the Republic of Tajikistan in the area of customs regulation of goods:

- 1) release of goods for free circulation
- 2) export
- 3) international customs transit
- 4) processing of goods on customs territory
- 5) processing of goods for free circulation
- 6) processing of goods outside the customs territory
- 7) temporary import
- 8) customs warehouse
- 9) re-import
- 10) re-export
- 11) destruction of goods
- 12) rejection of goods in favor of the State
- 13) temporary export
- 14) duty-free trade
- 15) free customs zone
- 16) free warehouse
- 17) transfer of supplies
- 18) special customs regimes.

#### **Article 156**

##### **Choice and Change of Customs Regime**

1. The person importing goods into the customs territory of the Republic of Tajikistan and exporting them from this territory shall be obliged to place goods under one of the customs regimes, stipulated by this subsection, and follow this regime.

2. The person shall have the right to choose any customs regime and change it for another within the time limits established for each type of the regime in compliance with this Code.

#### **Article 157**

##### **Placement of Goods Under Customs Regime**

1. Goods shall be placed under a customs regime with the permission of the customs authority, issued in accordance with this Code.

2. If the person follows the declared customs regime and other terms for the release of goods (Article 149), the customs authority shall be obliged to issue a remission for placement of goods under a declared regime.

3. The date of placement of goods under a customs regime shall be deemed as the day of the release of goods by the customs authority.

**Article 158**  
**Compliance with Prohibitions and Restrictions**  
**when Placing Goods under Customs Regimes**

The persons shall fulfill prohibitions and restrictions of non-economic nature established in accordance with normative legal acts of the Republic of Tajikistan regardless of the declared regime.

**Article 159**  
**Documents And Information Confirming the Compliance with Customs Regime**

1. To obtain a permission for placement of goods under a customs regime the person shall submit to the customs authority only those documents and information that confirm the compliance with the terms of placement of goods under a customs regime, stipulated by this subsection.
2. The customs authority shall have the right to demand only those documents and information that confirm the compliance with the terms of placement of goods under the declared customs regime and compliance with this customs regime in accordance with this Code.

**Article 160**  
**Guarantees of Observance of Customs Regime**

In issuing permissions for placement of goods under customs regime that provide for full or partial exemption from payment of customs duties, taxes or reimbursement of paid sums and (or) inapplicability of prohibitions and restrictions of non-economic nature set in accordance with normative legal acts of the Republic of Tajikistan, the customs authority shall have the right to demand the security for payment of customs levies (Article 46), confirmation of the obligation to re-export temporary imported goods, and other guarantees of duly fulfillment of obligations set by this subsection.

**Article 161**  
**Responsibility for Fulfillment of the Terms**  
**of Placement of Goods Under Customs Regime**

The responsibility for fulfillment of the terms of placement of goods under the declared customs regime that stipulates full or partial exemption from payment of customs duties, taxes or reimbursement of the paid amounts and (or) non-application of prohibitions and restrictions of non-economic nature set in accordance with normative legal acts of the Republic of Tajikistan shall be imposed on the declarant.

**Article 162**  
**The Consequences of Withdrawal of Goods under**  
**the case of Administrative Violation in the Area of Customs**

1. In case of withdrawal of goods, placed under the customs regime as a result of the administrative violation case in the area of customs, the validity of customs regime with respect to these goods shall be suspended.
2. If resolution on customs administrative delinquencies that entered into force does not provide for confiscation of goods, placed under customs regime the effect of the customs regime on these goods shall be renewed.  
In case of renewal of the customs regime interests, charges and payments of which are stipulated in accordance with this subsection, for the period of suspension of the validity of the customs regime is neither charged nor paid.
3. If the person is called to account for administrative delinquency for non-fulfillment of the customs regime and this non-fulfillment makes it impossible to further apply this customs regime, the customs regime shall be completed in accordance with this subsection within 15 after the relevant decision on administrative delinquency came into force.

**ARTICLE 18**  
**RELEASE OF GOODS FOR FREE CIRCULATION**

**Article 163**  
**Content of Customs Regime for Free Circulation**

‘Release of goods for free circulation’ shall mean the customs regime intended for the use and consumption without restrictions of the foreign goods imported onto the customs territory of the Republic of Tajikistan.

**Article 164**  
**Terms of Placement of Goods under the Customs Regime of Release of Goods for Free Circulation**

Goods shall be released for free circulation provided that:

- 1) customs duties and taxes are paid
  - 2) The measures of non-economic nature set in accordance with the legislation of the Republic of Tajikistan are complied with
  - 3) other requirements stipulated by this Code and by other normative legal acts of the Republic of Tajikistan are met
  - 5) customs clearance has been performed.
2. In case of non-compliance with these terms goods shall be subject to conditional release in accordance with Article 151 of this Code.

**CHAPTER 19**  
**EXPORT**

**Article 165**  
**Content of Customs Regime**

‘Export of goods’ shall mean the customs regime under which domestic goods are exported outside the customs territory of the Republic of Tajikistan to be used and consumed outside this territory without restrictions.

**Article 166**  
**Terms of Placement of Goods under the Customs Regime**

1. Goods are exported under the condition of payment of export customs duties in the procedure stipulated by this Code, and in fulfillment of restrictions set in accordance with normative legal acts of the Republic of Tajikistan.
2. When exporting goods the exemption from payment, refund or reimbursement of domestic taxes shall be provided in accordance with tax legislation of the Republic of Tajikistan.

**CHAPTER 20**  
**INTERNATIONAL CUSTOMS TRANSIT**

**Article 167**  
**Content of the International Customs Transit Regime**

‘International transit of goods’ shall mean the customs regime under which foreign goods are conveyed under the customs control across the customs territory of the Republic of Tajikistan between the point of entry onto the customs territory of the Republic of Tajikistan and their exit from this territory (if it is the part of their way that starts and ends outside the customs territory of the Republic of Tajikistan), without payment of customs duties and taxes, and also without application of economic prohibitions and restrictions established in accordance with normative legal acts of the Republic of Tajikistan.

**Article 168**  
**Terms of Placement of Goods under the International Customs Transit Regime**

1. Under the customs regime of the international customs transit any foreign goods may be placed, except for the goods the transit of which is prohibited in accordance with the normative legal acts of the Republic of Tajikistan and international legal acts ratified by the Republic of Tajikistan
2. The normative legal acts of the Republic of Tajikistan and international legal acts ratified by the Republic of Tajikistan may set additional terms for placement of goods under the customs regime of international customs transit.

#### **Article 169**

##### **Application of Rules to International Customs Transit Stipulated by this Code with Respect To Internal Customs Transit**

1. Under the international customs transit the procedure for the issuance of permits for international customs transit by the customs authority and the procedure for setting time limits of the international customs transit, identification of goods, for measures of ensuring observance of the customs legislation of the Republic of Tajikistan shall be executed by the rules established by Articles 80-86 of this Code with respect to the internal customs transit and applied to the international customs transit.
2. Under the international customs transit a carrier or a freight forwarder shall have obligations and responsibility according to the provisions of paragraphs 1 and 2 of Article 88 and also Articles 90 and 91 of this Code.

#### **Article 170**

##### **Transshipment and Other Operations with Transit Goods**

1. Transshipment of transit goods from the vehicle on which the goods were imported to the customs territory of the Republic of Tajikistan to the vehicle on which the goods will be exported from this territory shall be allowed with permission of the customs authority in the region of the activities of which this shipping operation is executed. If transit goods may be shipped from one vehicle to another without damaging imposed customs stamps and seals, this transshipment shall be allowed with prior notification of the customs body.
2. Warehouse storage (storage, splitting or accumulation of consignments and other similar operations) of transit goods on the customs territory of the Republic of Tajikistan shall be allowed in fulfillment of the requirements and conditions established this Code.
3. Operations with transit goods not stipulated by paragraphs 1 and 2 of this Article shall be allowed only in case of the real threat of destruction, loss and irretrievable loss or material damage of goods and (or) means of transport.

#### **Article 171**

##### **Completion of the Customs Regime**

1. The international customs transit shall be completed with export of transit goods from the customs territory of the Republic of Tajikistan.  
The carrier shall present customs goods, submit the transit declaration and other documents for transit goods, used for international customs transit purposes, to the customs authority of destination (paragraph 1 of Article 92). The customs authority of destination shall perform necessary customs operations for completion of the international customs transit and issue permission for departure of goods and means of transport (Article 120) on the day of submission of transit goods and documents.  
In case of export of transit goods in lots the international customs transit shall be deemed to be completed after the departure of the last lot from the customs territory of the Republic of Tajikistan.
2. The international customs transit may be also completed by placing goods under other customs regimes in compliance with requirements and provisions established by this Code.

#### **Article 172**

##### **Particular Features of Application of the Customs Regime**

1. In cases, when the place of entry of transit goods to the territory of the Republic of Tajikistan and the place of their departure from territory coincide, a simplified procedure shall be allowed to the international customs transit. The carrier or freight forwarder submit only those documents and data

that are required upon entry of goods and means of transport (Article 72), and the permit for transit shall be issued on the day of submission of goods and documents to the customs authority.

2. If transit goods are transhipped in the place specified in paragraph 1 of this Article, from one vehicle used upon entry of goods, to the vehicle used on their departure, the transshipment of goods shall be allowed with the permission of the customs authority. Such permission shall be issued to the carrier or freight forwarder upon submission of documents and information as provided by Article 72 of this Code.

The customs authority may refuse to issue a permit for performing cargo operations with transit goods only in case when their performance lead to the loss of goods or alteration to their consumers properties.

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

### **Article 173**

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

1. 'Processing of goods on customs territory' shall mean the customs regime under which foreign goods imported to the customs territory of the Republic of Tajikistan used for processing on the customs territory of the Republic of Tajikistan within the state time period (the time period of processing of goods) with full conditional exemption from customs duties and taxes and further export of processed products outside the customs territory of the Republic of Tajikistan.

2. All the prohibitions and restrictions set in accordance with normative legal acts of the Republic of Tajikistan shall be applied with respect to imported goods, placed under the customs regime for processing goods on customs territory.

### **Article 174**

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

1. The processing of goods on the customs territory shall be allowed with the permission of the customs authority (Article 179).

2. The processing of goods on the customs territory shall be allowed if customs bodies may identify imported goods in the processed products (Article 175), except for the case when the customs regime is completed with the exportation of processed products resulted from processing of goods equivalent to those imported in accordance with Article 186 of this Code.

3. The foreign goods earlier placed under other customs regimes may be placed under the customs regime of processing of goods on the customs territory in case of compliance with requirements and conditions provided by this Code.

4. The Government of the Republic of Tajikistan shall have the right to define the cases when processing of goods on the customs territory is not allowed with respect to specific kinds of imported goods, and also establish quantity and cost restrictions on admission of imported goods to operations related to processing of goods on the customs territory for protection of the interests of domestic commodity producers in accordance with the customs regime for processing on the customs territory.

### **Article 175**

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

1. For identification of imported goods in processed products the following methods may be applied based on the nature of goods and operations performed on the processing of goods:

1) putting by the declarant, processor or a customs official, of seals, stamps, numbers and other markings on the imported goods

2) detailed description of imported goods, taking photographs, showing on the scale

3) matching of samples or specimens of imported goods against the processed products

4) using serial numbers and other markings of the producer of imported goods.

2. Applicability of the declared method of identification of imported goods for processing of goods on the customs territory in processed products shall be established by the customs authority given the nature of goods and operations performed for goods processing.

3. At the request of the applicant and with the consent of the customs authority the said identification for customs purposes may be provided through investigation of submitted detailed information on raw materials, materials and components that are used in production and also on technology of production

of processed products or through execution of the customs control when performing operations on processing of goods.

**Article 176**  
**Operations for Processing of Goods on Customs Territory**

Operations for the processing of goods under the customs regime on the customs territory shall include:

- 1) actual processing and re-processing of goods
- 2) production of new goods, including mounting, assembling or dismantling of goods
- 3) repair of goods, including its restoration, replacement of components, restoration of their consumption properties
- 4) processing of goods, which facilitate or simplify the production of products, even when these goods are wholly or partially used in the course of processing.

**Article 177**  
**Time Limit for Processing of Goods on Customs Territory**

1. The time limit for processing on customs territory shall be determined by the declarant in agreement with the customs authority and may not exceed two years.
2. The time limit for processing of goods on the customs territory shall be determined based on the duration of the processing of goods and time necessary for disposal of the processed products.
3. If the person who obtained a permit for processing and who without violation of requirements and provisions established by this Article cannot complete the customs regime within the given term under the reasons beyond his control, the initially set time limit for processing of goods shall be extended under a well reasoned request of the applicant who obtained the permit for processing, within the time limit established by Paragraph 1 of Article.
4. The time limit for processing of goods shall start from the day of their placement under the customs regime for processing of goods on the customs territory, and in case of importing goods in lots – from the day of the placement of the first lot.

**Article 178**  
**Output Norms for Products of Processing of Goods on Customs Territory**

1. The norm of output of processed goods (quantity and percentage of processed goods received as a result of processing of a definite number of imported goods) shall be determined by the declarant in agreement with the customs authority based on the actual conditions, under which the goods are processed, except for the case provided by the Paragraph 3 of Article.
2. In coordination of the norm of output of processed goods, the customs authority shall take into account the conclusions of expert organizations (including customs laboratories), based on the specific technological process.
3. If operations on processing of goods having practically constant characteristics are usually performed in accordance with specific technical conditions and lead to the output of processed products of unchanged quality, the competent authorities, authorized by the Government of the Republic of Tajikistan, shall establish standard norms of output of processed products for customs purposes.
4. The description, quality and quantity of processed products shall be finally determined after the agreement of the norms of output of processed products.

**Article 179**  
**Permit for Processing of Goods on Customs Territory**

1. Any interested domestic person, including the ones who are not directly engaged into the processing of goods, may obtain a permit for processing of goods on the customs territory.
2. The permit for processing of goods shall be issued by the customs authority based on the application of the person concerned.
3. The permit for processing of goods shall include:
  - 1) description, quality and quantity of goods intended for processing, and their processed products
  - 2) operations on processing of goods and methods of their performance

- 3) the norm of output of processed products
- 4) methods of identification of imported goods in processed products
- 5) time limit for processing of goods
- 6) other information determined by the authorized body on customs affairs, and necessary for customs purposes.

The form of the permit for processing of goods shall be determined by the authorized body on customs affairs.

4. The permit for processing of goods shall be valid within the set time limit for processing of goods.
5. The person, who obtained the permit for processing of goods, shall have the right within its validity time limit to transfer it to another domestic person by getting a written permission of the customs authority (Article 61) provided that this person undertakes responsibilities for further fulfillment of requirements and provisions set by Articles 173-180 of this Code. At that, the person who obtained the permit for processing of goods, shall submit to the customs authority the report on fulfillment of requirements and provisions determined by this Chapter for the period when the goods were used under the customs regime of processing of goods on the customs territory and also pay customs duties, taxes if within this period the events occurred arising the obligation to pay customs duties, taxes in accordance with this Code.

The person to whom the permit for processing of goods is transferred shall undertake responsibilities for fulfillment of requirements and provisions set by this Chapter, and register all the necessary documents under his name if the observance of the customs regime is provided by guarantees (Article 160). This person shall enjoy the rights and bear responsibilities that are determined by this Code with respect to the person who obtained a permit for processing of goods, from the day the customs authority adopted the decision to transfer the permit for processing of goods.

6. The permit for processing of goods may be submitted before as well as after the import of goods on the customs territory of the Republic of Tajikistan if the applicant follows the requirements and provisions determined by this paragraph.
7. The person who obtained a permit for processing of goods shall bear the responsibility for payment of customs duties and taxes in accordance with the paragraph 2 of Article 350 of this Code.

### **Article 180**

#### **Procedure for Issue of Permit For Processing of Goods**

1. To obtain the permit for processing of goods the person shall submit to the customs authority the application containing the information as follows:

- 1) details of the applicant
- 2) details of the person (persons) directly engaged into the operations of processing of goods
- 3) goods intended for processing, processed products, and also wastes and remains
- 4) operations on processing of goods, methods and terms of their completion
- 5) location of manufacturing capacities used for processing of goods
- 6) norm of output of processed products
- 7) methods of identification of imported goods in processed products
- 8) replacement of imported goods with equivalent goods
- 9) time limit for goods processing.

2. The form of application and the form for presenting the data shall be established by the authorized body on customs affairs.

The documents confirming the declared information shall be attached to the application.

3. The customs authority shall consider the application and attached documents within 30 days from the day of their acceptance. Within this period the customs authority shall verify the compliance with the set requirements and provisions and also shall take a decision on agreement of the declared norms of output of processed products and the time limit for processing of goods.

The customs authority shall have the right to request from third parties and also from government bodies proofs stated in Paragraph 1 of this Article. The said persons shall be obliged to submit the requested documents within 10 days from the moment of receiving the request. At that, the customs body shall be entitled to extend the period of consideration of the application, but no more than two months from the moment of its receipt.

A permit for processing of goods and the documents attached thereto shall be registered by the authorized body on customs affairs. In case of non-compliance with the stated requirements and provisions the authorized body on customs affairs shall have the right to refuse the issuance of the permit for processing of goods.

4. The customs declaration on placement of goods under the customs regime of processing of goods on the customs territory is used as an application for processing of goods provided that when importing goods and further exporting of the processed products they are submitted at the same time and declared to the same customs authority, if :

1) the goods were placed under the customs regime of processing of goods on the customs territory for repair, including the repair free of charge

2) the customs value of goods placed under the customs regime of processing of goods on the customs territory does not exceed 600 fold of the minimum monthly wage determined by the law

3) the residues of earlier imported goods are placed under the customs regime of processing of goods on the customs territory in accordance with paragraph 1 of Article 184 of this Code.

5. If the customs declaration is used as an application, the time period of its consideration shall not exceed the period of examination of the customs declaration, set by Paragraph 1 of Article 400 of this Code.

6. The customs authority shall refuse to issue a permit for processing of goods only in the case if, when lodging the application, the applicant does not follow requirements and provisions set by Articles 173-180 of this code, and also in case of customs authority takes a decision to refuse to agree the declared norms of output of processed products and the time limit of products processing.

The refusal of the customs authority to issue the permit for processing of goods shall be justified and motivated. The applicant shall be notified about the refusal to issue the declared permit in a written form.

#### **Article 181**

##### **Withdrawal of Permit for Processing of Goods**

1. The issued permission for processing of goods shall be withdrawn by the customs authority if the placement of goods under the customs regime of processing of goods on the customs territory shall not be allowed in accordance with normative legal acts of the Republic of Tajikistan adopted based on Paragraph 4 of Article 174 of this Code.

2. The decision on withdrawal shall enter into effect from the day the relevant act of the Government of the Republic of Tajikistan comes into effect.

3. In case of withdrawal of the permit for processing of goods, placement of goods under customs regime of processing of goods on the customs territory in accordance with the withdrawn permission shall not be allowed and with respect to the goods placed under customs regime of processing of goods on the customs territory prior to the withdrawal of the permission the said customs regime may be completed in accordance with this Chapter.

4. The form of withdrawal of the permission for processing of goods shall be established by the authorized body on customs affairs.

#### **Article 182**

##### **Exemption of Processed Products from Export Customs Duties and Application of Prohibitions and Restrictions with respect to the Processed Products**

1. Export customs duties shall not be paid when exporting processed products from the customs territory of the Republic of Tajikistan.

2. All the prohibitions and restrictions set in accordance with normative legal acts of the Republic of Tajikistan shall be applied to exported processed products.

#### **Article 183**

##### **Wastes**

1. Wastes, resulting from processing of goods on the customs territory shall be subject to customs duties, taxes as if these wastes were imported to the customs territory of the Republic of Tajikistan in this state, except for the cases when these wastes are exported from the customs territory of the Republic of Tajikistan or processed until the condition unsuitable for their further commercial use on the customs territory of the Republic of Tajikistan and cannot be restored by efficient economic method.

The wastes that are subject to customs duties and taxes shall be declared.

2. For the purposes of collection of customs duties and taxes wastes shall be deemed as goods imported to the customs territory of the Republic of Tajikistan.

The customs value of wastes is determined in accordance with the tax legislation of the Republic of Tajikistan taking into account the specific details set by the Paragraph 3 of Article.

3. If it is impossible to determine the customs value of wastes under the method based on the transaction value of imported goods, the transaction value of identical goods or the transaction value of similar goods in accordance with the legislation of the Republic of Tajikistan, the customs value of wastes shall be amounted to one of the following values:

- 1) sale price of estimated wastes being sold for the first time on the territory of the Republic of Tajikistan to the buyer being non- related to the parties of the transaction on processing of goods
- 2) sale prices of goods identical or similar to estimated wastes , if these goods are produced as a result of similar processing under customs regime of processing of goods on the customs territory and if it is the price of their first sale on the customs territory of the Republic of Tajikistan to the buyer being non- related to no one parties of the transaction on processing of goods
- 3) prices of the deal with goods identical or similar to estimated wastes, sold for export to the Republic of Tajikistan and imported to the Republic of Tajikistan at the same, or nearly the same time of the process of declaration of estimated wastes
- 4) realization price on the domestic market of the Republic of Tajikistan between non-related sellers and buyers of goods, being identical or similar to estimated wastes, without taxes subject to payment in the Republic of Tajikistan in realization of goods.

#### **Article 184 Residues**

1. Residues of goods, placed under the customs regime of processing of goods on the customs territory, may be exported from the customs territory of the Republic of Tajikistan without paying export customs duties or placed under customs regime of processing of goods on the customs territory.

2. The residues that are not exported are subject to payment of import customs duties, taxes as if they were imported to the customs territory of the Republic of Tajikistan in this state. The residues that are subject to payment of customs duties and taxes shall be declared.

The amount of customs duties, taxes shall be determined based on size of quantity or cost part of residues proportionate to the amount of customs duties, taxes that would be subject to payment if the goods, processing of which resulted in these residues, were released for free circulation on the day of placement under customs regime of processing of goods on customs territory

#### **Article 185 Termination or Suspension of Customs Regime**

1. Processed products shall be exported outside the customs territory of the Republic of Tajikistan or shall be placed under a different customs regime before the expiration of the time limit of processing established in compliance with Article 177 of this Code.

2. When processed products are exported outside the customs territory of the Republic of Tajikistan in several batches, the final verification of the quantity of processed products, mentioned in the permit for processing of goods (Article 179) may be conducted on a periodic basis after the export of the processed products, but not less than once in three months, and no later than thirty calendar days from the date that the last batch of goods was exported. If as a result of this verification, the person who got the permission for processing of goods on the customs territory, should pay customs duties, taxes, the interests thereof are not charged if they are paid within 10 working days from the moment the customs authority adopted a decision in written form regarding the necessity to payment these duties and taxes. The customs authority shall forward notification to the person who obtained the permission for processing of goods, to make a payment of customs levies no later than one day following the day on which the decision was adopted.

3. The customs regime of processing of goods on the customs territory may be completed by release of goods and (or) their processed products for free circulation or their placement under different customs regime in compliance with requirements and provisions set by this Code.

4. In release of imported goods and (or) the processed products for free circulation the amounts of customs duties, taxes, that would be subject to payment if the imported goods were declared for release for free circulation on the day of placement of goods under the customs regime of processing of goods on the customs territory, as well as interests thereof in the amounts established by the tax code of the Republic of Tajikistan, as if the payment of the said amounts was postponed from

the day of placement of the goods under the customs regime of processing goods on the customs territory.

5. At the well-reasoned request of the person concerned the effect of customs regime of processing of goods on the customs territory may be suspended in the following cases:

1) when placing processed goods in customs warehouse in accordance with paragraph 3 of Article 217 of this Code

2) when placing processed products under other customs regimes not stipulating release of goods for free circulation.

6. The suspension of the effect of customs regime of processing of goods on the customs territory results in suspension of the time limit of processing of goods (Article 177). The interests, which are charged and paid according to the provision of this Article, shall not be charged and paid for the period of suspension of the effect of customs regime of processing of goods on the customs territory.

Actions during the period of suspension of the effect of customs regime of processing of goods on the customs territory are not allowed.

7. The customs regime of processing of goods on the customs territory may be also completed with export of imported goods in unchanged condition (re-export).

### **Article 186**

#### **Equivalent Compensation**

1. With the permission of the authorized body on customs affairs, foreign goods, placed under the regime for processing on the customs territory, may be replaced with other goods, including domestic ones, if they match in description, quality and technical specifications to the foreign goods (equivalent compensation).

2. The products resulting from the processing of equivalent goods shall be deemed as processed products resulting from the processing of imported goods, in compliance with the provisions of this Chapter.

3. For the customs purposes equivalent goods shall have the status of imported goods, and imported goods shall have the status of the goods that had equivalent goods.

4. If equivalent compensation is permitted, export of processed goods is allowed prior to the import of goods for processing of goods on customs territory provided the permit for processing is available. Customs authorities establish the time limit for import of these goods.

## **CHAPTER 22**

### **PROCESSING FOR FREE CIRCULATION**

#### **Article 187**

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

1. 'Processing of goods for free circulation' shall mean the customs regime under which goods imported to the customs territory of the Republic of Tajikistan are used for operations on processing of goods within the established time limit (time limit for processing of goods) with full conditional release from payment of customs duties with subsequent release of processed products into free circulation with payment of customs duties at the rates applied to the processed products.

2. All the prohibitions and restrictions established in accordance with normative legal acts of the Republic of Tajikistan shall be applied to imported goods placed under customs regime of processing of goods for free circulation.

#### **Article 188**

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

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

1) the permit of the customs authority is available (Article 192)

2) the submission of the opinion of the relevant authorized state body on the norm of output of processed products in the form established by the authorized body on customs affairs in agreement with the relevant authorized government body.

3) the identification by customs authorities of foreign goods in the processed products (Article 189)

- 4) ensuring the compliance with the requirements of the customs legislation of the Republic of Tajikistan, including in addition to the customs control to create conditions that make impossible to withdraw goods and processed products, to exercise the customs control, to provide the customs authorities with access to goods, record-keeping for goods and performance of operations with them, as well as submission of reports
  - 5) impossibility to restore processed products to their original state using an economically sound method
  - 6) sums of customs duties, subject to payment with respect to processed products less than those ones that would subject to payment on the day of placement of imported goods under the customs regime of processing of goods for free circulation as if they were released for free circulation
  - 7) importation of goods for processing by the person who directly performs processing operations.
2. The customs regime for processing for free circulation may be declared by the person who may act as a declarant, in compliance with this Code.
  3. Foreign goods previously placed under other customs regimes may be placed under the customs regime for processing for free circulation in case of compliance with requirements and provisions of this Code.
  4. The Government of the Republic of Tajikistan shall formulate a list of goods prohibited from being placed under the customs regime for processing for free circulation

**Article 189**  
**Identification of Goods in Processed Products**

When identifying goods in the processed products the rules stipulated by Article 175 of this Code shall be applied.

**Article 190**  
**Operations for Processing of Goods**

Operations for the processing of goods under the customs regime for free circulation shall include:

- 1) actual processing and re-processing of goods
- 2) manufacturing of new goods, including mounting, assembling or dismantling of goods

**Article 191**  
**Time Limit For Processing of Goods**

1. The time limit for processing on customs territory shall be determined by the declarant in agreement with the customs authority and may not exceed one year.
2. The time limit for processing of goods for free circulation shall be determined based on the duration of the processing of goods
3. If the person who obtained the permit for processing without violation of requirements and conditions set by this Chapter, may not complete the customs regime within the given time limit under the reasons beyond his control, the initially set time limit for processing of goods shall be extended at the well-reasoned application of the person who obtained the permit for processing, within the time limit set by Paragraph 1 of this Article.
4. The time limit for processing of goods shall start from the day of their placement under the customs regime for processing of goods for free circulation, and when importing goods in lots – from the day of placement of the first lot.

**Article 192**  
**Permit for Processing of Goods for Free Circulation**

1. The permit for processing of goods for free circulation shall be issued by the customs authority based on the application of the declarant ( paragraph 1, Article 193).
2. The permit for processing of goods shall include the information as follows:
  - 1) description, quality and quantity of imported goods and their processed products
  - 2) operations on processing of goods and methods of their performance
  - 3) the norm of output of processed products
  - 4) methods of identification of imported goods in processed products
  - 5) the time limit for processing of goods

6) other information determined by the authorized body on customs affairs, and necessary for customs purposes.

The authorized body on customs affairs shall determine the form of the permit for processing of goods.

3. The permit for processing of goods shall be effective within the set time limit for processing of goods.

4. The permit for processing of goods shall be valid prior to placement of goods under the customs regime of processing of goods for free circulation.

5. The issued permit shall not be transferred to another person.

6. The person who obtained the permit for processing of goods shall bear the responsibility for payment of customs duties and taxes in accordance with paragraph 2 of Article 350 of this Code.

### **Article 193**

#### **The Procedure for Issuance of Permit for Processing of Goods**

1. To obtain a permit for processing of goods the person shall submit to the customs authority the application containing as follows:

1) details of the applicant

2) details of the person (persons) directly engaged into the operations of processing of goods

3) information of the goods intended for processing, processed products, wastes and residues

4) information of the operations on processing of goods, methods and time limits of their completion

5) location of manufacturing capacities, used for processing of goods

6) norm of output of processed products

7) methods of identification of imported goods in processed products

8) time limit for good processing.

2. The form of the application and the form of presenting the data included therein shall be determined by the authorized body on customs affairs.

The documents confirming the declared data shall be attached to the application.

3. The customs authority shall consider the application and attached documents within 30 days from the day of their receipt. Within this time limit the customs authority shall verify the compliance with the established requirements and conditions and also shall take a decision on agreement of the time limit for processing of goods and the norm of output of processed products, which is determined by the rules established by Article 178 of this Code.

The customs authority shall have the right to request the proofs specified in Paragraph 1 of this Article from third parties and state bodies. The said persons shall submit the requested documents within 10 days from the date of receiving the request. At that, the customs authority shall be entitled to extend the time limit of considering the application, up to two months from the date of its receipt.

The permit for processing of goods and the documents attached thereto shall be registered by the authorized body on customs affairs. In case of non-fulfillment of the set requirements and provisions the authorized body on customs affairs shall have the right to issue the permit for processing of goods.

4. The customs authority shall refuse to issue a permit for processing of goods only in case if the applicant does not follow requirements and provisions established by Articles 187-193 of this Code, and also in case of the customs authority has taken a decision to refuse to agree the declared data.

The refusal of the customs authority to issue the permit for processing of goods shall be justified and motivated. The applicant shall be notified about the refusal to issue the declared permit in a written form.

### **Article 194**

#### **Residues and Wastes**

The rules stipulated by Articles 183 and 184 of this Code shall be applied with respect to the wastes resulted from processing of goods as well as residues of goods, placed under the customs regime of processing of goods for free circulation.

### **Article 195**

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

The customs regime for processing for free circulation shall be completed as the release of the processed goods for free circulation. When processed products are released for free circulation,

customs duties shall be calculated based upon the rates applicable to the processed products. The customs value and quantity of processed products shall be calculated on the date of their declaring under the customs regime for release into free circulation.

#### **Article 196**

##### **Details of Application of Rates of Customs Duties with Respect to Processed Products**

The rates of customs duties in the country of origin of goods imported for processing shall be applied with respect to processed products. In cases when foreign goods originated from different countries are used in processing, the rates of customs duties shall be applied taking into account the following principles:

- 1) if, in the course of processing of goods the classification code of goods according to the Commodity Nomenclature of Foreign Economic Activities has been changed at the level of any of the first four digits, the rates of customs duties applied to goods imported from the countries, with which the Republic of Tajikistan has the most favorable treatment regime in trade political relations shall be applied.
- 2) in other cases, the rates of customs duties of the country of origin of foreign goods with the largest customs value shall be applied.

### **CHAPTER 23**

#### **PROCESSING OF GOODS OUTSIDE THE CUSTOMS TERRITORY**

#### **Article 197**

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

1. 'Processing outside the customs territory' shall mean the customs regime when domestic goods are exported outside the customs territory of the Republic of Tajikistan for the purpose of processing within the established time limit (time limit of processing of goods) and subsequent importation of processed products onto the customs territory of the Republic of Tajikistan, with full or partial exemption from import customs duties and taxes in accordance with legislation of the Republic of Tajikistan.
2. The goods shall be exported from the customs territory of the Republic of Tajikistan in accordance with the customs regime of processing of goods outside the customs territory with full conditional exemption from export customs duties. In accordance with normative legal acts of the Republic of Tajikistan economic prohibitions and restrictions shall not be applied to exported goods.
3. When exporting goods under the customs regime of processing of goods outside the customs territory, the exemption from payment, refund or reimbursement of domestic taxes shall not be provided.

#### **Article 198**

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

1. Processing of goods outside the customs territory shall be allowed with permission of the customs authority (Article 203).
2. Processing of goods outside the customs territory shall be allowed if customs authorities may identify exported goods in the processed products (Article 199), except for the case when the processed products are replaced with foreign goods in accordance with Article 206 of this Code.
3. To place goods under the customs regime of processing of goods outside the customs territory, for the customs purposes the goods shall have the status of being in free circulation or produced in the Republic of Tajikistan. The goods placed under the customs regime of processing outside the customs territory with regard to which preferential customs duties and taxes are provided in accordance with the legislation of the Republic of Tajikistan shall be allowed in case if the operation on processing of goods is a repair.
4. The government of the Republic of Tajikistan shall have the right to determine the cases, when the processing of goods outside the customs territory also setting quantity and pricing restrictions on processing of goods are not allowed with respect to certain types of goods, in accordance with the customs regime of processing of goods outside the customs territory with the aim of protecting the

interests of domestic producers. The said prohibitions and restrictions shall come into effect in accordance with Article 4 of this Code.

#### **Article 199** **Identification of Goods in Processed Products**

1. For identification of the exported goods in the processed products the following methods are applied based on the nature of goods and the operations for processing of goods being performed:
  - 1) putting by a declarant, processor or a customs official, of seals, stamps, numbers and other markings onto exported goods
  - 2) detailed description of exported goods, taking photographs, showing on the scale
  - 3) matching the results of examination of samples or specimens of exported goods, taken in advance, against the processed products
  - 6) using serial number and other markings of the producer of exported goods
  - 7) documentary evidence, proving that the exported goods were processed
  - 6) other methods of identification providing for use of modern technologies.
2. Applicability of the declared method of identification of exported goods for processing of goods outside the customs territory in the processed products shall be established by the customs authority taking into account the nature of goods and processing operations being performed.
3. Upon the request of the applicant and with agreement of the customs authority the given identification for customs purposes may be established as a result of the review of the submitted detailed information about raw materials, materials and components that are used in production and also the technology of production of processed products.

#### **Article 200** **Operations on Processing of Goods**

Operations for the processing of goods under the customs regime outside the customs territory shall include:

- 1) actual processing and re-processing of goods
- 2) manufacturing of new goods, including mounting, assembling and dismantling of goods
- 3) repair of goods, including its restoration, replacement of components, restoration of their consumption properties

#### **Article 201** **Time Limit for Processing of Goods**

1. The time limit for processing shall be determined by the declarant in agreement with the customs authority and may not exceed two years.
2. The time limit for processing of goods outside the customs territory shall be determined based on the duration of processing of goods and the time necessary for transportation of processed products, within the time limit established by Paragraph 1 of this Article.
3. At the well-reasoned application of the person obtained a permit for processing of goods, the initially established time limit for processing shall be extended within the time limit set by Paragraph 1 of this Article.
4. The time limit for processing of goods shall start from the date of their placement under the customs regime for processing of goods outside the customs territory, and in case of import of goods in lots – from the date of the placement of the first lot.

#### **Article 202** **The Norm of Output of Processed Products for Customs Purposes**

1. The norm of output of processed goods (quantity and percentage of processed goods resulting from processing of a definite number of exported goods) shall be determined by the declarant in agreement with the customs authority based on the actual conditions, under which the goods are processed, except for the cases stipulated by Paragraph 4 of this Article, if it is recognized as necessary for customs control purposes. The norm of output of processed products shall be determined prior to importation of processed products to the customs territory of the Republic of Tajikistan.

2. The customs authority shall agree the norm of output of processed products based on documents submitted by the declarant, containing the information about the technological process. In the process of the agreement of the norm of output of processed goods the customs authority shall take into account opinions of expert organizations (including customs laboratories), based on a specific technological process.

3. Description, quantity and quality of processed products shall be finally determined after the agreement of the norm of output of processed products.

4. If operations on processing of goods having practically constant characteristics are usually performed in accordance with specific technical conditions and lead to the output of processed products of unchanged quality, the competent authorities shall establish standard norms of output of processed products for customs purposes.

When using standard norms of output of processed products for customs purposes, the import of processed products in quantity exceeding the established norms of output of processed products with full or partial exemption from customs duties, taxes shall not be allowed.

### **Article 203** **Permit for Processing of Goods**

1. Export of goods for processing of goods outside the customs territory shall be allowed provided the permit for processing of goods outside the customs territory is available.

2. The permit for processing of goods outside the customs territory shall be issued to the declarant by the customs authority.

3. The permit shall include:

1) description, quality and quantity of goods intended for processing and their processed products

2) operations on processing of goods and methods of their implementation

3) the norm of output of processed products, if it is established (Paragraph 4 of Article 202) or agreed on the date of the permit was issued

4) methods of identification of exported goods in processed products

5) the time limit for processing of goods

6) other information determined by the authorized body on customs affairs, and necessary for customs purposes.

The authorized body on customs affairs shall determine the form of a permit for processing of goods.

4. The permit for processing of goods shall be valid within the set time limit for processing of goods.

5. The person who obtained the permit for processing of goods shall bear the responsibility for payment of customs duties and taxes in accordance with paragraph 2 of Article 350 of this Code.

### **Article 204** **The procedure for Issue of Permit for Processing of Goods**

1. To obtain a permit for processing of goods the person shall submit to the customs authority an application containing the following information:

1) information about the applicant

2) person (persons) directly engaged into the operations of processing of goods and his (her) location

3) goods intended for processing

4) operations on processing of goods, methods and time limits of their completion

4) the norm of output of processed products if it is established (paragraph 4 of Article 202) and if on the day of submission of the application by the declarant this norm is established

5) processed products and their approximate quantity

6) methods of identification of exported goods in processed products

7) replacement of imported goods with foreign goods

8) time limit for goods processing.

2. The form of an application and the form for presenting the data shall be established by the authorized body on customs affairs.

The documents proving the data shall be attached to the application.

3. The customs authority shall consider the application and attached documents within 30 days from the date of their receipt. Within this time period the customs authority shall verify the data given in the application and also shall take a decision concerning agreement of the declared norms of output of processed products with the time limit for processing of goods.

The customs authority shall have the right to request from third parties and state bodies documents proving the declared data. At that, the customs body shall be entitled to extend the time limit of considering the application, but this time limit shall not exceed two months from the date of the receipt of the application.

The permit for processing of goods and the documents attached thereto shall be registered by the authorized body on customs affairs. In case of non-fulfillment of the established requirements and provisions the authorized body on customs affairs shall have the right to refuse in issuing a permit for processing of goods.

4. The customs declaration for goods exported in accordance with the customs regime of processing of goods outside the customs territory shall be used as an application for processing of goods provided that the goods are exported in one lot, if:

1) the goods were placed under customs regime of processing of goods outside the customs territory for repair, including the repair on a paid basis.

2) the customs value of goods placed under customs regime of processing of goods outside the customs territory does not exceed 2000 fold of the minimum monthly wage determined by the law.

5. If the customs declaration is used as an application, the time limit of its consideration shall not exceed the time limit of considering the customs declaration, set by Paragraph 1 of Article 400 of this Code. In this case the processed products being imported shall be declared to the customs authority that issued the permit for processing of goods.

6. The customs authority shall refuse to issue a permit for processing of goods only in case if the applicant does not follow requirements and provisions set by this Chapter when lodging an application, and also in case of customs authority takes a decision to refuse to agree the declared norms of output of processed products and the time limit of products processing.

The refusal of the customs authority to issue the permit for processing of goods shall be justified and motivated. The declarant shall be notified about the refusal to issue the declared permit in a written form.

#### **Article 205**

##### **Withdrawal of Permit for Processing of Goods**

1. The issued permission for processing of goods shall be withdrawn by the customs authority if in accordance with the normative legal acts of the Republic of Tajikistan adopted on the basis of Paragraph 4 of Article 198 of this Code, the placement of goods under the customs regime of processing of goods outside the customs territory shall not be allowed.

2. The decision on withdrawal shall be effective from the date when the relevant normative legal acts of the Republic of Tajikistan comes into effect.

3. In case of withdrawal of the permit for processing of goods, placement of goods under the customs regime of processing of goods outside the customs territory in accordance with the withdrawn permission shall not be allowed, and with respect to the goods placed under the customs regime of processing of goods outside the customs territory prior to the withdrawal of permission, the customs regime may be completed in accordance with this Chapter.

4. The form of withdrawal of permission for processing of goods shall be established by the authorized body on customs affairs.

#### **Article 206**

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

Under the well-reasoned request of the applicant and with permission of the authorized body on customs affairs the processed products may be replaced with foreign goods provided that

1) they coincide on their description, quantity, value, quality and technical specifications with the products of processing

2) the code of foreign goods under the Commodity Nomenclature of the Foreign Economic Activities coincides with the code of processed goods under the Commodity Nomenclature of the Foreign Economic Activities on the level of first four digits.

In other cases the processed products may be replaced with foreign goods by re-drawing up the permit for processing in the procedure established by Article 204 of this Code.

## **Article 207**

### **Application of Full or Partial Exemption from Payment of Customs Duties, Taxes to the Processed Products**

1. The full exemption from payment of customs duties, taxes shall be provided to processed products if the aim of processing was guarantee (paid) repair of exported goods. With respect to the goods, earlier released for free circulation on the customs territory of the Republic of Tajikistan, the full exemption from payment of customs duties, taxes shall not be provided, in case when releasing goods for free circulation the defect being a reason for the repair was taken into account.

2. In other cases with respect to the processed products partial exemption from customs duties, taxes shall be provided, except for the excises, in the following procedure:

1) the sum of customs duties payable is determined as the difference between the sum of import customs duty, applied to the processed products, and the sum of import customs duty, that would be applied to exported goods as if they were released for free circulation, if the specific rates of customs duties are applied to processed products and the operation of processing is not the guaranteed (free of charge) repair, or based on the cost of operations for processing of goods, which in case of the lack of documents proving the cost of these operations, may be determined as the difference between the customs value of the whole volume of manufactured processed products and the customs value of goods exported for processing

2) the sum of the value added tax payable is determined based on the cost of operations on processing of goods, which in case of the lack of documents proving the cost of these operations, may be determined as the difference between the customs value of the whole volume of manufactured processed products imported to the customs territory of the Republic of Tajikistan and the customs value of goods exported for processing.

3. Excises for processed products are subject to full payment, except for the case, when the operation of goods processing is considered as the guaranteed (free of charge) repair of exported goods.

4. When importing processed products upon the expiration of the time limit of processing (Article 201), as well as in case of non-fulfillment of other requirements and provisions of this Chapter or unduly confirmation, the full or partial exemption from payment of customs duties, taxes shall not be provided.

## **Article 208**

### **Termination of Customs Regime outside the Customs Territory**

1. The customs regime of processing of goods outside the customs territory shall be terminated with importation of processed products to the customs territory of the Republic of Tajikistan or with any other method stipulated by this Chapter.

2. When processed products are imported to the customs territory of the Republic of Tajikistan in several consignments, final verification of the quantity of processed products, mentioned in the permit for processing of goods (Article 203) may be conducted on a periodic basis after the import of the processed products, but not less than once in three months, and no later than thirty calendar days from the date that the last consignment of goods was imported. If as a result of this verification, the person who obtained the permission for processing of goods outside the customs territory, shall pay customs duties, taxes, sums of the interests thereon shall not be charged provided that they are paid within 10 working days from the day of the adoption by the customs authority of the decision in written form on the need to pay the said sums. The customs authority shall forward a notification about the need to pay customs levies to the, no later than one day following the day of the adoption of the decision.

3. The customs regime of processing of goods outside the customs territory may be completed as re-import of goods, exported from the customs territory of the Republic of Tajikistan, or by placement of these goods under the customs regime, applicable to exported goods in compliance with requirements and provisions set by this Code.

The change of a customs regime of processing of goods outside the customs territory to the customs regime of exportation shall not be allowed, if in accordance with the legislation of the Republic of Tajikistan, the exported goods or their processed products are subject to obligatory re-import. The change of the customs regime of processing outside the customs territory to the customs regime applicable to exported goods shall be allowed without actual presentation of goods to the customs authority.

In case of alteration of the customs regime of processing of goods outside the customs territory to the customs regime of export with respect to exported goods, the amounts of export customs duties if they

are established as if person should pay export customs duties, if they are established, and the interest thereon as if on the day of receipt of customs declaration for export, the payment of export customs duty was postponed.

4. If the processed products are placed under customs regime that does not provide for release of goods for free circulation, the sums of customs duties, taxes with respect to these goods may not exceed the sums calculated in accordance with paragraphs 2 and 3 of Article 207 of this Code, without taking into account the interests, except for the case provided by the Paragraph 5 of this Code.

5. If the processed products provided for preferential customs duties, taxes prior to their exportation, are imported (Paragraph 3 Article 198), the release of these products for free circulation is subject to customs duties, taxes in accordance with Article 207 of this Code as well as import customs duties, taxes with regard of which preferences were granted prior to the exportation of goods for processing.

## **CHAPTER 24 TEMPORARY IMPORT**

### **Article 209**

#### **Content of the Customs Regime for Temporary Import of Goods**

“Temporary import of goods” shall mean the customs regime under which foreign goods are used under the customs control within the established time limit (time limit of temporary import) on the customs territory of the Republic of Tajikistan with full or partial conditional exemption from customs duties and taxes, and without application of prohibitions and restrictions of economic nature, established in accordance with normative legal acts of the Republic of Tajikistan provided that they are re-exported from the customs territory of the Republic of Tajikistan.

### **Article 210**

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

1. Temporary import shall be allowed provided that the customs authority may identify goods in their re-export, except for the cases when the replacement of temporary imported goods with the goods of the same type is allowed by international legal acts ratified by the Republic of Tajikistan.
2. The Customs authority shall have the right to request from the person declaring the customs regime of temporary import to provide guarantees of proper fulfillment of obligations established by this Code (Article 160), including obligation to re-export temporary imported goods.
3. Foreign goods, earlier placed under other customs regimes, may be placed under the regime of temporary import in compliance with requirements and provisions stipulated by this Code.

### **Article 211**

#### **Restriction in Use and Disposal of Temporary Imported Goods**

1. The person who obtained the permit of the customs authority for temporary import has the right to use temporary imported goods.
2. With the permission of the customs authority the right to use temporarily imported goods may be transferred to any other person, who may act as a declarant in accordance with Article 126 of this Code.

The customs authority allows to transfer the temporary imported goods to another person if this person undertakes the responsibility to fulfill the terms of the customs regime of temporary import. At that, the person who initially obtained the permit for temporary import, shall pay customs duties, taxes for the period when this person used goods in accordance with the customs regime of the temporary import, if the partial conditional exemption from customs duties is applied to the goods in accordance with Paragraph 2 of Article 212 of this Code. If the compliance with the customs regime of temporary import is secured with guarantees (Article 160), the person to whom temporary imported goods are transferred shall draw up all relevant documents under his name. The said person shall enjoy rights and fulfill obligations established by this Code for the person who obtained the permission for temporary import from the date of issuance by the customs authority the permit for transfer of temporary imported goods.

3. Temporary imported goods shall remain in their original state, except for changes resulted from the natural wear or loss under normal conditions of conveyance (transportation), storage and use

(operation). Operations required to ensure their safety shall be allowed with respect to temporarily imported goods, including repairs (except for major repair and modernization), technical maintenance and other operations required to preserve consumption properties of goods and maintain them in the state they were on the date of their placement under the customs regime of temporary import.

4. The disposal of temporary imported goods that is not stipulated by this Article shall not be allowed.

5. The transfer of goods to another person in accordance with Paragraph 2 of this Article may not be suspended and the time limit of temporary import may not be extended.

## **Article 212**

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

1. The Government of the Republic of Tajikistan shall establish the list of goods temporarily imported with full conditional exemption from customs duties and taxes as well as determine the conditions of this exemption.

Full conditional exemption from customs duties and taxes shall be allowed if temporary import does not bring any material economic damage to the Republic of Tajikistan, in particular in the following cases:

1) temporary import of containers, trays and other reusable containers and packages

2) if the temporary import of goods is executed in the context of the development of foreign trade relations and international relations in the field of science, culture, cinematography, sport, tourism and arrangement of exhibitions and fairs

3) if the purpose of the temporary import is to render the international assistance  
4) if temporary import is executed on the lease terms.

2. With respect to other kinds of goods, and in case of non-fulfillment of the terms of full conditional exemption from customs duties and taxes established in accordance with paragraph 1 of this Article, the partial conditional exemption from customs duties and taxes shall be applied. In case of partial conditional exemption from customs duties and taxes, 3 percent of the amounts of customs duties and taxes payable shall be paid for each full and not full calendar month of placement of goods on the customs territory on the Republic of Tajikistan as if the goods were released into free circulation.

3. In case of partial conditional exemption from customs duties, taxes, the sums of customs duties, taxes shall be paid when the goods are placed under the customs regime of temporary import or periodically at the option of the person who obtained the permit for temporary import. Periodic payment of customs duties and taxes is determined by the person who got the permit for temporary import upon the consent of the customs authority. At that, the certain time limits of payment of customs duties and taxes shall be determined based on that these amounts shall be paid before the beginning of the relevant period.

4. The total amount of customs duties and taxes charged when goods are temporarily imported with partial conditional exemption from customs duties and taxes shall not exceed the amount of customs duties and taxes that would be subject to payment if on the day of placing the goods under the temporary import regime, these goods were released for free circulation, without taking into account interests for delinquency in payment of customs duties, taxes and interests that may be charged in compliance with subparagraph 4 of Paragraph 2 of Article 214 of this Code.

5. If the sum of customs duties and taxes paid with partial conditional exemption from customs duties, taxes is equal to the sum that would be payable, if on the date of placement under the customs regime of temporary import the goods were released for free circulation, the goods are considered released for free circulation provided that economic prohibitions and restrictions established in accordance with normative legal acts of the Republic of Tajikistan are not applied to them, or the restrictions that were applied on the day of placement of goods under the customs regime of temporary import are annulled.

6. In case of placing temporary imported goods under other customs regimes the sums of customs duties and taxes paid with partial conditional exemption from customs duties and taxes shall not be refunded.

7. The person who obtained the permit for temporary import shall bear the responsibility for payment of customs duties and taxes in accordance with Paragraph 2 of Article 350 of this Code.

## **Article 213**

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

1. The time limit for import of goods shall be no more than two years.

The Government of the Republic of Tajikistan may establish shorter or longer marginal terms of temporary import, than it is provided by the first subparagraph of this Paragraph for certain kinds of goods including those supplied on leasing terms.

2. The customs authority shall set the time limit for temporary import of goods within the time limits mentioned in Paragraph 1 of this Article based on the application of the person applied for the permit for temporary import taking into account the purpose and circumstances of this import.

3. Under the well-reasoned request of the applicant, who obtained the permit for temporary import and in case of absence of violations of requirements and provisions provided by this Chapter, the established time limits of temporary import of goods may be extended by the decision of the customs authority within the time limits mentioned in Paragraph 1 of this Article.

#### **Article 214**

##### **Termination and Suspension of the Customs Regime**

1. The goods shall be exported from the customs territory of the Republic of Tajikistan or declared under another customs regime in accordance with this Code no later than the date of expiration of the time limit of temporary import of goods, established by the customs authority (Article 213).

2. The customs regime of temporary import may be terminated with release of goods for free circulation.

Upon the termination of the customs regime of temporary import with releasing goods for free circulation, the custom value and the quantity of goods shall be determined on the day of placement of goods under the customs regime of temporary import, and the rates of customs duties and taxes shall be determined on the day of the release of goods for free circulation, except for the case stipulated by Paragraph 5 of Article 212 of this Code. The declarant shall have the right to state the decrease of customs value of goods and (or) reduction in quantity resulting from their natural wear or natural loss under normal conditions of conveyance (transportation), storage and use (operation), and also as a result of accident or force majeure. Adjustment of the customs value of goods and (or) their quantity may be made if the declarant submits to the customs authority reliable and documentary confirmed information.

When determining the sums of customs duties, taxes payable in case of release of goods for free circulation, the amounts of the customs payments, paid under partial exemption from payment of customs duties, taxes are offset in accordance with paragraphs 2 and 3 of Article 212 of this Code.

In case of release of goods for free circulation with partial conditional exemption from customs duties and taxes, for the period, when this exemption was applied, the interests of customs duties, taxes, that would be subject to payment, if the payment was made on installments from the day of application of partial exemption from customs duties and taxes, shall be paid except for the case stipulated by Paragraph 5 of Article 212 of this Code.

3. The customs regime for temporary import of goods shall be suspended when:

1) temporarily imported goods and means of transport are arrested or seized in compliance with the legislation of the Republic of Tajikistan

2) in case of placement of temporarily imported goods into a customs warehouse in compliance with Paragraph 3 of Article 217 of this Code

3) at the request of the person, who obtained the permit for temporary import, when placing temporary imported goods, with respect to which the partial exemption from payment of customs duties and taxes is applied, under other customs regimes that not stipulating the release of goods for free circulation.

The effect of the customs regime of temporary import shall be renewed upon the expiration of the suspension time limit.

When the effect of the customs regime of the temporary import is renewed the interest that shall be charged and paid in accordance with this Chapter, shall not be charged or paid for the period of suspension of the effect of the customs regime of the temporary import.

#### **CHAPTER 25**

##### **CUSTOMS WAREHOUSE**

#### **Article 215**

##### **Content of the Customs Warehouse Customs Regime**

‘Customs warehouse’ shall mean the customs regime under which imported goods onto the customs territory of the Republic of Tajikistan are stored under the customs control, without payment of customs duties or taxes, and without application of economic prohibitions and restrictions, established in accordance with normative legal acts of the Republic of Tajikistan, and also the goods, intended for export, are stored under the customs control on the terms stipulated by this Chapter.

#### **Article 216** **Customs Warehouses**

1. Customs warehouses shall be specially allotted and equipped premises and (or) open grounds that meet the requirements established by Article 225 of this Code.  
The goods, placed under customs regime of customs warehouse, shall be stored in customs warehouses, except for the goods mentioned in Paragraph 4 of Article 217 of this Code.
2. Customs warehouses shall be deemed as a zone of customs control.
3. The goods may be placed in any customs warehouse taking into account restrictions stipulated by this Code.

#### **Article 217** **Terms of Placement of Goods under Customs Regime**

1. Any goods may be placed under the customs regime of the customs warehouse, except for the goods, prohibited by normative legal acts of the Republic of Tajikistan accordingly to the import into the Republic of Tajikistan and export from the Republic of Tajikistan, other goods with respect to which restrictions established in accordance with normative legal acts of the Republic of Tajikistan are applied and the list of which is determined by the Government of the Republic of Tajikistan, as well as the goods the serviceable time limit on the day of their declaration under the customs regime of the customs warehouse of which is less than the time limits established in accordance with Paragraph 2 of Article 218 of this Code.
2. The goods that can cause damage to other goods or require special storage conditions, shall be stored in customs warehouses or special premises of customs warehouses, specially adjusted for storage of such goods in compliance with mandatory requirements established in accordance with normative legal acts of the Republic of Tajikistan.
3. The goods that were initially placed under other customs regimes may be placed under the customs regime of the customs warehouse. Foreign goods may be placed in a customs warehouse in cases stipulated by this Code to suspend the effect of customs regimes that do not stipulate release of goods for free circulation.
4. The goods that cannot be stored in the customs warehouse located in a reasonable distance because of their size may be placed under the customs regime of a customs warehouse without actual placing of goods in the customs warehouse with a written permit of the customs authority. In this case, the person who declared the customs regime of the customs warehouse, shall provide to a customs authority the security of payment of customs levies that would be subject to payment in case of release of goods for free circulation, as well as follow all other requirements and provisions stipulated by this Chapter. At that, the goods may not be transferred for the use and disposal by other persons under any method, including the alienation of the goods within the period of their placement under the customs regime of the customs warehouse.

#### **Article 218** **Time limits of Placement of Goods in Customs Warehouse**

1. The goods may be stored at the customs warehouse up to three years.
2. Goods that have limited shelf life and (or) sale life shall be declared under the customs regime different from the customs regime of the customs warehouse and shall be exported from a customs warehouse no later than 180 days before the expiration of the said time limit, except for the perishable goods with respect to which the authorized body on customs affairs may reduce the said time limit.
3. The time limit for storage of goods at a customs warehouse shall be determined by the person who places the goods into the warehouse in the customs declaration within the time limits stipulated by this Article.

4. At the reasoned request of the applicant, who placed his goods into the customs warehouse, the customs authority extends the time limit of storage of goods within the time limits stipulated by this Article.

#### **Article 219**

##### **Operations with Goods at the Customs Warehouse**

1. The persons, authorized with regard to goods, and their representatives shall have the right to make simple operations with goods stored at the customs warehouse to ensure safety of goods, in the original state, examine and measure goods, move them within the customs warehouse provided that these operations will not entail the change of the state of the goods, destroy their package and (or) change of affixed identification signs.

2. The operations not specified in Paragraph 1 of this Article, including taking samples and specimen from goods, simple assembling operations and also operations necessary for preparation of goods for sale and transportation, including splitting of lots, formation of discharges, sorting, packing, re-packing, marking, operations necessary for improvement of goods quality, may be performed by the persons authorized with respect to goods and their representatives with permission of the customs authority.

The customs authority shall have the right to refuse to issue a permit for these operations in case their implementation may result in loss of goods and change of their essential properties.

3. Samples and specimen of foreign goods are subject to payment of import customs duties, taxes as if the said goods were released for free circulation, except for the case when the sample of the goods is returned to the customs warehouse within one month.

4. The goods, stored at the customs warehouse may be alienated or transferred to the ownership of disposal of another person in case of preliminary notification of the customs authority in a written form, except for the goods specified in Paragraph 4 of Article 217 of this Code. At that, the person who got property rights for goods shall submit to the customs authority the written obligation to fulfill the requirements and provisions established by this paragraph. From the day following the day the customs authority received the obligation, the person who got the property rights for goods shall enjoy the rights and obligations established by this Code as assigned to the person who places the goods at the customs warehouse.

5. The goods may be transferred from one customs warehouse to another customs warehouse with a written permit of the customs authority prior to the expiration of the time limits, mentioned in Article 218 of this Code. At that, the time limit of storage of goods at the customs warehouse shall be neither terminated nor suspended.

#### **Article 220**

##### **Exemption of Goods intended for Export from Customs Duties and Taxes or Refund of Customs Duties and Taxes**

1. When placing foreign goods that were initially placed under other customs regimes and which are intended for exporting from the customs territory of the Republic of Tajikistan in the customs warehouse, import customs duties and taxes shall not be paid or the paid sums of the said customs duties and taxes shall be refunded in accordance with Chapter 48 of this Code if this exemption or refund are stipulated in actual export of goods from the customs territory of the Republic of Tajikistan. If goods are not exported from the customs territory of the Republic of Tajikistan, import customs duties, with respect of which the said amounts and interests thereof were exempted or refunded, shall be paid. The amounts of import customs duties, taxes and interests thereof shall be calculated based on the rules of termination of the effect of the previous customs regime and in accordance with the terms of placement of goods under a newly selected customs regime, determined by the declarant for the use of goods on the customs territory of the Republic of Tajikistan.

2. The exemption from, reimbursement and refund of internal taxes if these exemption and reimbursement or refund are stipulated in accordance with the tax legislation of the Republic of Tajikistan when the goods are actually exported from the customs territory of the Republic of Tajikistan are applied to the domestic goods placed at the customs warehouse and intended for exportation from the customs territory of the Republic of Tajikistan in accordance with the customs regime of export. In case if such goods were not actually exported within six months from the day of their placement in the customs warehouse interests in the size established by the tax legislation of the

Republic of Tajikistan shall be charged in the procedure for levying customs payment stipulated by this Code.

**Article 221**  
**Worn Out, Spoilt or Damaged Goods**

Goods which were worn out, damaged or broken as a result of an accident or force majeure during the period of their storage at a customs warehouse shall be placed under a definite customs regime, as if they were imported into the customs territory of the Republic of Tajikistan in a destroyed, damaged or broken state.

**Article 222**  
**Determination of Customs Value of the Goods Released for Free Circulation**

If for the purposes of calculating customs duties and taxes in accordance with this Code, the customs value of goods and (or) their quantity after the storage of goods at the customs warehouse, is used, in the release of goods for free circulation the customs value of goods and (or) their quantity shall be determined on the day of the release of goods for free circulation.

**Article 223**  
**Termination of the Customs Regime**

1. The goods shall be declared under another customs regime no later than the day of expiration of the time limit of storage of goods at the customs warehouse (Article 218) in compliance with requirements and provisions established by this Code.

After expiration of this time limit the goods are disposed of in compliance with the section VI of this Code.

2. Goods placed under the customs regime of the customs warehouse may be placed under another customs regime only by those persons which are authorized with respect to goods.

2. In release of goods from the customs warehouse, initially placed under the customs regime of temporary import, the time limit of temporary import of goods shall be renewed in accordance with this regime for further use on the customs territory of the Republic of Tajikistan. In release of the said goods for free circulation the calculation of customs duties and taxes shall be made in accordance with Article 214 of this Code.

4. The owner of the customs warehouse shall may declare the customs regime of destruction with respect to the goods stored at the customs warehouse taking into consideration provisions of Paragraph 2 of this Article.

**Article 224**  
**Types of Customs Warehouses**

1. Customs warehouses may be of open and closed types.

Customs warehouses shall be warehouses of an open type if they are open for storage of any goods and for use by any persons.

Customs warehouses shall be warehouses of a closed type if they are used for storage of goods of the owner of the customs warehouse (Article 226).

2. The Government of the Republic of Tajikistan shall determine the list of goods that may not be stored at a customs warehouse of a closed type.

3. Customs warehouses of closed and open types may be used for storage of specific kinds of goods which require special conditions of storage or which can cause damage to other goods (specialized customs warehouses).

**Article 225**  
**Requirements for Arrangement, Equipment and Location of Customs Warehouses**

1. Premises and (or) areas intended for establishment of a customs warehouse, shall be arranged and equipped so as to provide safety of goods, prevent access of unauthorized persons (those who are not employees of the warehouse, who are neither persons unauthorized with respect to the goods nor representatives of the owners of the goods), as well as to provide conditions for customs control of

these goods. Location of customs warehouses shall be determined taking into account the interests of trade organizations and other persons concerned.

2. The authorized body on customs affairs shall establish obligatory requirements for arrangement, equipment and location of premises and (or) open areas intended to be used as a customs warehouse, in accordance with Paragraph 1 of this Article.

#### **Article 226**

##### **Owner of the Customs Warehouse**

1. The owner of the customs warehouse may be a domestic legal entity included in the register of owners of customs warehouses.

2. The owner of the customs warehouse shall store goods under the customs control, in cases and on the terms established by this Code.

3. The relations between the owner of the customs warehouse and persons who place their goods for storage at the customs warehouse shall be based on the contract. The owner of the customs warehouse of an open type may not refuse to sign the contract if there are acceptable conditions for its signing.

4. The customs authorities without inclusion in the register of the owners of customs warehouses may act as owners of customs warehouses. The authorized body on customs affairs shall provide regular, not less than once in six months, official publication of the list of the customs warehouses, owned by customs bodies, as well as changes made in the list.

#### **Article 227**

##### **Terms of Including the Register of Owners of Customs Warehouses**

1. The terms of including into the register of owners of customs warehouses shall be as follows:

1) ownership (ownership, economic management or lease) of premises and (or) open areas suitable to be used as customs warehouses and to be complied with the established requirements (Article 225)

2) security of payment of customs duties in accordance with Article 384 of this Code

3) agreement on insurance of the risk of civil responsibility that may happen as a result of damage of goods of other persons, being stored, or violation by other persons of other terms of storage agreements. The insured sum within which the insurer is obliged to reimburse the damage caused to persons, whose property interests are affected, shall be calculated based on the actual useful space and useful volume and shall be determined based on 5-fold of the statutory minimum monthly wage for each square meter of the useful space in case of an open area used as a customs warehouse, and based on 2-fold of the statutory minimum monthly wage for one cubic meter of the actual useful volume in case a premise is used as a customs warehouse, but may not exceed 8000-fold of statutory minimum monthly wage.

2. If the ownership of premises and (or) open areas is based on the lease agreement, this agreement shall be concluded for the period not less than three years from the day of submitting the application about inclusion into the Register of owners of customs warehouses.

#### **Article 228**

##### **Application for Inclusion in the Register of Owners of Customs Warehouses**

1. The inclusion to the Register of owners of customs warehouses shall be made based on the application of the person that meets the requirements established by Article 227 of this Code.

2. The Application for Inclusion in the Register of Owners of Customs Warehouses shall include:

1) a request to the customs authority to include in the Register of owners of customs warehouses

2) information about name, organizational and legal structure, location, open bank accounts, and the size of fully formed charter (aggregate) capital, charter fund or share payments of an applicant

3) information about the type of customs warehouse (the grounds for necessity and expediency of choosing the closed type warehouse)

4) information about premises and (or) open areas that are in the ownership of the applicant and which are intended for the use as a customs warehouse, their location, equipment and logistics

5) information about security for payment of customs duties in accordance with Article 384 of this Code

6) information about contract (contracts) of insurance of risk of civil responsibility of the applicant..

3. The application for the inclusion in the Register of owners of customs warehouses shall be supported with the following documents that confirm the declared data:

- 1) foundation documents and the document proving the fact of inclusion of a legal entity in the Unified public register of legal entities
- 2) certificate on state registration of a legal entity
- 3) certificate on tax registration of an applicant
- 4) documents proving the ownership rights with regard to premises and (or) open grounds intended to be used as a customs warehouse
- 5) plans and schemes of premises and (or) open grounds intended for establishment of the customs warehouse
- 6) documents, proving the size of fully formed charter (aggregate) capital, charter fund or share payments of the applicant
- 7) documents, proving the security of customs duties in accordance with Article 384 of this Code
- 8) confirmation from banks about accounts open there
- 9) insurance policy.

4. A separate application shall be submitted for each territorial allotted premise and (or) each territorial allotted open ground, intended for establishment of the customs warehouse.

#### **Article 229**

##### **Certificate on Inclusion in the Register of Owners of Customs Warehouses**

1. The owner of the customs warehouse is added to the Register of the owners of customs warehouses by each territorial allotted premise and (or) each territorial allotted open area that are used as customs warehouses. For each territorially allotted premise and (or) each territorially allotted open area, a separate certificate on inclusion to the Register of owners of customs warehouses shall be issued.

2. Certificate on inclusion in the Register of owners of customs warehouses shall include:

- 1) the name of the owner of customs warehouse, indication of its organizational legal structure and location
- 2) information about the right of ownership of premises and (or) open grounds used as the customs warehouse
- 3) information about the security of payment of customs duties in accordance with Article 384 of this Code
- 4) type of the customs warehouse
- 5) location of the customs warehouse.

3. The certificate on inclusion in the Register of owners of customs warehouses shall be valid during five years.

#### **Article 230**

##### **Obligations and Responsibilities of the Owner of the Customs Warehouse**

1. The owner of the customs warehouse shall be obliged to:

- 1) follow the requirements and provisions established by this Code with respect to storage of goods at the customs warehouse
- 2) keep records and submit to customs authorities reports on the stored goods (Article 405)
- 3) ensure safety of the goods placed in the customs warehouse
- 4) ensure the impossibility of the access to the stored goods of unauthorized persons without permission of customs authorities
- 5) pay customs duties and taxes in cases provided for by paragraph 2 of this Article as well as in the case stipulated by paragraph 1 of Article 90 of this Code, if the owner of the customs warehouse obtained the permission for internal customs transit.

2. The owner of a customs warehouse shall bear responsibility for payment of customs duties and taxes in cases when goods are lost or released without permission of the customs authority. The owner of the customs warehouse shall not bear the responsibility for payment of customs duties and taxes only in the case, if the goods are destructed and irrevocably lost as a result of an accident, force majeure or natural loss under normal conditions of storage.

#### **Article 231**

##### **Withdrawal of a Certificate about Inclusion in the Register of Owners of Customs Warehouses**

The customs authority may withdraw the certificate about inclusion in the register of owners of customs warehouses in the following cases:

- 1) If the owner of the customs warehouse does not follow even one of the conditions of inclusion in the Register of the owners of customs warehouses established by Article 227 of this Code
- 2) If the owner of the customs warehouse does not fulfill obligations stipulated by sub paragraph 5 of Paragraph 1 of Article 230 of this Code
- 3) If the owner of the customs warehouse was repeatedly brought to administrative liability for customs administrative delinquencies.

#### **Article 232**

#### **Operations with Goods in Case of Exclusion of the Owner of Customs Warehouse from the Register of Owners of Customs Warehouses**

In case of withdrawal of the certificate about inclusion in the Register of owners of customs warehouses or exclusion of the owner of customs warehouse from the Register of the owners of customs warehouses under other reasons, the goods that are stored at the customs warehouse shall be placed at his expense to another customs warehouse within two months from the date of his exclusion. The owner of the customs warehouse shall be obliged to notify the persons who placed their goods at the customs warehouse, within three days from the day of his exclusion from the Register of owners of customs warehouses. The goods not allowed to be placed at the customs warehouse from the day following the day of exclusion of the owner of the customs warehouse from the Register of the owners of the customs warehouses.

#### **Article 233**

#### **Storage of Goods at Customs Warehouses of Customs Authorities**

1. Customs warehouses of customs authorities shall be open warehouses and shall comply with the requirements established by Article 225 of this Code.
2. In case of storage of goods at customs warehouses the relations of customs authorities with persons placing goods at the customs warehouses shall be regulated by this Code and the Civil Code of the Republic of Tajikistan. The contract that is concluded between the customs authority and the person who places the goods at the customs warehouse shall comply with requirements of the civil legislation of the Republic of Tajikistan established for a public contract. The customs authority may not refuse to conclude a contract if the conditions of its signing exist.  
The customs authority proves the submission of goods for storage by issuing the receipt to the person who places the goods at the customs warehouse, the form of which is determined by the authorized body on customs affairs.
3. Rights, obligations and responsibility of customs authorities associated with the storage of goods at the customs warehouses shall arise from the essence of general provisions concerning storage stipulated by the civil legislation of the Republic of Tajikistan, taking into account the provisions established by this Code.  
The Customs authority shall bear the responsibility for payment of customs duties in case of the loss of goods that were stored at the customs warehouse, except for the case if the goods were destructed or irrevocably lost as a result of force majeure or natural loss under normal conditions of storage.

### **CHAPTER 26 RE-IMPORT**

#### **Article 234**

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

1. 'Re-import of goods' shall mean the customs regime under which goods, previously exported outside the customs territory of the Republic of Tajikistan, are re-imported within the time limit set in subparagraph 2 of paragraph 1 of Article 235 of this Code) without payment of customs duties and taxes, and without application of economic prohibitions and restrictions established in accordance with normative legal acts of the Republic of Tajikistan. .
2. The goods placed the customs regime of re-import shall be deemed for the customs purposes as goods released for free circulation.

**Article 235**  
**Terms of Placement of Goods under the Re-Import Customs Regime**

1. Placement of goods under the re-import customs regime shall be allowed, if:
  - 1) when exporting from the customs territory of the Republic of Tajikistan the goods had the status of goods being released for free circulation, or the status of processed products of foreign goods (Chapter 21)
  - 2) good were declared under the re-import customs regime within three years from the day following the day the said goods crossed the customs territory of the Republic of Tajikistan when they were exporting from the customs territory of the Republic of Tajikistan. At the motivated request of the interested person the authorized body on customs affairs shall extend the said time limit with respect to the equipment used for construction, manufacturing, and extraction of minerals and for other similar purposes provided all provisions of this paragraph are complied with.
  - 3) the goods remain in the same state as they were exported from the customs territory of the Republic of Tajikistan, except for the changes caused by natural wear or natural loss under normal transportation, storage or usage (operational) conditions
  - 4) import customs duties, taxes and subsidies and other charges subject to be refunded to the state budget in case of re-import of goods were paid (Article 236).
2. Use of goods outside the territory of the Republic of Tajikistan for commercial purposes, as well as for performing operations with goods which are required to preserve their safety, including repairs (except for major repairs and modernization), technical maintenance and other operations required for maintaining consumer properties of goods and preserving them in the state they had on the day of their export from the customs territory of the Republic of Tajikistan, shall not prevent the placement of goods under the re-import customs regime, except for cases when repair operations have resulted in increase in the value of the goods as compared to the value effective at the moment of their export.
3. The goods previously placed under other customs regimes may be placed under the regime of re-import.

**Article 236**  
**Refund of Import Customs Duties, Taxes and Subsidies in Re-import of Goods**

1. Under re-import of goods the following shall be refunded to the state budget:
  - 1) the amounts of import customs duties, taxes and (or) interests thereof, if the amounts of these duties, taxes and (or) interests thereof were not charged or refunded in connection with the export of goods from the customs territory of the Republic of Tajikistan
  - 2) the amounts of internal taxes, subsidies and other amounts that are not paid or received directly or indirectly as payments, benefits or reimbursement in connection with export of goods out of the customs territory of the Republic of Tajikistan.
2. the amounts of import customs duties and taxes are charged in accordance with the rules specified by Paragraph 4 of Article 185 of this Code to determine customs duties, taxes payable under the release of processed products for free circulation.  
The amounts of internal taxes are calculated based on the rates effective at the day of receipt of customs declaration in export of goods outside the customs territory of the Republic of Tajikistan, and the customs value of goods and (or) their quantity that are determined when exporting goods outside the customs territory of the Republic of Tajikistan.
3. The procedure for calculation of subsidies and other amounts, not specified in Paragraph 2 of this Article shall be determined by the Government of the Republic of Tajikistan. The Government of the Republic of Tajikistan shall have the right to specify the cases when along with the said amounts interests are charged in the size established by the tax code of the Republic of Tajikistan.
4. Customs authorities shall collect the amounts of customs duties, taxes and subsidies and other amounts and interests thereof stipulated by this Article in the procedure established by this Code.

**Article 237**  
**Documents and Information Required for Placement of Goods under Customs Regime of Re-import**

1. To obtain the permit for placement of goods under the customs regime of re-import, a declarant shall submit to the customs body the information about circumstances of the exportation of goods

from the customs territory of the Republic of Tajikistan and also the data about repairs of goods, if such operations were performed outside of the customs territory of the Republic of Tajikistan.

2. To prove the data, specified in paragraph 1 of this Article, the declarant shall submit to the customs body the customs declaration, accepted when exporting goods from the customs territory of the Republic of Tajikistan, the documents proving the date of goods crossing the customs border under their exportation, the documents proving the compliance with requirements of Article 236 of this Code, as well as other documents proving the declared data.

#### **Article 238**

#### **Refund of Export Customs Duties in Re-Import of Goods**

1. Refund of export customs duties paid shall be made if goods are imported to the customs territory of the Republic of Tajikistan in accordance with the customs regime of re-import no later than six months from the day, following the day goods crossed the border in their export from the customs territory of the Republic of Tajikistan.

2. The refund of export customs duties paid shall be made by the authorized bodies in the area of finance upon the decision of customs authorities in accordance with this Code.

### **CHAPTER 27**

### **RE-EXPORT**

#### **Article 239**

#### **Content 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 Tajikistan are exported from this territory, exempt from or with refund of the customs import duties and taxes that were paid, and without economic prohibitions and restrictions being applied to them, established in accordance with normative legal acts of the Republic of Tajikistan.

#### **Article 240**

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

1. Goods shall be re-exported under the following terms:

1) export of goods placed in the temporary storage places, prior to their placement under a definite customs regime

2) export of goods previously declared under the customs regime for release of goods into free circulation, in fulfillment of the provisions specified in Article 242 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.

4) Export of foreign goods previously placed under the customs regimes for customs warehouse, free customs zone and free warehouse.

5) Export of foreign goods, imported to the customs territory of the Republic of Tajikistan with violation of prohibitions for importation established in accordance with normative legal acts of the Republic of Tajikistan (paragraph 1 of Article 12).

2. The procedure for customs clearance of re-exported goods shall be established by the authorized body on customs affairs.

3. Excise goods shall be re-exported provided that import customs duties and taxes are secured or customs escort is arranged.

4. Additional conditions of placement of goods under the customs regime of re-export may be established by normative legal acts of the Republic of Tajikistan and (or) international legal acts ratified by the Republic of Tajikistan.

#### **Article 241**

#### **Application of Customs Duties, Taxes in Re-export of Goods**

1. In re-export of goods, exemption from import customs duties and taxes or their refund shall be provided if these exemption and refund are stipulated upon the termination of the customs regime, under which the goods were placed on the customs territory of the Republic of Tajikistan
2. When exporting re-exported goods, export customs duties shall not be paid.

#### **Article 242**

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

1. Goods released for free circulation with regard of which it has been established that, at the moment of crossing the customs border, they had defects or failed to comply in quantity, quality, description, package or other terms of the foreign economic transaction and, for these reasons, the goods are being returned to the supplier or the other person designated by the supplier, may be placed under the customs regime for re-exportation, provided the following requirements have been met:

- 1) goods were neither used nor repaired in the Republic of Tajikistan, except for cases when it was necessary to use the goods for revealing defects or other circumstances which caused return of the goods.
  - 2) goods may be identified by customs authorities
  - 3) goods are exported within six months from the date of their release for free circulation
2. When re-exporting goods in accordance with paragraph 1 of this Article the customs duties and taxes paid shall be refunded in accordance with Article 397 of this Code.

### **CHAPTER 28 DESTRUCTION**

#### **Article 243**

#### **Content of the Customs Regime for Destruction of Goods**

'Destruction of goods' shall mean the customs regime under which foreign goods are destroyed under the customs control, without payment of customs duties and taxes and without application of economic prohibitions and restrictions, established in accordance with normative legal acts of the Republic of Tajikistan.

#### **Article 244**

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

1. The destruction of goods shall be allowed, if the goods, undergone destruction, cannot be restored to their original state by economically efficient method.
2. The following categories of goods shall not be placed under the customs regime for destruction:
  - 1) cultural values
  - 2) endangered species of animals and plants, or parts and derivatives thereof, except for cases when their destruction is required to prevent epidemics and epizootic
  - 3) goods accepted by customs authorities as a pledge until the termination of pledge relations
  - 4) goods withdrawn or seized by the authorized state bodies in compliance with legislation of the Republic of Tajikistan
  - 5) other goods, the list of which may be determined by the Government of the Republic of Tajikistan.
3. The destruction of goods shall not be allowed if:
  - 1) it may cause harm to environment and present a direct or potential danger to the life and health of people
  - 2) it is made through consumption of goods in accordance with their usual designation
  - 3) it may result in expenses for government bodies of the Republic of Tajikistan..

#### **Article 245**

#### **Time Limit and Place of Destruction**

1. The time limit of destruction of goods shall be determined by the customs authority based on the application of the declarant, proceeding from the time rationally necessary for destruction of this kind

of goods by the declared method, and the time necessary for transportation of goods from their location to the place of destruction.

2. The declarant shall agree the place of destruction with the customs authority taking into consideration the requirements of the Environment Protection Legislation of the Republic of Tajikistan.

#### **Article 246**

#### **Application of Customs Regime of Destruction of Goods Damaged as a result of an Accident of Force Majeure**

1. The customs regime of destruction of goods may be applied with respect to goods that were damaged or irrevocably lost as a result of an accident of force majeure.

2. In case of placement of destructed or damaged goods under the customs regime of destruction, the provisions of the Paragraph 1 of Aarticle 244 and Article 247 of this Code are applied.

#### **Article 247**

#### **Wastes resulting from destruction of goods**

1. Wastes, resulting from destruction of foreign goods shall be subject to customs duties, taxes as if these wastes were imported to the customs territory of the Republic of Tajikistan in this state, except for the cases when these wastes are exported from the customs territory of the Republic of Tajikistan or processed until the condition unsuitable for their further commercial use on the customs territory of the Republic of Tajikistan and can not be restored by any efficient economic method.

The wastes that are subject to customs duties, taxes are subject to declaration.

2. For the purposes of collection of customs duties and taxes, the wastes are considered as goods imported to the customs territory of the Republic of Tajikistan.

3. The customs value of wastes shall ne determined in accordance with the rules stipulated by Article 183 of this Code.

4. The declarant shall be responsible for payment of customs duties and taxes related to wastes.

### **CHAPTER 29**

### **REFUSAL OF GOODS IN FAVOR OF THE STATE**

#### **Article 248**

#### **Content 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 goods are transferred free of charge to state ownership without payment of customs duties and taxes and also without application of economic prohibitions and restrictions, established in accordance with normative legal acts of the Republic of Tajikistan.

#### **Article 249**

#### **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 for government bodies of the Republic of Tajikistan, or other expenses that cannot be reimbursed at the expense of the funds earned from the sale of goods.

2. The goods prohibited for circulation in accordance with normative legal acts of the Republic of Tajikistan may not be placed under the customs regime for refusal in favor of the State.

The goods prohibited for circulation by normative legal acts of the Republic of Tajikistan shall be transferred to the state ownership based on the court decision with application of confiscation on legal violations in the area of customs.

3. The Government of the Republic of Tajikistan shall create the specific list of goods that may not be placed under the customs regime for refusal of goods in favor of the State.

#### **Article 250**

#### **The Status of Goods that were Refused in Favor of the State**

1. The goods, placed under the customs regime of refusal in favor of the State, become the ownership of the government in accordance with this Code.
2. From the moment of transfer of goods, refused in favor of the state, to the customs authority, for customs purposes, the goods have the status of released for free circulation on the customs territory of the republic of Tajikistan.

#### **Article 251**

##### **Responsibility for Application of the Customs Regime for Refusal of Goods in favor of the State**

The declarant shall be responsible for placing the goods under customs regime for refusal of goods in favor of the State. Customs authorities shall not reimburse any property claims of the persons authorized with respect to goods refused by the declarant in favor of the State.

### **CHAPTER 30 TEMPORARY EXPORT**

#### **Article 252**

##### **Content of Temporary Export Customs Regime**

1. Temporary exportation shall mean the customs regime under which domestic goods may be used outside the customs territory of the Republic of Tajikistan within a set time period with full conditional exemption from export customs duties and without application of economic prohibitions and restrictions, established in accordance with normative legal acts of the Republic of Tajikistan.
2. In case of temporary export of goods, exemption, refund or reimbursement of internal taxes shall not be provided.

#### **Article 253**

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

1. Goods shall be placed under the customs regime of temporary export, provided the following requirements are met:
  - 1) identification of goods by customs authorities in their re-imports ensured
  - 2) submission of a document on commitment to re-import goods in compliance with the format determined by the authorized body on customs issues.
  - 3) the payment of export customs duties is secured.
3. The goods prohibited to be exported outside the customs territory of the Republic of Tajikistan by normative legal acts of the Republic of Tajikistan shall not be placed under a customs regime of temporary export of goods.

#### **Article 254**

##### **Time Limit for Temporary Export of Goods**

1. The total time limit for temporary import shall be no more than three years.  
The time limit for temporary export of goods shall be established by the customs authority at the application of the declarant, based upon the purpose and circumstances of the export, taking into account the provisions of paragraph 2 of this Article.  
Upon a well-reasoned request of the declarant, the declared time limit for temporary export of goods is extended taking into consideration of paragraph 2 of this Article, but no longer than one year.
2. With respect to certain types of temporarily exported goods the re-importation of which is mandatory in accordance with normative legal acts of the Republic of Tajikistan, the Government of the Republic of Tajikistan shall establish maximum time limits for temporary export.

#### **Article 255**

##### **Application of Export Customs Duties**

1. In case of temporary exportation of goods the full conditional exemption from export customs duties shall be provided.

2. If temporary exported goods were not returned, the amounts of export customs duties, calculated based on the customs value of goods and (or) their quantity at the moment of their export, as well as rates of customs duties effective on the day of declaration of goods under customs regime of temporary export shall be paid. The interests of the said amounts shall be paid at the rates established by the tax code of the Republic of Tajikistan, as if with respect to these amounts was given a postponement on the day of placement of domestic goods under the customs regime of temporary export.

#### **Article 256**

#### **Termination of the Customs Regime of Temporary Exportation of Goods**

1. Temporarily exported goods shall be subject to re-importation to the customs territory of the Republic of Tajikistan no later than the day of the expiration of the time limit for temporary export (Article 254) or shall be declared for other customs regime in accordance with this Code.
2. At the request of the person, who placed the goods under a customs regime of temporary export, the customs authority allows to change the customs regime of temporary export to the customs regime of export in compliance with provisions and requirements stipulated by this Code, except for the case, if in accordance with normative legal acts of the Republic of Tajikistan temporarily exported goods are subject to re-importation to the customs territory of the Republic of Tajikistan.
3. 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 to the export customs regime, except in the event provided by paragraph 2 of this Article.
4. A change in the temporary export customs regime to the export customs regime applicable to the exported goods shall be allowed without actual presentation of the goods to the customs authority.

#### **Article 257**

#### **Responsibility for Payment of Customs Duties**

The person, who placed the goods under the customs regime of the temporary export, shall be responsible for payment of customs duties in accordance with paragraph 2 of Article 350 of this Code.

### **CHAPTER 31**

### **DUTY-FREE TRADE**

#### **Article 258**

#### **Content of the Duty-Free Trade Customs Regime**

1. 'Duty-free trade' shall mean the customs regime under which the foreign goods, imported to the customs territory of the Republic of Tajikistan, or domestic goods are sold in retail to natural persons, leaving the customs territory of the Republic of Tajikistan, in the duty-free shops, without payment of customs duties, taxes, and without prohibitions and restrictions of economic nature being applied to them, established in accordance with normative legal acts of the Republic of Tajikistan
2. Any goods may be placed under the duty-free trade customs regime, except for goods prohibited for import to and export from the Republic of Tajikistan, goods withdrawn from civil circulation on the territory of the Republic of Tajikistan, and other goods specified by the Government of the Republic of Tajikistan.
3. Goods, specified in Paragraph 1 of this Article, shall be sold in duty-free shops under customs control on the customs territory of the Republic of Tajikistan at checkpoints at the customs border of the Republic of Tajikistan.
4. Goods, sold in a duty-free shop shall have means of identification, in the order, determined by the authorized body on customs affairs.
5. In case of placement of domestic goods under the customs regime of duty-free trade, there shall be exemption from payment, return or reimbursement of domestic taxes in accordance with the tax legislation of the Republic of Tajikistan.
6. In case of placement of foreign goods under the customs regime of duty-free trade, the earlier paid customs duties and taxes shall be reimbursed, if this reimbursement is provided in actual export of goods from the customs territory of the Republic of Tajikistan.

7. Only the owner of the duty-free shop may act as declarant of the goods, placed under the customs regime of duty-free trade.
8. Only the domestic legal entity that is included into the Register of duty-free shop owners may act as owner of the duty-free shop.
9. Goods used to ensure the operation of a duty-free shop shall not be subject to placement under the duty-free trade customs regime.
10. Duty-free shops shall be established in accordance with the procedure for establishment of the regime at checkpoints of the State border of the Republic of Tajikistan in case of availability of registration and permit documents for retail sale, if their mandatory availability is provided by the legislation of the Republic of Tajikistan.
11. Release of goods in accordance with the duty-free trade customs regime shall be allowed after receipt of a certificate on including into the Register of duty-free shop owners.

#### **Article 259**

##### **Requirement for Construction and Equipment of a Duty-Free Shop**

1. The premise of the duty-free shop can consist of trade halls, subsidiary halls, and warehouses. These premises should be equipped in the way so as to ensure sale of good only in the trade halls of the duty-free shop, safety of goods and possibility of conducting customs control with regard to them.
2. The authorized body on customs affairs establishes necessary requirements for equipment of warehouses of duty-free shops, if these warehouses are located outside the checkpoint of the State border of the Republic of Tajikistan, applicable to the order specified by Article 107 of this Code.
3. Trade halls of the duty-free shop shall be located so as to exclude the possibility of leaving the goods, bought in the duty-free shop, on the customs territory of the Republic of Tajikistan, including their transmission to natural persons who stay on this territory.
4. Premises of the duty-free shops shall be considered as customs control zones.
5. If the premises are owned under the leasing contract, such contract must be concluded for the term not less than three years on the day of submitting the application on including into the Register of duty-free shop owners.

#### **Article 260**

##### **Conditions for Including into the Register of Duty-Free Shop Owners**

1. Conditions for including into the Register of duty-free shop owners shall be the following:
  - 1) disposal (ownership or leasing) of the premises that re appropriate to be used as a duty-free shop and meet the established requirements (Article 259);
  - 2) ensuring payment of customs payments in accordance with Article 384 of this Code;
  - 3) availability of agreement on insurance of civil liability risk that may occur in case of causing damage to goods of other persons, that are under sale, or in case of violation of other terms of the sale agreement with other persons. The insurance sum within which the insurer is obliged, in each insurance case, to compensate damage to persons, whose valuable interest are damaged, shall be calculated based on the usable area and usable volume, and shall be determined based on the double minimal salary that is established by law per one cubic metre of usable area, but can not be less than 3000-multiple minimal salary that is established by law.

#### **Article 261**

##### **Application on Including into the Register of Duty-Free Shop Owners**

1. Including into the Register of duty-free shop owners shall be done based on application of the person who meets the requirements set by Articles 258-260 of this Code.
2. Application on including into the Register of duty-free shop owners shall contain:
  - 1) application with Customs on including into the Register of duty-free shop owners;
  - 2) data on the name, on the organizational and legal form, on location, on bank accounts, as well as on the size of fully formed authorized capital, authorized fund or share of an applicant;
  - 3) data on premises disposed by the applicant and intended for use as a duty-free shop, on their location, equipment and their logistics;
  - 4) data on ensuring payment of customs payments in compliance with Article 384 of this Code;

- 5) data on agreement (agreements) on insuring risks of civil liability of the applicant;
3. The following documents shall be attached to the application on including into the Register of duty-free shop owners that confirm the declared data:
  - 1) registration documents and a document that confirms inclusion of the legal entity into the Single State Register of Legal Entities;
  - 2) certificate on state registration of a legal entity;
  - 3) certificate on registration of an applicant in the tax body;
  - 4) documents confirming the right of ownership with regard to premises intended for use as a duty-free shop;
  - 5) plans and drawings of the premises intended for use as a duty-free shop;
  - 6) documents confirming the size of fully formed authorized capital, authorized fund or share of an applicant;
  - 7) documents confirming insurance of payment of customs payments in compliance with Article 384 of this Code;
  - 8) confirmation from banks on opening bank accounts;
  - 9) insurance policy;
4. Separate application shall be submitted for each territorially separated premise, intended for use as a duty-free shop.

### **Article 262**

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

1. The owner of a duty-free shop shall be obliged to:
  - 1) comply with the requirements and conditions of the duty free trade customs regime;
  - 2) comply with requirements for construction and equipment of the duty-free shop (Article 260);
  - 3) prevent possibility to use goods coming to a duty-free shops for sale, for other purposes;
  - 4) keep records and submit to customs authorities reports on goods placed and sold in this shop (Article 405);
  - 5) store the goods, placed under the duty-free trade customs regime only in auxiliary premises and warehouses of the duty-free shop;
  - 6) pay customs duties and taxes in cases provided by Paragraph 2 of this Article and Paragraph 2 of Article 263 of this Code, as well as in case provided by Paragraph 1 of Article 90 of this Code, if the owner of the duty-free shop got the permit for internal customs transit;
  - 7) comply with requirement, established by the legislation of the Republic of Tajikistan in the sphere of trade, with account of peculiarities established by this Code;
  - 8) in case of close of duty-free shop, to notify the customs authority.
2. The owner of the duty-free shop shall bear responsibility for payment of customs duties and taxes with respect to the goods that were placed under the duty-free trade customs regime, in case of loss of foreign goods or their use for different purposes than sale in the duty-free shop in retail to natural persons, leaving the customs territory of the Republic of Tajikistan, in accordance with requirement and conditions established by this Chapter. The owner of the duty-free shop shall not be responsible for payment of customs duties and taxes only in the case if the goods were destructed or lost due to accident, force majeure, or natural loss under normal conditions of storage and sale.

### **Article 263**

#### **Certificate on Including into the Register of Duty-Free Shop Owners**

1. Owner of a duty-free shop shall be included into the Register of duty-free shop owners for each territorially separated premise that is used as a duty-free shop. Separate certificate on including into the Register of duty-free shop owners shall be issued for each territorially separated premise.
2. Certificate on including into the Register of duty-free shop owners shall contain:
  - 1) name of a duty-free shop owner, its organizational and legal form and location;
  - 2) data on disposal of premises used as a duty-free shop;
  - 3) data on the size and forms of security of payment of customs payments in compliance with Article 384 of this Code;
  - 4) indication of a duty-free shop location.
3. Certificate on including into the Register of duty-free shop owners shall be valid for five years.
4. Certificate on including into the Register of duty-free shop owners may be withdrawn by Customs body in the following cases:

- 1) failure by the duty-free shop owner to comply with at least one of the conditions to act as a duty-free shop owner set in Chapter 31 of this Code;
  - 2) failure by the duty-free shop owner to comply with one of the conditions set in Paragraph 5 Part 1 Article 230 of this Code;
  - 3) repeated bringing of the duty-free shop owner to administrative account for committing administrative violations in the field of Customs affairs.
5. In case of withdrawal of the certificate on including into the Register of duty-free shop owners:
- 1) foreign goods placed under the duty-free trade customs regime, should be placed under different customs regime within 15 day from the day after withdrawal of the certificate;
  - 2) the sums of domestic taxes reimbursed with respect to domestic goods, placed under the duty-free trade customs regime and located in the duty-free shop, shall be charged in accordance with the tax legislation of the Republic of Tajikistan with interests charged at the rates of refinancing of the National bank of Tajikistan, active at the period of goods being located in the duty-free shop, in the order, provided by this Code for charge of customs payments.
  - 3) from the day after withdrawal of the certificate, the goods, placed under the duty-free trade customs regime, shall be considered, for customs purposes, as goods being temporary stored. Sale of these goods, as well as placement of other goods in the duty-free shop shall not be allowed.
  - 4) withdrawal of the certificate on including into the Register of duty-free shop owners shall not exempt the owner of the shop from compliance with requirements and fulfillment of obligations established by this Code.

## **CHAPTER 32 FREE CUSTOMS ZONE**

### **Article 264**

#### **Purpose of the Free Customs Zone Customs Regime**

1. "Free customs zone" shall mean the customs regime under which foreign goods are placed and used within the relevant territorial borders of a special economic zone with full or partial exemption from customs duties and taxes, and without prohibitions and restrictions of economic nature being applied to goods, established in accordance with normative legal acts of the Republic of Tajikistan.
2. Free customs zone as a territory on which the free customs zone customs regime is under operation, shall be established in accordance with normative legal acts of the Republic of Tajikistan.

### **Article 265**

#### **Goods Allowed to be Placed Under the Free Customs Zone Customs Regime**

1. Goods required to establish a free economic zone shall be placed under the free customs zone customs regime on the territory of the free customs zone, except for the cases provided for by the normative legal acts of the Republic of Tajikistan.
2. A list of goods required to establish a free economic zone shall be specified in the Regulation on free customs zones, which is approved in compliance with the normative legal acts of the Republic of Tajikistan.

### **Article 266**

#### **Operations with Goods Placed under the Free Customs Zone Customs Regime**

1. Working and other commercial operations with goods including their retail sale shall be allowed with goods placed under the free customs zone customs regime, provided that the provisions of this Code and other normative legal acts of the Republic of Tajikistan are complied with.
2. In free customs zones, certain prohibitions and restrictions with regard to operations with certain goods may be established by normative legal acts of the Republic of Tajikistan. Customs bodies shall have the right to prohibit certain persons to do operations with goods in free customs zones, if those persons do not comply with the provisions of this Code and other normative legal acts of the Republic of Tajikistan, or to refuse such persons in access to free customs zones.
3. In compliance with normative legal acts of the Republic of Tajikistan, certain goods may be prohibited from or restricted for importation into the territory of a free customs zone.

### **Article 267**

#### **Time Limit for Goods to Remain Under the Free Customs Zone Customs Regime**

1. Goods may remain under the free customs zone customs regime without time limitations, provided the free customs zone is operating.
2. When a free customs 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 normative legal acts of the Republic of Tajikistan for the abolishment of a free customs zone.

#### **Article 268**

##### **Measures to Ensure Compliance with the Customs Legislation of the Republic of Tajikistan on Free Customs Zones**

1. In order to ensure customs control, the territory designated for establishment of a free customs zone, must be duly equipped.
2. The head of the free customs zone administration must:
  - 1) exclude the possibility for goods and means of transport to move across the territorial borders of the free customs zone without customs control;
  - 2) create due conditions for customs bodies to exercise customs control over goods and means of transport imported and exported across the territorial borders of the free customs zone;
  - 3) fulfill requirements of customs bodies on observation of the legislation of the Republic of Tajikistan in the field of customs affairs.

#### **Article 269**

##### **Accounting for Goods Located in Free Customs Zones**

1. Persons carrying out operations with goods in free customs zones shall keep accounts of imported, exported, stored, manufactured, processed, purchased and sold goods, and shall provide the customs bodies with reports on these goods in compliance with the procedures determined by the authorized body on customs affairs in coordination with the authorized state body on foreign trade activity.
2. Any changes with goods within the territories of free customs zones must be reflected in the accounting documents.

#### **Article 270**

##### **Charging Customs Duties and Taxes and Application of Measures Associated with Prohibitions and Restrictions of Economic Nature**

1. When foreign goods are placed under the free customs zone customs regime, they shall be fully or partially exempted from customs duties and taxes, and measures associated with prohibitions and restrictions of economic nature, established in accordance with normative legal acts of the Republic of Tajikistan, shall not apply. When exporting these goods from the territory of free customs zones to other customs zones of the Republic of Tajikistan, customs duties and taxes shall be charged, and measures associated with prohibitions and restrictions of economic nature, established in accordance with normative legal acts of the Republic of Tajikistan shall apply in compliance with the terms of the declared customs regime.
2. Foreign goods that are placed under the free customs zone customs regime on the territory of this free customs zone shall be considered as being outside the customs territory of the Republic of Tajikistan for the purpose of levying customs duties and taxes.
3. A certificate of origin shall confirm goods as originating from the territory of the free customs zone. When such a certificate is not available, the goods shall be regarded:
  - 1) when exported outside the Republic of Tajikistan - as domestic goods, for the purposes of charging export customs duties and the application of measures associated with prohibitions and restrictions established in accordance with normative legal acts of the Republic of Tajikistan;
  - 2) when imported onto the rest of the customs territory of the Republic of Tajikistan - as foreign goods for the purposes of charging import customs duties and taxes, and the application of measures associated with prohibitions and restrictions, established in accordance with normative legal acts of the Republic of Tajikistan.

#### **Article 271**

##### **Particular Features of Customs Clearance of Goods**

### **under the Free Customs Zone Customs Regime**

1. Goods imported onto the territory of a free customs zone and placed under the free customs zone customs regime as well as goods with regard to which the free customs zone customs regime is changed, shall be subject to customs clearance in compliance with procedures determined by the authorized body on customs affairs in coordination with the authorized state body on foreign trade activity.

2. When the free customs zone customs regime is changed to a different customs regime, foreign goods shall be cleared, measures associated with prohibitions and restrictions of economic nature, established in accordance with normative legal acts of the Republic of Tajikistan shall apply, 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 used (operated) goods shall be determined taking into account the norms with regard to wear and tear on goods while being used (operated) under the free customs zone customs regime, that are stipulated by the tax code of the Republic of Tajikistan.

#### **Article 272**

#### **Termination of the Free Customs Zone Customs Regime**

The free customs zone customs regime shall be terminated by clearing goods under another customs regime.

### **CHAPTER 33 FREE WAREHOUSE**

#### **Article 273**

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

1. 'Free warehouse' shall mean the customs regime under which goods are placed and used in specialized premises (places) recognized as free warehouses, with exemption from customs duties and taxes and without having measures associated with prohibitions and restrictions of economic nature applied to them, established in accordance with normative legal acts of the Republic of Tajikistan.

2. Free warehouse shall be established by the Resolution of the Government of the Republic of Tajikistan upon recommendation of the authorized body on customs affairs and of the authorized state body on foreign trade activity (hereinafter in this Chapter – recommendation).

#### **Article 274**

#### **Goods to be Placed into a Free Warehouse**

Goods intended for processing as well as goods contributing to operations on processing, except for the goods prohibited by normative legal acts of the Republic of Tajikistan, may be placed into a free warehouse.

#### **Article 275**

#### **Operations with Goods at Free Warehouses**

The following operations shall be performed at free warehouses:

1) operations to ensure safety of goods - 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;

2) 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;

3) 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;

4) operations on:

- 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.

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 Commodity Nomenclature of Foreign Economic Activity.

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, domestic goods may be used as additives or additional components for manufacturing processed products.

3. For the purpose of ensuring compliance with the legislation of the Republic of Tajikistan and executing customs control, the Government of the Republic of Tajikistan shall be entitled to establish certain prohibitions and restrictions with regard to operations with goods at free warehouses.

#### **Article 276**

##### **Time Limit for Storing Goods at Free Warehouses**

Goods may be stored at free warehouses without time limitations, provided a free warehouse is operating.

#### **Article 277**

##### **Customs Control and Customs Clearance of Goods Placed under the Customs Regime of a Free Warehouse**

Customs control and customs clearance of goods being placed in free warehouses, as well as those being exported from free warehouses, shall be carried out in accordance with the procedure defined by the authorized body on customs affairs.

#### **Article 278**

##### **Record-Keeping of Goods Stored at Free Warehouses**

1. Owners of free warehouses shall keep records of goods placed into free warehouses, as well as of operations that are fulfilled with such goods, and shall provide customs authorities with reports on them in compliance with the procedures determined by the authorized body on customs affairs.

2. Documents used for record-keeping and reporting purposes, in compliance with the legislation of the Republic of Tajikistan, shall be used for the purpose of recording goods which are stored at a free warehouse and operations fulfilled with them, under the condition that these documents contain the name and identification characteristics of the goods, their quantity, data on movement of goods within the free warehouse, and on any changes taking place with these goods at a free warehouse.

#### **Article 279**

##### **Obligations of Owners of Free Warehouses**

The owner of a free warehouse shall be obliged to:

1) ensure compliance of a free warehouse with the established requirements within the entire period of the free warehouse operation;

2) ensure safety of goods and compliance of operations with goods with the requirements of the customs legislation of the Republic of Tajikistan;

2) ensure customs control;

3) ensure impossibility of taking goods from the warehouse without customs control;

4) meet terms and conditions required for establishment of a free warehouse and requirements of customs authorities, including ensuring of access to goods;

- 5) provide customs authorities, in accordance with the procedure defined by normative legal acts of the Republic of Tajikistan, with premises, equipment and communication facilities in a free warehouse to carry out customs control and customs clearance;
- 7) keep accounts of goods and provide customs authorities with reports on goods placed at a free warehouse and on operations with them in compliance with the procedures stipulated by Article 278 of this Code.

#### **Article 280**

#### **Charging of Customs Duties and Taxes, and Application of Measures Associated with Prohibitions and Restrictions Established in Accordance with Normative Legal Acts of the Republic of Tajikistan**

1. When foreign and domestic goods are placed into free warehouses, customs duties and taxes shall not be charged, and measures associated with prohibitions and restrictions, established in accordance with normative legal acts of the Republic of Tajikistan shall not apply, except for requirements regarding safety of goods. When goods are removed from free warehouses onto the rest of the customs territory of the Republic of Tajikistan, customs duties and taxes shall be charged, and measures associated with prohibitions and restrictions of economic nature, established in accordance with normative legal acts of the Republic of Tajikistan shall apply in compliance with the terms of the declared customs regime, except for the import of domestic goods.
2. When goods are removed from free warehouses and exported outside the customs territory of the Republic of Tajikistan, customs duties shall not be charged, and measures associated with prohibitions and restrictions, established in accordance with normative legal acts of the Republic of Tajikistan shall not apply, with regard to the following goods:
  - 1) foreign goods;
  - 2) goods, which were manufactured at free warehouses;
  - 3) goods, which underwent processing at free warehouses.
3. 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 customs territory of the Republic of Tajikistan - as domestic goods, for the purposes of charging export customs duties and applying measures associated with prohibitions and restrictions, established in accordance with normative legal acts of the Republic of Tajikistan;
  - 2) when imported onto the rest of the customs territory of the Republic of Tajikistan - as foreign goods, for the purposes of charging import customs duties and taxes and applying measures, established in accordance with the normative legal acts of the Republic of Tajikistan.

#### **Article 281**

#### **Requirements to the Operation of a Free Warehouse**

1. The premise intended for the establishment and operation of a free warehouse must meet and comply with the following requirements:
  - 1) to be in the possession of the owner of the free warehouse or to be rented by him/her for a period of not less than three years from the moment of filing the application on the license issuance;
  - 2) to be marked and enclosed along the entire perimeter;
  - 3) buildings (structures) and constructions that are not part of the warehouse shall not be located on the territory of the warehouse;
  - 4) to have available places for examination of goods;
  - 5) to be constructed and equipped in the way appropriate for fulfilling operations on processing of goods.
2. Free warehouses must comply with the established requirements within the entire period of their operation.

#### **Article 282**

#### **License for Acting as a Free Warehouse Owner**

1. A free warehouse shall be established upon Resolution of the Government of the Republic of Tajikistan and license of the authorized body on customs affairs to act a free warehouse owner.
2. The license to act as a free warehouse owner shall be issued to the legal person 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, provided that customs payments are secured in compliance with Article 384 of this Code.

3. License on acting as a free warehouse owner shall contain:

- 1) name of the customs body;
  - 2) name and organizational and legal form;
  - 3) type of activity;
  - 4) data on disposal of premises used as a free warehouse;
  - 5) data on the size and forms of security of payment of customs payments in compliance with Article 384 of this Code;
  - 6) indication of a free warehouse location;
  - 7) number and date of the Resolution of the Government of the Republic of Tajikistan;
  - 8) taxpayer identification number;
  - 9) registration number and date of licence of the authorised body on customs affairs.
4. License to act as a free warehouse owner shall be valid for unlimited period.
5. A license to act as free warehouse owner shall not be transferred to another person.

### **Article 283**

#### **Application to Act as a Free Warehouse Owner**

1. Recommendation for making a decision on acting as a free warehouse owner shall be made based on the application of the person. The application to act as a free warehouse owner shall contain the following:

- 1) application with the request to consider the documents to act as a free warehouse owner;
- 2) data on the name, on the organizational and legal form, on location, on bank accounts, as well as on the size of fully formed authorized capital, authorized fund or share of an applicant;
- 3) data on premises disposed by the applicant and intended for use as a free warehouse, on their location, equipment and their logistics;
- 4) data on ensuring payment of customs payments in compliance with Article 384 of this Code;
- 5) data on agreement (agreements) on insuring risks of civil liability of the applicant;

2. The following documents that confirm the declared data shall be attached to the application to act as a free warehouse owner:

- 1) registration documents and a document that confirm inclusion of the legal entity into the Single State Register of Legal Entities;
- 2) certificate on state registration of a legal entity;
- 3) certificate on registration of an applicant in the tax body;
- 4) documents confirming the right of ownership with regard to premises intended for use as a free warehouse;
- 5) plans and drawings of the premises intended for use as a free warehouse;
- 6) documents confirming the size of fully formed authorized capital, authorized fund or share of an applicant;
- 7) documents confirming insurance of payment of customs payments in compliance with Article 384 of this Code;
- 8) confirmation from banks on opening bank accounts;

3. When the information stated in the application and in the documents changes, the free warehouse owner shall notify the customs authority on these changes within a period of time not to exceed thirty calendar days following the date that the changes were introduced.

### **Article 284**

#### **Suspension of a License to Act as a Free Warehouse Owner**

1. When the owner of a free warehouse fails to meet the requirements and terms stipulated by this Code, the authorized body on customs affairs may 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 order of the head of the authorized body on customs affairs, and shall indicate the reasons for suspension.

3. The license shall be suspended from the day when the appropriate 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 kept by the free warehouse owner in the unaltered state.

4. After elimination of the reasons for which the license was suspended and after issue of the appropriate order by the authorized body on customs affairs, the validity of the license shall be renewed.

#### **Article 285**

##### **Withdrawal of a License to Act as a Free Warehouse Owner**

1. A license to act as a free warehouse owner may be withdrawn by the authorized body on customs affairs in the following cases:

- 1) deliberate submission of false information;
- 2) failure by the free warehouse owner to comply with the requirements specified in the license;
- 3) the reasons that caused the previous suspension of the license have not been eliminated;
- 4) the court prohibits the free warehouse owner to be engaged in the activity for rendering free warehouse services;
- 5) termination to act as a free warehouse owner upon the Resolution of the Government of the Republic of Tajikistan;
- 6) repeated bringing of the free warehouse owner to administrative account for violations of customs rules;
- 7) re-organization or liquidation of a free warehouse in accordance with normative legal acts of the Republic of Tajikistan.

2. The decision to withdraw a license shall be made by the order of the head of the authorized body on customs affairs, and shall indicate the grounds for making the decision.

3. Withdrawal of the license shall become effective as of the date that the order on withdrawal was issued.

4. In case of withdrawal of a license, the owner of the free warehouse shall be obliged to return the license to the authorized body on customs affairs within a period of time not to exceed fifteen calendar days after receipt of the decision on withdrawal.

5. A repeated application for the issuance of a license to act as a free warehouse owner may be considered upon the expiration of two years after the date that the order on withdrawal was issued, provided that the reasons, which caused its withdrawal, were eliminated.

6. When a free warehouse terminates its operations, goods which were placed under the free warehouse customs regime may be placed under another customs regime, or with regard to these goods the validity of the free warehouse customs regime must terminate within thirty calendar days as of the day that the decision to terminate the license was made.

When goods that are stored at a free warehouse undergo processing operations, the customs authority shall inform the person who placed those goods into the free warehouse on 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 34**

##### **CONVEYANCE OF SUPPLIES**

#### **Article 286**

##### **Content of the Customs Regime for Conveyance of Supplies**

1. "Conveyance of supplies" – customs regime under which goods intended for use on sea vessels, air crafts and in trains that are used for paid international transportation of passengers, or for paid or free international industrial or commercial transportation of goods; as well as goods intended for sale to crew members and passengers of such sea vessels, air-crafts are conveyed across the customs border without payment of customs duties and taxes, and without application of prohibitions and restrictions of economic nature established in compliance with the normative legal acts of the Republic of Tajikistan.

2. When exporting goods placed under the customs regime for conveyance of supplies, exemption from payment, refund or compensation of domestic taxes shall not be granted, unless otherwise established by the tax legislation of the Republic of Tajikistan.

#### **Article 287**

##### **Placement of Goods under the Customs Regime for Conveyance of Supplies**

1. The following goods (hereinafter in this Chapter – supplies) may be placed under the customs regime for conveyance of supplies:

- goods required for ensuring normal operations and technical servicing of sea vessels, air crafts and trains en route or in points of intermediary stay or parking (including fuel and lubricants);
- goods intended for use by passengers and crew members on board the sea vessels, air crafts or by passengers and staff of train teams in trains, irrespective whether those supplies are sold or not;
- goods intended for sale to passengers and crew members of sea vessels and air crafts without use of those supplies on board of those vessels and air crafts.

2. Supplies shall be placed under the customs regime for conveyance of supplies irrespective of the country of registration or nationality of sea vessels, air crafts or trains.

3. Spare parts and equipment that are required for ensuring normal operations and technical servicing of sea vessels, air crafts and trains en route or in points of intermediary stay or parking, shall not be allowed to be placed under the customs regime for conveyance of supplies.

4. The customs regime for conveyance of supplies shall apply with regard to supplies when using sea vessels for the purpose of trade navigation, air crafts of civil, state and experimental aviation, except for cases of use of means of transport by natural persons for personal use (Chapter 37).

#### **Article 288**

#### **Conditions for Exemption from Customs Duties and Taxes**

1. When importing on the customs territory of the Republic of Tajikistan, supplies that are on board of sea vessels and air crafts, import customs duties and taxes shall not be paid provided that those supplies remain on board of those sea vessels and air crafts during their stay on the customs territory of the Republic of Tajikistan.

2. When importing on the customs territory of the Republic of Tajikistan supplies that are on board of trains and that are required for ensuring normal operations and technical servicing of trains, and also intended for use by passengers and staff of train teams, import customs duties and taxes shall not be paid provided that those supplies remain on board of trains during their stay on the customs territory of the Republic of Tajikistan.

3. When placing foreign goods that are intended for sale to passengers and crew members of sea vessels and air crafts without use of those supplies on board of those sea vessels and air crafts under the customs regime for conveyance of supplies, exemption from import customs duties and taxes shall be granted provided that those supplies are sold outside the customs territory of the Republic of Tajikistan taking into account Paragraph 3 of Article 289 of this Code.

4. When exporting from the customs territory of the Republic of Tajikistan of supplies that are on board of sea vessels and air crafts, export customs duties and taxes shall not be paid provided that those supplies are exported in the amount that correspond with the quantity of passengers and crew members, with the duration of the flight and voyage and in the quantity enough for ensuring normal operations and technical servicing of those sea vessels and air crafts taking into account the supplies available on board of those sea vessels and air crafts.

5. When exporting from the customs territory of the Republic of Tajikistan supplies that are required for ensuring normal operations and technical servicing of trains, and also supplies intended for use by passengers and staff of train teams, export customs duties shall not be paid provided that those supplies are exported in the amount that is enough for ensuring normal operations and technical servicing of trains en route, taking into account the supplies available on board of those trains.

6. With the permission of the customs body, supplies may be unloaded and transferred accordingly to other sea vessels, air crafts or trains that perform international transportation of goods and passengers if the conditions stipulated by this Chapter are met.

#### **Article 289**

#### **Use of Supplies**

1. Supplies that are intended for use by passengers and crew members of sea vessels, and supplies required for ensuring normal operations and technical servicing of those sea vessels, may be used on those vessels during their stay on the customs territory of the Republic of Tajikistan in the amount that corresponds with the quantity of passengers and crew members, and with the duration of the stay, also during repair of vessels in docks, ship-yards or in a ship-repairing factory, if during that time crews do not leave the vessels.

2. When performing planned landing of air crafts in one or several air ports that are located on the customs territory of the Republic of Tajikistan, supplies intended for ensuring normal operations and technical servicing of those air crafts, and supplies intended for use by crew members and passengers during stay of the air crafts at landing points and during flight between the landing points, may be used during stay of the air crafts at the landing points and during flight between the landing points.

3. Supplies intended for sale to passengers and crew members of air crafts without use of those supplies on board of those air crafts, may be sold during stay of the air crafts on the customs territory of the Republic of Tajikistan provided that they are sold on board of those air crafts.

4. Supplies that are intended for use by passengers and staff of train teams, and supplies that are required for ensuring normal operations and technical servicing of those trains, may be used in those trains en route or in points of intermediary stay or parking on the customs territory of the Republic of Tajikistan in the amount that corresponds with the quantity of passengers and staff of train teams, and with the duration of stay and time en route.

5. Customs authorities shall be entitled to oblige a carrier to take measures required to ensure meeting the requirements for use of supplies stipulated by this Chapter, during stay of sea vessels, air crafts or trains on the customs territory of the Republic of Tajikistan. Upon decision of the customs authority, customs seals and stamps may be put on the premises where the supplies are stored.

## **CHAPTER 35 SPECIAL CUSTOMS REGIMES**

### **Article 290 Goods Placed under the Special Customs Regimes**

Special customs regimes shall apply with regard to the following goods, when transferred across the customs border:

- 1) goods exported outside the customs territory of the Republic of Tajikistan and intended for ensuring the operations of embassies, consulates, representative offices of international organizations and other official representations of the Republic of Tajikistan abroad;
- 2) goods transferred across the customs border between military units of the Republic of Tajikistan, and located on the customs territory of the Republic of Tajikistan and beyond its boundaries;
- 3) goods transferred across the customs border and intended for prevention and liquidation of calamities and other emergency situations, including goods intended for free distribution among persons who have suffered as the result of extraordinary situations, and goods required for carrying out wrecking and other urgent activities and for the functioning of wrecking units;
- 4) goods exported outside the Republic of Tajikistan and intended for ensuring the operations of medical, sports, sanitary and other social institutions, the property of which belongs to the Republic of Tajikistan; as well as for conducting scientific and research activities that are in the interests of the Republic of Tajikistan on non-commercial basis by domestic organizations;
- 5) domestic goods that are transferred between customs bodies through the territory of a foreign state.

### **Article 291 Content of Special Customs Regimes, the Procedure and Conditions for Placing Goods under Special Customs Regimes**

1. Special customs regimes mean full exemption of goods from customs duties and taxes, and non-application of prohibitions and restrictions of economic nature that are determined in compliance with normative legal acts of the Republic of Tajikistan.

2. Paid customs duties and taxes shall not be refunded, and exemption from payment, refund or compensation of domestic taxes shall not be granted when placing goods under special customs regimes, except for cases when the declared special customs regime is changed to the customs regime for export.

3. Other requirements and conditions for placing goods under special customs regimes, as well as restrictions to use and dispose of goods that are placed under the mentioned customs regimes shall be determined by the authorized body on customs affairs.

## **SUB-SECTION 3 SPECIAL CUSTOMS PROCEDURES**

**CHAPTER 36**  
**CONVEYANCE OF MEANS OF TRANSPORT**

**Article 292**  
**Customs Regimes Applicable to Means of Transport**

Means of transport are shall be transferred across the customs border in compliance with the temporary import and temporary export regimes in accordance with the procedures stipulated by this Chapter.

**Article 293**  
**Temporary Import of Means of Transport**

1. Temporary import of means of transport on the customs territory of the Republic of Tajikistan with full exemption from customs duties and taxes shall be allowed when the following requirements are met:

- 1) when a means of transport is registered with a foreign person and (or) on the territory of a foreign state;
- 2) when a means of transport is imported on the customs territory of the Republic of Tajikistan and is used by a foreign person, except for cases when a means of transport is used by a local person who is duly authorized by a foreign person;
- 3) when a means of transport is not used on the customs territory of the Republic of Tajikistan for internal transportations;
- 4) when a means of transport after importation on the customs territory of the Republic of Tajikistan is not leased.

2. The Government of the Republic of Tajikistan shall have the right to determine cases for temporary import of means of transport on the customs territory of the Republic of Tajikistan with full exemption from customs duties and taxes, when an imported means of transport is used by a local person or is registered with a local person, and also when other requirements stipulated by Sub-Paragraphs 1-4 of Paragraph 1 of this Article are not met, provided that within the period of temporary import of a means of transport the right of ownership of a means of transport is not transferred to a local person.

3. In cases when full exemption from customs duties and taxes do not apply in compliance with Paragraphs 1 and 2 of this Article, and when the requirements that allow full exemption from customs duties and taxes are not met, partial exemption from customs duties and taxes shall apply with regard to means of transport in accordance with the procedures stipulated by this Code with regard to temporary imported goods (Article 212).

4. The customs regime for temporary import with regard to means of transport shall terminate at the moment of their re-export within the time limits stipulated by Article 294 of this Code. With permission of a customs body, the customs regime for temporary import with regard to temporary imported means of transport may be terminated in accordance with the rules that are stipulated by Article 214 of this Code for completion of the customs regime for temporary import of goods.

**Article 294**  
**Time Limits for Temporary Import of Means of Transport**

1. Temporarily imported means of transport must be re-exported immediately after termination of the transportation operation for which it was imported.

2. In exceptional cases in order to exercise customs control, a customs body shall have the right to determine the time limit for temporary import of a means of transport based on the transporter's application and taking into account all circumstances associated with conduct of a transport operation. Upon reasonable request of the interested person, a customs body shall prolong the initially determined time limit for temporary import.

**Article 295**  
**Operations with Temporarily Imported Means of Transport**

Regular technical maintenance and repair operations that were required in the course of their way to the customs territory of the Republic of Tajikistan, or in the course of their use on this territory shall be allowed with regard to temporarily imported means of transport.

#### **Article 296** **Temporary Export of Means of Transport**

1. Temporary export of means of transport shall be allowed under the condition that this means of transport is in free circulation on the territory of the Republic of Tajikistan, and is registered with a local person, except for the case stipulated by Paragraph 3 of this Article.
2. Under temporary export of means of transport, customs duties and taxes shall not be levied.
3. It is allowed to temporarily export means of transport that were earlier temporarily imported on the customs territory of the Republic of Tajikistan with partial exemption from customs duties and taxes, if temporary export is conducted by a local person, who does not own the means of transport under the ownership right, regardless if the means of transport is registered with the local person or not. The customs regime for temporary import with regard to these means of transport shall apply with regard to customs duties and taxes prior to termination of this regime according to rules stipulated by Article 214 of this Code.
4. Temporary export of a means of transport shall be allowed regardless who and for what purpose shall use it outside the customs territory of the Republic of Tajikistan.

#### **Article 297** **Time Period for Temporary Export of Means of Transport**

In order to exercise customs control, a customs body shall have the right to determine the time limit for temporary export of a means of transport based on the transporter's application and taking into account all circumstances associated with conduct of a transport operation.

Upon reasonable request of the interested person, a customs body shall prolong the initially determined time limit for temporary export.

#### **Article 298** **Re-Import of Temporarily Exported Means of Transport**

1. When a temporarily exported means of transport is re-imported on the customs territory of the Republic of Tajikistan, customs duties and taxes shall not be paid if a means of transport was not subject to processing operations outside the customs territory of the Republic of Tajikistan except for the following operations:

- 1) repair operations, operations on technical maintenance and other similar operations that are required to ensure its safety and operation, as well as to keep it in the state it was on the day when it was placed under the regime for temporary export;
- 2) repair operations performed free of charge under the law or contract;
- 3) repair operations including major repairs 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 Tajikistan.

2. If a means of transport with regard to which repair operations and (or) other operations were performed outside the customs territory of the Republic of Tajikistan, is not subject to exemption from duties and taxes in compliance with Paragraph 1 of this Article, this means of transport shall be subject to partial exemption from customs duties, taxes with regard to the procedure stipulated by Article 207 of this Code regarding levying customs duties, taxes when importing products of processing in compliance with the customs regime for outward processing.

When determining the value of processing operations, expenses for transportation of a means of transport to the place of processing and back shall not be taken into account if such transportation is associated with international transportation of goods or passengers.

#### **Article 299** **Change of the Customs Regime for Temporary Export**

1. With regard to temporarily exported means of transport, the customs regime for temporary export may be changed for the customs regime for export or another customs regime, provided the requirements and conditions stipulated by this Code are complied.
2. In the case of transfer of the right of ownership with regard to the temporarily exported means of transport to a foreign person, the person who placed the means of transport under the customs regime for temporary export shall be obliged to change the customs regime for temporary export to the customs regime for export.
3. The customs regime for temporary export may be changed without the actual presentation of the means of transport to the customs authority.

#### **Article 300**

##### **Temporary Import and Temporary Export of Equipment and Spare Parts**

1. Special equipment that is temporarily imported together with a means of transport and intended for loading, unloading, working and protection of goods irrespective whether it may or may not be used separately from the means of transport, shall be subject to full conditional exemption from customs duties and taxes.
  2. Temporarily imported spare parts and equipment that are intended for repair, technical maintenance or exploitation of a means of transport, shall be subject to full conditional exemption from customs duties and taxes.
  3. Temporarily exported spare parts that are intended to be used in repair or technical maintenance of a temporarily exported means of transport with the purpose to change spare parts and equipment that are installed into the temporarily exported means of transport, shall be subject to full conditional exemption from export customs duties when temporarily exported from the customs territory of the Republic of Tajikistan.
- Import of substituted parts and equipment on the customs territory of the Republic of Tajikistan shall be allowed with full exemption from import customs duties and taxes with regard to the customs regime for re-import.

#### **Article 301**

##### **Customs Clearance of Means of Transport, Spare Parts and Equipment**

1. Customs clearance of means of transport, spare parts and equipment shall be performed under simplified procedures at the point of their arrival to the customs territory of the Republic of Tajikistan or at the point of their departure from this territory.  
Customs clearance of means of transport shall be performed at the location of customs bodies within their working hours.
2. In the course of customs clearance of means of transport, the customs body shall accept standard documents of a carrier that are stipulated by international agreements of the Republic of Tajikistan in the field of transport as import or export declaration accordingly, if they contain information on the means of transport, its route, goods, supplies, crew and passengers, information on the purpose of import (export) of the means of transport and (or) names of spare parts, equipment that are transferred for repair or operation of the means of transport.  
If the submitted standard documents of the carrier do not contain all the required information, then missing information shall be submitted to the customs body by lodging import or export declaration accordingly in compliance with the format determined by the authorized body on customs affairs. Submitted standard documents of the carrier shall be considered as an integral part of the import or export declaration accordingly.  
The customs body shall not have the right to request other information.  
Import or export declaration shall be submitted by the carrier to the customs body accordingly at the moment when the means of transport enters the customs territory of the Republic of Tajikistan or leaves this territory.
3. Means of transport shall be placed under the customs regimes for temporary import or temporary export in the cases stipulated by Paragraph 1 of Article 293, by Article 296 and by Paragraph 1 of Article 298 of this Code when lodging import and export declaration accordingly.  
In other cases, means of transport shall be declared according to the rules stipulated by this Code for declaration of goods (Chapter 14).

When spare parts and equipment are transferred through the customs border together with the means of transport in accordance with Article 300 of this Code, information on them may be declared in the import or export declaration that is lodged with regard to this means of transport.

4. If requirements with regard to documents that are submitted to the customs body at the moment of entry or departure of means of transport are determined by international agreements of the Republic of Tajikistan in the field of transport, documents stipulated by these agreements of the Republic of Tajikistan shall be used for customs purposes.

5. If the means of transport is not declared to a customs regime as goods, then for customs purposes they shall be considered as placed under the customs regime for temporary import or temporary export accordingly from the moment of customs clearance of the means of transport, and it shall mean the obligation for persons to meet the requirements of these regimes.

6. Customs clearance of changed spare parts and equipment that are imported to the customs territory of the Republic of Tajikistan shall be performed according to the rules for customs clearance of goods that are imported in accordance with the customs regime for re-import.

7. Changed spare parts and equipment that are used and not re-exported, shall be subject to release for free circulation or placement under another customs regime with compliance of requirements and conditions stipulated by this Code.

#### **Article 302**

##### **Conveyance Across the Customs Border of Sea Vessels and Aircraft, Which Are Not Used for International Transportation of Goods and Passengers**

1. When temporarily exported and re-imported, sea vessels which are temporarily exported from the customs territory of the Republic of Tajikistan for:

- 1) search, rescue and towing operations;
- 2) for hydro-technical, subsurface and similar operations;
- 3) for sanitary, quarantine and other types of control;
- 4) for training, sports and cultural purposes; as well as for other purposes,

shall be conveyed across the customs border in compliance with the rules specified in this Chapter, except for means of transport which are conveyed by natural persons for personal, family, home and other purposes that are not associated with needs for entrepreneurial activity.

2. When temporarily exported and re-imported, civil, state and experimental aircrafts that are not used for international transportation of goods and passengers, shall be conveyed across the customs border in compliance with the rules specified in this Chapter.

#### **CHAPTER 37**

##### **CONVEYANCE OF GOODS BY NATURAL PERSONS**

#### **Article 303**

##### **Conveyance of Goods by Natural Persons for Personal, Family, Home and Other Purposes That Are Not Associated With Needs for Entrepreneurial Activity**

1. Goods intended for personal, family, home and other purposes that are not associated with needs for entrepreneurial activity of natural persons (hereinafter – for personal use), shall be conveyed by those persons across the customs border in compliance with the provisions of this Chapter, and when not regulated by this Chapter – in compliance with general procedures stipulated by this Code.

2. The purpose of goods shall be determined by the customs body based on the declaration of a natural person on goods conveyed across the customs border, nature of goods and their quantity, as well as on the frequency of their conveyance through the customs border.

3. The procedure for conveyance of goods through the customs border by natural persons shall include full exemption from customs duties and taxes, application of single rates of customs duties and taxes, levy of customs payments in the form of an aggregated customs payments, and also non-application of prohibitions and restrictions of economic nature that are established in compliance with normative legal acts of the Republic of Tajikistan, mandatory confirmation of conformity of goods and simplified procedures of customs clearance.

#### **Article 304**

##### **Import and Export of Goods and Means of Transport for Personal Use**

## **and Application of Customs Duties and Taxes with Regard to Such Goods and Means of Transport**

1. Goods, except for those prohibited from import to the Republic of Tajikistan, that are conveyed by natural persons within the weight and cost standards established by the Government of the Republic of Tajikistan, shall be fully exempt from customs duties and taxes (preferential procedures for import). If the value of means of transport and goods exceeds the preferential norms, single rates of customs duties and taxes (simplified procedure for import) shall apply with regard to the excess. The maximum value of goods imported by natural persons under the simplified procedures shall be determined by the Government of the Republic of Tajikistan. The procedure for use of single rates of customs duties and taxes shall be determined by the Government of the Republic of Tajikistan based on the average amount of established rates of customs duties and taxes that apply with regard to goods and means of transport, the categories of which are conveyed through the customs border by natural persons in small quantities.

Full exemption from customs duties and taxes or single rates of customs duties and taxes shall apply in the quantity limits that are determined by the Government of the Republic of Tajikistan.

2. The Government of the Republic of Tajikistan shall determine quantity and cost restrictions on import to the Republic of Tajikistan by natural persons with full exemption from customs duties and taxes or with use of single rates of customs duties and taxes with regard to excise goods and goods subject to quantity restrictions on import to the Republic of Tajikistan in compliance with the normative legal acts of the Republic of Tajikistan.

3. The Government of the Republic of Tajikistan shall determine the cases when full exemption from customs duties and taxes is not granted or granted in reduced scale with regard to goods that are imported to the customs territory of the Republic of Tajikistan by natural persons that are under age, as well as by natural persons who frequently cross the customs border.

4. The Government of the Republic of Tajikistan shall have the right to determine the cases when full exemption from customs duties and taxes or application of single rates of customs duties and taxes is used in the amount that exceeds the limits established by Paragraph 1 of this Article with regard to goods that are imported by natural persons when they move to the places of their permanent residence; to goods imported by forced refugees and migrants, and with regard to inherited property.

5. Cultural values that are imported by natural persons shall be fully exempt from customs duties and taxes in case of their written declaration and specially registration that is stipulated by the legislation of the Republic of Tajikistan on import and export of cultural values.

6. Goods imported to the customs territory of the Republic of Tajikistan and exported from this territory in compliance with this Article, shall be considered for customs purposes as released for free circulation or exported under the customs regime for export, accordingly.

7. With regard to goods exported by natural persons, full exemption from payment, refund or compensation of domestic taxes shall be performed according to the procedures established by the tax legislation of the Republic of Tajikistan.

8. Goods that are not granted preferential or simplified procedures when conveyed across the customs border of the Republic of Tajikistan, shall be subject to general customs clearance procedures and procedures for payment of customs duties and taxes stipulated by this Code.

9. Provisions of this Article shall not apply with regard to goods that are temporarily imported (exported) and re-exported (re-imported) by natural persons.

Note:

For the purposes of this Chapter “means of transport” shall mean motor transport and trailers, water vessels and aircrafts along with spare parts thereto and with the usual accessories and equipment that are imported or exported by natural persons exclusively for personal use.

### **Article 305**

#### **Temporary Import of Goods by Natural Persons**

1. Goods that are temporarily imported to the customs territory of the Republic of Tajikistan by foreign natural persons shall be fully exempt from customs duties and taxes, if these goods are imported exclusively for personal use of these persons for the period of their temporary stay in the Republic of Tajikistan.

2. Exemption from customs duties and taxes that is stipulated by Paragraph 1 of this Article, shall apply with regard to means of transport that belong to foreign natural persons, or means of transport that are rented or taken in other ways for temporary use and that are imported to the customs territory

of the Republic of Tajikistan simultaneously with entering of a foreign person to the Republic of Tajikistan, or prior to or after such entering.

Means of transport that are conveyed by natural persons for transportation of passengers for payment or for industrial or commercial transportation of goods, shall be conveyed across the customs border in compliance with the rules stipulated by Chapter 36 of this Code.

3. In cases when temporarily imported goods are subject to written declaration in compliance with Paragraph 2 of Article 308 of this Code, the time limits for temporary import shall be determined by the customs body based on the application of a foreign natural person taking into account the period of his stay in the Republic of Tajikistan within the time limits determined by the Government of the Republic of Tajikistan in compliance with Paragraph 4 of this Article.

Upon well-grounded application of a foreign natural person, the time limits for temporary import that is determined by the customs body, may be prolonged within the time limits determined by the Government of the Republic of Tajikistan in compliance with Paragraph 4 of this Article.

4. The Government of the Republic of Tajikistan may specify time limits for temporary import with regard to certain categories of goods, including means of transport temporarily imported by foreign natural persons onto the customs territory of the Republic of Tajikistan.

5. Temporarily imported goods, including means of transport, may be re-exported from the customs territory of the Republic of Tajikistan through any customs body. When re-exporting temporarily imported goods, customs duties and taxes shall not be levied, prohibitions and restrictions of economic nature, that are stipulated by the normative legal acts of the Republic of Tajikistan shall not apply.

6. Temporarily imported goods, including means of transport, may not be re-exported in cases when these goods, including means of transport are seriously damaged as a result of accident or force majeure.

7. Domestic natural persons may temporarily import means of transport, provided that these means of transport are registered on the territory of a foreign state, and the total period of temporary import does not exceed three months within one calendar year with regard to each temporarily imported means of transport.

#### **Article 306**

##### **Temporary Export of Goods by Natural Persons**

1. Domestic natural persons may temporarily export goods for personal use from the customs territory of the Republic of Tajikistan for the period of their temporary stay on the territory of a foreign state and re-import them with full exemption from customs duties and taxes.

2. Upon application of a natural person, the customs body shall perform identification (Article 434) of temporarily exported goods, if such identification shall help their re-import with full exemption from customs duties and taxes. Identification is marked in the customs declaration, one copy of the declaration is returned to the natural person who exports goods. Absence of such identification shall not impede re-import of goods by natural persons with full exemption from customs duties and taxes.

#### **Article 307**

##### **Customs Clearance of Goods Conveyed by Natural Persons for Personal Use**

1. Customs clearance of goods conveyed by natural persons for personal use shall be performed according to the procedures determined by the authorized body on customs affairs in compliance with this Code.

2. Natural persons who cross the border on their own means of transport and on commercial means of transport or in a train, may perform customs operations, as a rule, without leaving means of transport.

3. Goods, including means of transport, conveyed by natural persons for personal use, shall be subject to placement at temporary storage warehouses in the following cases:

1) upon request of the persons mentioned above;

2) when immediate customs clearance of goods and (or) payment of customs duties and taxes is not possible due to reasons that do not depend on customs bodies.

4. Temporary storage of goods shall be performed according to the procedures stipulated by Chapter 12 of this Code, and on the expenses of the person which goods are placed in the temporary storage warehouse.

5. With the aim to simplify the procedures for customs clearance of goods conveyed by natural persons by road and rail, the authorized body on customs affairs shall have the right to conclude agreements

with customs bodies of neighbor states on exercising joint customs clearance and customs control over these goods.

### **Article 308** **Declaration of Goods by Natural Persons**

1. Declaration of goods conveyed by natural persons in hand baggage and accompanied baggage, shall be performed by them when crossing the state border of the Republic of Tajikistan.
2. The following goods, including means of transport shall be subject to written declaration:
  - 1) goods conveyed by natural persons in unaccompanied baggage;
  - 2) goods sent to natural persons for personal use except for goods sent in international mail;
  - 3) goods restricted for import in compliance with the legislation of the Republic of Tajikistan, or when their value and (or) quantity exceeds the limits established by the Government of the Republic of Tajikistan for transfer across the customs border of the Republic of Tajikistan with full exemption from customs duties and taxes (Article 304).
  - 4) goods restricted for export in compliance with the legislation of the Republic of Tajikistan;
  - 5) goods subject to mandatory written declaration at importation in compliance with the normative legal acts of the Republic of Tajikistan;
  - 6) means of transport.
3. In cases that are not mentioned in Paragraph 2 of this Article, goods shall be declared orally. A natural person shall be entitled to declare in writing, upon his/her own wish, goods conveyed across the customs border, which are not subject to mandatory written declaration.
4. In cases, determined by the authorized body on customs affairs, declaration of goods subject to declaration in the oral form, shall be performed through actions to confirm that no goods subject to mandatory written declaration are contained in the hand luggage and accompanied baggage of a natural person (tacit declaration). For these purposes, specially marked lines for natural persons shall be introduced at check points, so that natural persons could choose the declaration forms. Crossing by natural persons through specially marked lines for natural persons who do not have goods subject to mandatory written declaration in their hand luggage and accompanied baggage, shall be considered as declaration to the customs body about the absence with this person of goods subject to mandatory written declaration.
5. Goods of the person under the age of sixteen shall be declared by one of his parents, adoptive father, guardians or curator who accompany him/her, and in the case of organized departure (entry) of a group of persons under the age of sixteen without accompaniment of parents, adoptive fathers, guardians or curators – by the head of such group.
6. When goods are imported onto the customs territory of the Republic of Tajikistan, the declaration of goods conveyed in unaccompanied baggage shall be submitted within the period mentioned in Article 129 of this Code, and when exported - along with the goods when they are presented to the customs authority.

Goods transferred through the customs border in unaccompanied baggage may be declared by the person conveying the goods, or by any other person acting under a power of attorney for the persons conveying the goods.

Goods in unaccompanied baggage of the person under the age of sixteen shall be declared by one of his parents, adoptive father, guardians or curator or by other persons acting under a power of attorney for these persons.

### **Article 309** **Payment of Customs Duties and Taxes by Natural Persons**

1. Customs duties and taxes shall be paid by natural persons upon written declaring goods based on the customs receipt voucher, the form of which shall be determined by the authorized body on customs affairs. One copy of the customs receipt voucher shall be submitted to the person who paid customs payments.
2. Customs duties and taxes with regard to goods conveyed by natural persons for personal use shall be paid by natural persons in the form of aggregate customs payment (payment in the form of total customs duties and taxes without dividing into elements of customs duties and taxes) or according to single rates of customs duties and taxes (Article 304).

### **Article 310**

### **Customs Value of Goods Conveyed by Natural Persons**

1. When declaring goods, the natural person conveying goods shall declare customs value of goods. To confirm the declared value of goods, the natural person may submit sales checks, receipts or other documents that confirm purchase of the declared goods and their value.
2. When importing goods onto the customs territory of the Republic of Tajikistan for personal use, expenses for delivery of goods to the airport, seaport or other place of entry onto the customs territory of the Republic of Tajikistan shall not be included in the customs value of the goods.
3. When documents and data verifying correctness of the value declared by the natural person are absent, the customs authority may determine the customs value of goods based on data contained in catalogues of foreign organizations that sell goods, or based on other price information available with the customs body with regard to similar goods.  
When using this price information, the customs body shall correct the customs value depending on the quality of goods, their reputation on the market, origin of goods, date of production and other factors affecting the price.

#### **Article 311**

##### **Spare Parts and Fuel for Means of Transport Conveyed by Natural Persons**

1. Spare parts required for repair of means of transports temporarily imported by natural persons onto the customs territory of the Republic of Tajikistan may be temporarily imported with full exemption from customs duties and taxes for the period that does not exceed the period for temporary import of means of transport.
2. Fuel for means of transport that is in the tanks provided for by constructions of means of transport conveyed through the customs border by natural persons, may be imported onto the customs territory of the Republic of Tajikistan or accordingly exported from this territory without payment of customs duties and taxes.

#### **Article 312**

##### **Information on the Rules for Conveyance of Goods Through the Customs Border by Natural Persons**

The authorized body on customs affairs and other customs bodies shall ensure availability of information on the rules for conveyance of goods by natural persons, also by distributing information booklets via transport and travel agencies that are developed on the state language, on the language of international communication and in foreign languages, and also by placing information boards at the places of customs clearance of goods conveyed by natural persons.

### **CHAPTER 38**

#### **CONVEYANCE OF GOODS BY INTERNATIONAL MAIL**

#### **Article 313**

##### **International mail**

1. For the purposes of this Chapter, international mail shall mean mail accepted for forwarding outside the customs territory of the Republic of Tajikistan, or arriving on the customs territory of the Republic of Tajikistan or being delivered in transit through this territory.  
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.
2. International mail may not be released by the postal organizations to consignees, or sent outside the customs territory of the Republic of Tajikistan, without the permission of the customs authority.

#### **Article 314**

##### **Prohibitions and Restrictions with Regard to Import of Goods onto the Customs**

## **Territory of the Republic of Tajikistan and Their Export from This Territory when Sending by International Mail**

1. The following goods shall not be allowed for conveyance by international mail:
  - 1) goods prohibited from being imported to and exported from the customs territory of the Republic of Tajikistan in compliance with the normative legal acts of the Republic of Tajikistan;
  - 2) goods prohibited from being conveyed, in compliance with the World Postal Union regulations;
  - 3) goods subject to restriction in compliance with the normative legal acts of the Republic of Tajikistan, the list of which may be determined by the Government of the Republic of Tajikistan.
2. With regard to goods restricted for import to and export from the customs territory of the Republic of Tajikistan, in compliance with the normative legal acts of the Republic of Tajikistan or international legal acts of the Republic of Tajikistan, the persons who sends or receives these goods or persons who act on their behalf, must submit, in the course of customs clearance, necessary permissions, licenses, certificates and other documents that confirm observance of these restrictions.
3. Prohibitions and restrictions of economic nature that are established in compliance with the normative legal acts of the Republic of Tajikistan, shall not apply with regard to goods conveyed in international mail in the following cases:
  - 1) when goods are sent to natural persons and are designated for personal use;
  - 2) in other cases determined by the Government of the Republic of Tajikistan.
4. Goods prohibited from and (or) restricted to conveyance by international mail shall be seized and disposed of by customs authorities in compliance with this Code, and when not regulated by the Code, in compliance with the procedures established by the Government of the Republic of Tajikistan.

### **Article 315 Customs Clearance of Goods Conveyed in International Mail**

1. Customs clearance of goods conveyed in international mail and accompanied by documents stipulated by acts of the World Postal Union, shall be performed in compliance with this Code taking into account the peculiarities stipulated by this Chapter.
2. Customs clearance of goods conveyed in international mail shall be performed under priority procedures and within the shortest time that can not exceed three days. The concrete time of customs clearance shall be established by the authorized body on customs affairs together with the body that coordinates activity in the field of postal communications.
3. Customs clearance of goods conveyed in international mail shall be performed at the places of international postal exchange, except for the case stipulated by Paragraph 6 of this Article. The objects of postal communication, that are places of international postal exchange, shall be established by the authorized body on customs affairs together with the body that coordinates activity in the field of postal communications.
4. When all data required by the customs authorities for customs purposes is stated in the accompanying documents, as stipulated by the World Postal Union regulations, a separate customs declaration shall not be required, except for in cases stipulated by Paragraph 5 of this Article.
5. A declaration of goods by filing a separate customs declaration shall be required when:
  - 1) the customs value of the goods imported onto the customs territory of the Republic of Tajikistan exceeds the limits established by Paragraph 1 of Article 317 of this Code for conveyance of goods by international mail without payment of customs duties and taxes, except for cases when goods designated for personal, family, home and other needs not associated with entrepreneurial activity are sent to natural persons;
  - 2) export of goods from the customs territory of the Republic Tajikistan must be confirmed by the consignor to the customs authority;
  - 3) goods imported onto the customs territory of the Republic Tajikistan are designated for placement under the customs regime that does not mean release of goods for free circulation.
6. Customs clearance of goods with regard to which a separate customs declaration must be submitted in compliance with Paragraph 5 of this Article, may be performed by customs authorities in the area of activity of which the consignors or consignees are located, in compliance with the procedures established by the authorized body on customs affairs together with the body that coordinates activity in the field of postal communications.
7. Customs clearance of goods, exported from the customs territory of the Republic of Tajikistan in international mail with regard to which a separate customs declaration must be submitted in

compliance with Paragraph 5 of this Article, shall be performed by their consignors or by persons who act on their behalf, prior to submission of these goods to postal organizations for sending.

#### **Article 316**

##### **Customs Examination and Customs Search of International Mail**

1. Upon request of customs authorities, postal organizations shall present international mail for customs examination and search. The ways of such submission shall be determined by customs authorities.

2. Customs authorities shall not request submission of the following international mail:

1) postcards and letters;

2) literature for blind people.

When having enough grounds to believe that this international mail contains goods that are prohibited or restricted for import onto the customs territory of the Republic Tajikistan, and when performing customs examination and customs search based on selectivity or random basis, customs authorities shall have the right to request submission of this international mail.

3. Customs authorities shall have the right to request from postal organizations submission of exported international mail with regard to which customs authorities perform customs examination and customs search based on selectivity or random basis.

4. When examining and searching international mail, the customs authorities shall make maximum use of technical means of control.

#### **Article 317**

##### **Customs Duties and Taxes with Regard to Goods Conveyed in International Mail**

1. Customs duties and taxes with regard to goods conveyed in international mail shall not be paid when the value of such goods which are conveyed within one week to the same consignee, does not exceed 150-fold minimal monthly salary established by the law.

2. With regard to goods sent to natural persons and designated for personal use, partial or full exemption from customs duties and taxes shall apply. Government of the Republic Tajikistan, in compliance with Article 304 of this Code shall establish single rates of customs duties and taxes with regard to goods, the value of which exceeds the value of goods that are conveyed without payment of customs duties and taxes with regard to such excess.

3. Customs duties and taxes with regard to goods that are not subject to separate customs declaration, shall be calculated and levied by customs authorities that perform customs clearance at the places of postal exchange with use of customs voucher (Paragraph 1 of Article 309). Customs duties and taxes shall be calculated based on the data contained in the documents stipulated by the World Postal Union regulations and used for customs purposes. With regard to international mail with declared value, customs duties and taxes shall be calculated based on this declared value only in the case when it exceeds the value mentioned in the documents used for customs purposes.

4. International mail that contains goods with regard to which customs payments are calculated by customs authorities, shall be released to consignees at the places of postal exchange only after the full sum of customs payments is received by the postal organization. Customs payments shall be levied based on the form of a postal order that is completed by the customs official. Payment of a postal order shall be performed on the expenses of the person who makes customs payments, and may not exceed 1% from the sum of the payment. The forms of postal orders shall be provided to customs authorities free of charge.

5. When international mail is lost or released to the consignee without the permission of the customs authorities, the postal organization that lost or released this mail, shall bear responsibility.

6. Calculation of customs payments and their payment with regards to goods listed in Paragraph 5 of Article 315 of this Code, shall be performed according to the procedures stipulated by Section III of this Code.

#### **Article 318**

##### **Internal Customs Transit of International Mail**

The procedure for internal customs transit (Chapter 10) shall apply to international mail according to the procedure established by the authorized body on customs affairs upon agreement with the body that

coordinates activity in the field of postal communications, based on the requirements and restrictions stipulated by this Code.

**Article 319**  
**Transit of International Mail**

Customs clearance of international mail that is transited through the territory of the Republic of Tajikistan, shall be performed in compliance with international legal acts of the Republic of Tajikistan.

**CHAPTER 39**  
**CONVEYANCE OF GOODS BY INDIVIDUAL CATEGORIES**  
**OF FOREIGN PERSONS**

**Article 320**  
**Sphere of Application of This Chapter**

1. The provisions of this Chapter shall apply with regard to goods conveyed across the customs border by diplomatic, consular and other official representatives of foreign states, or by international organizations, employees of those representatives and organizations, and with regard to goods designated for personal and family use by certain categories of foreign persons who are granted preferences and privileges and (or) immunity on the customs territory of the Republic of Tajikistan in compliance with international agreements of the Republic of Tajikistan.
2. Customs clearance of goods listed in Paragraph 1 of this Article, shall be performed under the simplified procedures.

**Article 321**  
**Conveyance of Goods by Diplomatic Representative Offices of Foreign States**

Diplomatic representative offices of foreign states located on the territory of the Republic of Tajikistan may import to the Republic of Tajikistan and export from this territory goods intended for official use by the representative offices, with exemption from customs duties and taxes, and without application to them of prohibitions and restrictions of economic nature, that are established in compliance with the normative legal acts of the Republic of Tajikistan.

**Article 322**  
**Conveyance of Goods by the Head of a Foreign State Diplomatic Representative Office and by Diplomatic Staff Members of the Foreign State Representative Office**

1. The head of a diplomatic representative office of a foreign state and diplomatic representative office staff members, including family members living with them, may import goods intended for their personal and family use, including primary need goods, to the customs territory of the Republic of Tajikistan, and export goods intended for their personal and family use from the customs territory of the Republic of Tajikistan, with exemption from customs duties and taxes, and without application of prohibitions and restrictions of economic nature that are established in compliance with the normative legal acts of the Republic of Tajikistan.
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, shall not be subject to customs examination, unless there are serious grounds to believe that it contains goods which are not intended for personal and family use, or goods either prohibited by the normative legal acts of the Republic of Tajikistan from being imported to the Republic of Tajikistan or exported from the Republic of Tajikistan, or subject to the regulations of the Republic of Kazakhstan on the quarantine. Customs examination must be conducted only in the presence of the persons mentioned in this Article or their authorized representatives.

**Article 323**  
**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 these persons and their family members live permanently in the Republic of Tajikistan and are citizens of the Republic of Tajikistan, may import to the customs territory of the Republic of Tajikistan goods intended for primary need, with exemption from customs duties and taxes, and without application of prohibitions and restrictions of economic nature that are established in compliance with the normative legal acts of the Republic of Tajikistan.

#### **Article 324**

##### **Customs Preferences Granted to Members of Diplomatic Representative Offices of Foreign States, to Administrative and Technical Staff and to Attending Staff Members**

Based on a special agreement with a foreign state, customs preferences that are granted by this Code to members of diplomatic representative offices of foreign states may be applied to administrative and technical staff and to attending staff members of these representative offices and to their family members who do not live permanently in the Republic of Tajikistan and are not citizens of the Republic of Tajikistan, based on the principles of reciprocity with regard to each separate foreign state.

#### **Article 325**

##### **Conveyance of Goods by Consular Offices of Foreign States and Their Staff Members**

1. Consular offices of foreign states, consular officials of foreign states, including the head of the consular office of a foreign state, and consular employees of foreign states, as well as family members shall be granted customs privileges stipulated by this Code with regard to diplomatic representative offices of foreign states or to appropriate staff of diplomatic representative offices of foreign states.
2. Based on a special agreement with a foreign state, customs preferences that are granted by this Code to members of appropriate staff of a diplomatic representative office of a foreign state may apply to attending staff members of the consular office of a foreign state and to their family members who do not live permanently in the Republic of Tajikistan, based on the principles of reciprocity with regard to each separate foreign state.

#### **Article 326**

##### **Conveyance of Diplomatic Mail and Consular Valises of Foreign States Across the Customs Border**

1. Diplomatic mail and consular valises of foreign states, conveyed across the customs border, shall be neither opened nor seized. When there are serious grounds to believe that a consular valise contains documents and (or) goods that are not listed in Paragraph 3 of this Article, the customs authority shall be entitled to demand that authorized persons representing the foreign state, in the presence of customs officials, open the valise. In case of refusal to open it, the consular valise shall be returned to the point of departure.
2. All packages constituting a diplomatic mail and a consular valise, must have visible external signs indicating their nature.
3. A diplomatic mail may contain only diplomatic documents and goods intended for official use; and consular valises must contain only official correspondence and documents or items intended exclusively for official use.

#### **Article 327**

##### **Customs Preferences for Foreign Diplomatic and Consular Carriers**

Foreign diplomatic and consular couriers may import to the customs territory of the Republic of Tajikistan and export from this territory goods, intended for their personal and family use, based on the principles of reciprocity with regard to each separate foreign state, with exemption from customs search, customs duties and taxes, and without application of prohibitions and restrictions of economic nature that are established in compliance with the normative legal acts of the Republic of Tajikistan.

#### **Article 328**

##### **Customs Preferences for Representatives and Members of Foreign States Delegations**

Representatives of foreign states, members of parliamentary and governmental delegations, as well as, based on the principle of reciprocity, members of foreign state delegations who arrive in the Republic of Tajikistan to participate in international negotiations, international conferences and meetings, or for other official missions, shall be granted customs preferences stipulated by this Code for the diplomatic staff of a representative office of a foreign state. Such preferences shall also be granted to family members accompanying them.

#### **Article 329**

#### **Conveyance of Goods by Diplomatic Staff Members, Consular Officials, Representatives and Members of Foreign State Delegations Going by Transit Through the Territory of the Republic of Tajikistan**

Diplomatic staff members and consular officials of a foreign state, their family members, specified in Article 328 of this Code, who are going by transit through the territory of the Republic of Tajikistan, shall be granted privileges stipulated by this Code for diplomatic staff members of representative offices.

#### **Article 330**

#### **Customs Preferences for Foreign Interstate and Intergovernmental Organizations, Representatives of Foreign States under Them, as Well as Staff Members of These Organizations and Representative Offices**

Customs preferences for foreign interstate and intergovernmental organizations, representatives of foreign states under them, as well as staff members of these organizations and representative offices and their family members shall be established by appropriate international legal acts of the Republic of Tajikistan.

### **CHAPTER 40**

### **CONVEYANCE OF GOODS BY PIPELINES AND ELECTRIC POWER LINES**

#### **Article 331**

#### **Sphere of Application of This Chapter**

Conveyance of goods by pipelines and by electric power lines shall be performed in compliance with the provisions of this Chapter, and when not regulated by this Chapter – in accordance with the general procedure established by this Code.

#### **Article 332**

#### **Import and Export of Goods Conveyed by Pipelines**

1. Import to the customs territory of the Republic of Tajikistan and export from this territory of goods conveyed by pipelines shall be allowed after acceptance of the customs declaration and release of goods by the customs authority in compliance with the terms of the declared customs regime.
2. When submitting the customs declaration, actual presentation of goods shall not be required.
3. When importing to the customs territory of the Republic of Tajikistan and exporting from this territory of goods conveyed by pipelines, mixture of goods, also changes in the quantity and state (quality) of goods shall be allowed due to the technological particulars of transportation and the specific characteristics of the goods, in compliance with technical norms and national standards existing in the Republic of Tajikistan.
4. Customs procedures for temporary storage and internal transit with regard to goods conveyed by pipelines, shall not apply.

#### **Article 333**

#### **The Procedure for Declaration of Goods Conveyed by Pipelines**

1. When conveying goods through the customs border by pipelines, their periodic temporary declaration shall be allowed in compliance with the rules stipulated by Article 138 of this Code, taking into account the peculiarities stipulated by this Article.

Periodic temporary declaration shall be performed by lodging temporary customs declaration. In the temporary customs declaration, it shall be allowed to declare the data proceeding from the purpose of import or export of approximate quantity of goods within the certain period of time, that does not exceed the period of validity of the foreign trade contract, conditional customs value (cost) that are determined in accordance with the quantity of goods that are planned to be conveyed across the customs border, and (or) with the procedure for determination of value of those goods that are stipulated by the terms of the foreign trade contract.

One temporary customs declaration shall be allowed to be submitted with regard to goods imported or exported by the same person, who conveys goods in compliance with the terms of one customs regime on account of obligations under several foreign trade contracts (including different terms of delivery, pricing and payment).

2. Temporary customs declaration shall be lodged by the declarant for the period of time that does not exceed one quarter, and for the natural gas – one calendar year, not later than on the 20th of the month preceding that period.

If delivery terms and (or) quantity of goods that are declared in the temporary custom declaration accepted by the customs authorities change within the calendar month of delivery, then lodging additional temporary customs declaration shall be allowed within the month of delivery.

3. The declarant shall be obliged to lodge one or several duly completed full customs declarations for goods imported or exported within each calendar month of delivery. Full customs declaration must be lodged not later than on the 20th of the month following the calendar month of delivery of goods. Upon well grounded application of the declarant, the customs authority shall prolong the dates for lodging a full customs declaration for imported goods but not more than for 90 days. Prolongation of dates for lodging a full customs declaration shall not prolong the dates for payment of payable amounts of customs duties and taxes.

4. If within a calendar month the goods declared in the temporary customs declaration for import or export were not actually imported or actually exported, the declarant shall be obliged to notify the customs authority in writing prior to expire of the dates for lodging a full customs declaration.

#### **Article 334**

##### **Application of Rates of Customs Duties and Taxes and the Procedure of Their Payment When Conveying Goods by Pipelines**

1. Customs duties shall be paid with regard to goods exported from the customs territory of the Republic of Tajikistan, for each calendar month of delivery under the rates of export customs duties that are valid on the 15th of the month of delivery of goods.

Not less than 50 % of the sum of export customs duties that are calculated proceeding from the data declared in the temporary customs declaration, shall be paid not later than on the 20th of the month that precedes each calendar month of delivery. The sum of export customs duties shall be calculated proceeding from the quantity of goods, in proportion to the appropriate one calendar month of delivery, if the period of delivery that exceeds one calendar month is declared in the temporary customs declaration.

In case of submission of additional temporary customs declaration in compliance with Point 2 Paragraph 2 Article 333 of this Code, export customs duties shall be paid in full amount not later than the day of acceptance of such declaration.

Not later than on the 20th of the month that follows each calendar month of delivery, the rest of the sum of export customs duties, that are calculated proceeding from the confirmed data on exported goods and rates of export customs duties valid as of the 15th of the month of delivery, shall be paid.

2. When importing goods by pipelines, import customs duties and taxes shall be paid not later than on the 20th of the month that precedes each calendar month of delivery, proceeding from the data declared in the temporary customs declaration. For the purposes of calculation and payment of customs payments, rates of customs duties and taxes valid as of the 15th of the month preceding the month of delivery, shall be used.

The confirmed data on goods imported for each calendar month of delivery, shall be submitted to the customs body not later than on the 20th of the month that follows each calendar month of delivery. If the sums of payable customs duties and taxes increase due to confirmation of the data, additional payment must be performed along with submission of the confirmed data. Fines in this case shall not be charged.

3. The overpaid sums shall be refunded in compliance with Article 396 of this Code.

**Article 335**  
**Application of Prohibitions and Restrictions That Are Established in**  
**Compliance with the Normative Legal Acts of the Republic of Tajikistan**

When conveying goods by pipelines, prohibitions and restrictions that are established in compliance with the normative legal acts of the Republic of Tajikistan, shall apply on the day of acceptance of the temporary customs declaration.

**Article 336**  
**Peculiarities of Import, Export and Declaration of Goods**  
**Conveyed by Pipelines**

1. Import to the customs territory of the Republic of Tajikistan and export from this territory of goods conveyed by pipelines shall be allowed without preliminary permission of the customs body, under conditions of further declaration and payment of customs payments according to the rules stipulated by this Article.

2. Customs procedures for temporary storage and internal customs transit with regard to goods conveyed by pipelines shall not apply.

3. Declaration of electric power conveyed across the customs border shall be performed by submission of customs declaration not later than on the 20th of the month that follows each calendar month of actual delivery of goods. Upon well grounded application of the declarant, the customs body shall prolong the date for submission of the customs declaration, but not more than for five days.

4. The actual quantity of electric power that is determined based on the indicators of meters that are installed in technologically designated places and fix conveyance of electric power, shall be subject to declaration.

The quantity of electric power conveyed between two states shall be determined as balance overflow (algebraic sum of overflows of electric power in opposite directions by operating interstate electric power lines of all types of voltage) for each calendar month.

The calculated meaning of the balance-overflow shall be corrected on the amount of losses of electric power in the net that took place when conveying the electric power.

Declaration shall be performed based on the reports on actual delivery of electric power under the appropriate foreign trade contract.

5. Customs duties and taxes shall be paid not later than the day of submission of the customs declaration for goods conveyed across the customs border within one calendar month.

**Article 337**  
**Security of Payment of Customs Payments**

The customs body shall have the right to request security of payment of customs payments, also in cases when the declarant performs his foreign economic activity for less than one year. The amount of the security shall be determined in compliance with Article 383 of this Code.

**Article 338**  
**Non-Application of the Requirements on Identification of Goods**  
**Conveyed by Pipelines and by Electric Power Lines**

Identification of goods conveyed by pipelines and by electric power lines shall not be performed, and this shall not impede the customs body to determine, for customs purposes, the quantity, quality and other characteristics of goods by use of the data contained in the documents, indicators of meters and other measuring equipment.

**Article 339**  
**Conveyance of Domestic Goods Between Two Points Located on the Customs Territory of the**  
**Republic of Tajikistan Through the Territory of a Foreign State**

Conveyance of domestic goods by pipelines and by electric power lines between two points located on the customs territory of the Republic of Tajikistan through the territory of a foreign state shall be performed according to the rules stipulated by Chapter 35 of this Code with regard to special customs

regime for conveyance of domestic goods between customs bodies through the territory of a foreign state.

**SECTION III  
CUSTOMS PAYMENTS AND CUSTOMS FEES**

**CHAPTER 41  
GENERAL PROVISIONS RELATING TO CUSTOMS PAYMENTS AND CUSTOMS FEES.  
TYPES OF CUSTOMS PAYMENTS AND CUSTOMS FEES**

**Article 340  
Customs Payments and Their Types**

1. Customs payments shall include:
  - 1) customs duties;
  - 2) value added tax charged on goods imported to the customs territory of the Republic of Tajikistan
  - 3) excise duty on goods imported to the customs territory of the Republic of Tajikistan.
2. Customs payment shall be levied if they are established in accordance with the normative legal acts of the Republic of Tajikistan.
3. Special, antidumping and countervailing duties established in accordance with the normative legal acts of the Republic of Tajikistan shall be levied according to the rules stipulated by this Code for levying import customs duty.
4. Taxpayers and tax calculation and payment procedures shall be determined in compliance with the tax legislation of the Republic of Tajikistan.

**Article 341  
Customs Duties**

1. When goods are declared under customs regimes, which require payment of customs duties, customs duties shall be paid in compliance with this Code.
2. Rates of customs duties shall be determined by the Government of the Republic of Tajikistan, and shall come into force in accordance with Article 4 of this Code.

**Article 342  
Types of Customs Duties Rates**

Rates of customs duties shall fall into the following types:

- 1) ad valorem rates - calculated as a percentage of the customs value of goods subject to customs payments;
- 2) specific rates - calculated in the fixed amount per unit of goods subject to customs payments;
- 3) combined rates - which combine both above-mentioned rates.

**Article 343  
Season Customs Duties**

In order to regulate foreign trade activity, the Government of the Republic of Tajikistan shall have the right to determine season customs duties. At this, customs duty rates established by the Customs tariff, shall not apply. The validity term of season customs duty can not exceed six months a year.

**Article 344  
Special Types of Duties**

In order to protect economic interests of the Republic of Tajikistan, special types of duties may temporarily apply to imported goods (special, antidumping and countervailing).

- 1) special duties shall apply:
  - as a protective measure, if goods are imported to the customs territory of the Republic of Tajikistan in the quantity and under the conditions that cause or may cause damage to domestic manufacturers of similar or directly competitive goods;

- as an adequate measure to discriminating and other actions from other states or their alliances that infringe interests of the Republic of Tajikistan;

2) antidumping duties shall apply if goods are imported to the customs territory of the Republic of Kazakhstan on the prices that are lower than the average statistical customs value in the country of export at the moment of this import, if such import causes or may cause material damage to domestic manufacturers of goods or impedes from organization or extension of manufacture of similar goods in the Republic of Tajikistan.

3) countervailing duties shall apply in case of import to the customs territory of the Republic of Tajikistan of goods if grants were used directly or indirectly in production or export of those goods, if such import causes or may cause material damage to domestic manufacturers of goods or impedes from organization or extension of manufacture of similar goods in the Republic of Tajikistan.

#### **Article 345**

##### **Exemption of Certain Goods from Customs Duties**

Customs duties shall not be levied when importing:

1) currency of the Republic of Tajikistan and (or) foreign currency (except for those used for numismatic purposes) and securities;

2) gold, silver, platinum, palladium (rhodium, iridium, ruthenium, osmium) by the National bank of Tajikistan, and when importing gold, silver, platinum, palladium ( rhodium, iridium, ruthenium, osmium), natural (processed and rough) diamonds, sapphire, emeralds, ruby, alexandrite, pearls, spinel by the authorized state body in the field of finance for the State depositary of values;

3) goods as humanitarian aid and goods transferred free of charge to state bodies of the Republic of Tajikistan;

4) production and technological equipment and components to them (making a single set, i.e. without which the operation of the production and technological equipment is not possible) for formation or filling the authorized fund of the enterprise or for technical re-equipment of the existing production, provided, that this property is used directly for production of goods, performance of work and providing services in compliance with constituent documents of the enterprise and does not fall under the category of excise goods; as well as personal property imported to the Republic of Tajikistan by foreign staff of the enterprises with foreign investments directly for personal use. Where such enterprises are liquidated or the above mentioned production and technological equipment and components to them that are imported to the Republic of Tajikistan are not used within 4 years from the moment of import to the republic, or are sold by this enterprise to another person, then the sum of customs duties unpaid in compliance with this Paragraph shall be subject to be levied to the state budget. This preference shall be granted and the equipment shall be referred to the production and technological equipment according to the procedure determined by the Government of the Republic of Tajikistan.

5) agricultural equipment and components thereto, also medicines under the List determined by the Government of the Republic of Tajikistan in compliance with the Commodity Nomenclature of the Foreign Economic Activity;

6) goods intended for implementation of target projects approved by the Government of the Republic of Tajikistan on the expenses (within) of grants and (or) credits (lending) provided by legal or natural persons, foreign states, governments of foreign states or by international organizations;

7) goods for construction of especially important objects. The list of such goods and especially important objects shall be determined by the Government of the Republic of Tajikistan.

#### **Article 346**

##### **Tariff Preferences (Tariff Privileges)**

1. Tariff preferences (tariff privileges) shall mean advantages with regard to goods that is conveyed across the customs border of the Republic of Tajikistan and granted on the conditions of reciprocity or on a unilateral basis, when implementing the trade policy of the Republic of Tajikistan, in the form of refund of the earlier paid customs duty, exemption from duties, reduction in customs duty rates, or the establishment of quotas for the preferential import (export) of goods.

2. Tariff preferences (tariff privileges) shall be determined in compliance with the normative legal acts of the Republic of Tajikistan and international legal acts of the Republic of Tajikistan.

#### **Article 347**

## **Customs Fees and Their Types**

1. Customs fees shall include:

- 1) customs fees for customs clearance;
- 2) customs fees for customs escort;
- 3) customs fees for storage of goods in customs warehouses;
- 4) customs fees for issue of a qualification certificate of a customs clearance specialist.

### **Article 348**

#### **Size of Customs Fees**

1. When clearing goods and means of transport, escorting goods and means of transport, storing goods in customs warehouses and when issuing a qualification certificate of a customs clearance specialist, fees shall be levied in the amount determined by the Government of the Republic of Tajikistan.
2. Customs fees must be limited in the amount to the approximate cost of the services provided, and must not mean indirect protection for domestic products or levying foreign goods when imported for fiscal purposes.

### **Article 349**

#### **Appearance and Termination of Liability on Payment of Customs Duties and Taxes. Cases When Customs Duties and Taxes are not Paid**

1. When conveying goods across the customs territory, the liability for payment of customs duties and taxes shall appear:
  - 1) when importing goods – from the moment of crossing the customs border;
  - 2) when exporting goods – from the moment of submitting a customs declaration or performing actions directly aimed at the export of goods from the territory of the Republic of Tajikistan.
2. Customs duties and taxes shall not be paid:
  - 1) in compliance with legislation of the Republic of Tajikistan or with this Code:
    - if goods are not subject to customs duties and taxes;
    - if goods are granted conditional full exemption from customs duties and taxes – in the period of validity of such exemption and when meeting the conditions due to which such exemption is provided;
  - 2) prior to release of goods free circulation and when there are no violations of requirements and conditions set by this Code, foreign goods turned out to be destroyed or irrevocably lost as a result of accident or force majeure, or as a result of natural wear and tear under normal conditions for transportation, storing or use (operation);
  - 3) goods are transferred to the state property in compliance with this Code and with the normative legal acts of the Republic of Tajikistan.
3. With regard to goods released for free circulation on the customs territory of the Republic of Tajikistan or exported from this territory, the liability on payment of customs duties and taxes shall terminate in cases stipulated by the Tax Code of the Republic of Tajikistan.

### **Article 350**

#### **Persons Responsible for Payment of Customs Duties and Taxes**

1. Declarant shall be the person responsible for payment of customs duties and taxes. If a customs broker (agent) declares the goods, he/she shall be responsible for payment of customs duties and taxes in accordance with paragraph 2 Article 144 of this Code.
2. In the event of non-observance of the provisions of this Code with regard to use and disposal of goods or compliance with other requirements and conditions set forth by this Code for applying customs procedures and customs regimes, the content of which provides for full or partial exemption from payment of customs duties and taxes, in cases directly stipulated by this Code, the owner of the temporary storage warehouse, the owner of customs warehouse, carrier, persons which are entrusted to comply with customs regime shall be responsible for payment of customs duties and taxes.
3. In case of non-payment of customs duties and taxes including incorrect calculation and (or) untimely payment, the person responsible for payment of customs duties and taxes shall bear responsibility with customs authorities.
4. In the event of illegal transfer of goods and means of transport across the customs territory, the persons illegally transferring goods and means of transport, persons involved in illegal transfer, if they

are aware or must be aware of illegality of such transfer, and in the event of the importation of such goods – the persons who purchased to own or possess illegally imported goods and means of transport, if at the moment of purchase they were aware or must be aware of illegality of the importation, that duly confirmed in the procedure established by the legislation of the Republic of Tajikistan, shall be held liable for payment of customs duties and taxes. These persons also shall be held liable for payment of customs duties and taxes as if they act as a declarant of illegally exported or illegally imported goods.

#### **Article 351**

#### **Restrictions on Total Amount of Customs Duties, Taxes with Regard to Goods Imported to the Customs Territory of the Republic of Tajikistan**

The total amount of import customs duties and taxes with regard to goods imported to the customs territory of the Republic of Tajikistan may not exceed the amount of customs duties and taxes payable if goods are released for free circulation when importing to the customs territory of the Republic of Tajikistan without calculation of interests except for the cases when customs duties and taxes are increased due to the change of rates of customs duties and taxes, when rates of customs duties and taxes effective at the day of submission of customs declaration to the customs authority are applied, when declaring the altered customs regime. In these cases, the amounts of customs duties and taxes paid for the previous customs regime shall be offset when paying customs duties and taxes in accordance with the conditions of a newly selected customs regime.

### **CHAPTER 42**

#### **DETERMINATION OF CUSTOMS VALUE OF GOODS**

#### **Article 352**

#### **Customs Value of Goods**

“Customs value of goods” shall mean the value of goods conveyed across the customs border of the Republic of Tajikistan, 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 of state regulation of the foreign economic activity of the Republic of Tajikistan.

#### **Article 353**

#### **Determination of Customs Value for Exported Goods**

1. The customs value of goods, which are exported from the customs territory of the Republic of Tajikistan, shall be determined based on the transaction value actually paid or payable when selling 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 Tajikistan:
    - 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 weight if, under the Commodity Nomenclature of Foreign Economic Activity, 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 Tajikistan, 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 Tajikistan, in compliance with the tax legislation of the Republic of Tajikistan or with international treaties to which the Republic of Tajikistan 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 were earlier included into the transaction value and may be confirmed by documents:

1) expenditures for installation, assembly, and setting up of equipment or rendering technical assistance after export of the equipment from the customs territory of the Republic of Tajikistan;

2) expenditures for delivery of goods after their export from the customs territory of the Republic of Tajikistan;

3) cost of insurance for goods after their export from the customs territory of the Republic of Tajikistan;

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 2 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 the information that the customs authorities have with regard to identical or similar goods, including information containing the results of an independent expert examination.

#### **Article 354**

##### **Determination of the Customs Value of Imported Goods**

1. The customs value of goods imported onto the customs territory of the Republic of Tajikistan 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 deductive method;

5) the computed 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 applied consecutively. In this respect, each subsequent method shall be applied when the customs value may not be determined by way of using the preceding method. Upon written request of a declarant, the order of application of the deductive method and computed method shall be reversed.

4. The information, that is required to determine the customs value of goods in accordance with one of the methods applied stipulated by Paragraph 1 of this Article, shall be prepared based on the methods complying with the book accounting of the Republic of Tajikistan.

#### **Article 355**

##### **Method for Determining 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 Tajikistan shall be the price actually paid or payable when sold for export to the Republic of Tajikistan.

2. When determining the customs value of goods, the following expenditures shall be added to the transaction value, if they have not been 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 Tajikistan:

- transportation cost;

- costs associated with loading, unloading, transloading and transshipping of goods;

2) cost of insurance;

3) expenditures incurred by the buyer:

- commissions and brokerage fees, except for commissions on purchases;
  - cost of containers or any other durable tare provided that, under the Commodity Nomenclature of Foreign Economic Activity 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 appropriate part of the cost of the following goods (work, 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 Tajikistan 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 added to 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 goods and calculated for the entire delivery of goods shall be proportional to the ratio of the value of each type of goods 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 Tajikistan;
  - 2) expenditures associated with delivery of goods after their import onto the customs territory of the Republic of Tajikistan;
  - 3) customs duties and taxes payable 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 normative legal acts of the Republic of Tajikistan;
    - 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 imported to the Republic of Tajikistan 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 Tajikistan without transfer of the right of ownership to the importer;
    - delivery of goods by a foreign legal person to its branch offices (representative offices) located on the territory of the Republic of Tajikistan;
    - delivery of goods under the terms of property lease (leasing);
    - delivery of goods for the purposes of temporary use;
    - import onto the territory of the Republic of Tajikistan of wastes for non-commercial utilization purposes;
    - for the purpose of substitution of goods (components) of improper quality subject to warranty time limits;
    - other deliveries;
  - 3) the sale or transaction value depends upon compliance with conditions, the influence of which is not possible to calculate under:
    - the barter contract;
    - the contracts stipulating tolling operations;
    - the contracting agreements;
    - other contracts;

- 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;
  - 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.
6. The fact that the transaction participants are related shall not be a sufficient ground to consider the transaction value as unacceptable. In this case, the circumstances accompanying the transaction shall be analyzed, and the transaction value shall be recognized as an acceptable valuation of goods, provided that the relationship does not affect the price.
7. When the customs authority has grounds to consider that the relationship of the transaction participants does affect the price of the goods, then the declarant shall be given a recommendation (in writing, if so requested by the declarant) to submit additional evidence of the fact that the relationship of the transaction participants does not affect the price of the goods.
8. On the initiative of the declarant, the transaction value may be used as a basis for determining the customs value, provided that the declarant proves that the transaction value closely approximates one of the following values, occurring approximately at the same time:
- 1) transaction value with identical or similar goods for export to the Republic of Tajikistan between unrelated parties;
  - 2) customs value of identical or similar goods, determined by the deductive method;
  - 3) customs value of identical or similar goods, determined by the computed method.
9. The prices presented by the declarant for comparison purposes shall be adjusted with regard to differences in:
- 1) the commercial level;
  - 2) the quantity;
  - 3) the elements (expenditures) listed in Paragraph 2 of this Article;
  - 4) other expenses of 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 356**

#### **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 with identical goods as the basis for determining the customs value of goods, 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, 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 produced not 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 cost to be used in connection with production and sale for export to the Republic of Tajikistan;
  - the cost of which is not included to the customs value of goods being valued on the basis of part 5, Sub-paragraph 4, Paragraph 2 of Article 355 of this Code, as they were produced in the Republic of Tajikistan.
4. Insignificant differences in appearance shall not be a basis for refusal to recognize goods as identical, provided that 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 that those goods are:
- 1) sold for import onto the territory of the Republic of Tajikistan;
  - 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.
6. When there are no cases of import of goods in the same quantity and at the same commercial level (wholesale or retail), the cost of identical goods imported in a different quantity and at a different commercial level (wholesale or retail) may be used, and their value shall be adjusted accordingly in consideration of such differences.
7. If the cost of the expenses specified in Sub-paragraphs 1) and 2) Paragraph 2 of Article 355 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, the customs value which is determined based on the transaction value of the identical goods must be duly adjusted.
8. Adjustments stipulated in Paragraphs 6 and 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 determined when using this method, then the lowest of the values shall be applied to determine the customs value of the imported goods.

**Article 357**  
**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, have similar features and consist of similar components, which allow them to fulfill the same functions as the goods being valued, and to be commercially interchangeable.
3. When determining the similarity of goods, the following features thereof shall be taken into account:
  - 1) quality, availability of a trademark;
  - 2) reputation on the market.
4. The provisions of Paragraphs 4 to 9 of Article 356 of this Code shall apply when using the method for determining the customs value based on the transaction value of similar goods.
5. When using this method for determining the 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 manufacturer other than the manufacturer of the goods being valued, shall be considered only in the case where 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 Tajikistan;
    - the cost of which is not included in the customs value of the goods on the basis of Indention 5, Sub-paragraph 4), Paragraph 2, Article 355 of this Code, as they were produced in the Republic of Tajikistan.

**Article 358**  
**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 apply, at which identical or similar goods being valued are sold in the largest combined quantities, simultaneously with the imported goods being valued, to parties, which are not related to the seller.
3. In this respect, sales shall take place at the same time as the importation of the goods being valued but, if no such sales occur at such time, then at the earliest date after importation of the goods being valued, but not later than ninety days from the day of import of the goods being valued.
4. The following shall be deducted from the unit price of goods:
  - 1) commission fees, paid or agreed to be paid, or extra payments made for profit and general expenses in connection with the sale of imported goods of the same class or type in the Republic of Tajikistan;
  - 2) amounts of import duties, taxes and other mandatory payments to the budget which are subject to payment in the Republic of Tajikistan in relation to the import onto and (or) sale of goods on the territory of the Republic of Tajikistan;
  - 3) costs payable in the Republic of Tajikistan for transportation, insurance, loading and unloading operations carried out on the territory of the Republic of Tajikistan.
5. Goods of the same class or kind shall mean goods, which fall within the group, or class of goods produced by a certain industry, and shall include identical or similar goods but not limited to them.
6. If there are no sales of the goods being valued, or identical or similar goods in the condition as imported, upon the 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 359**

##### **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 included in the price when selling goods of the same class or kind as the goods being valued, which are produced in the exporting country for delivery to the Republic of Tajikistan;
- 3) the cost of the expenses listed in Sub-paragraphs 1) and 2) of Paragraph 2 Article 355 of this Code.

#### **Article 360**

##### **Reserve Method for Determining Customs Value**

1. The customs value of goods on the basis of the reserve method may apply if the customs value can not be determined by a successive application of the methods described in Articles 355-359 of this Code.
2. When using the reserve method to determine the customs value, the following may be used:
  - 1) informational reference books determined by the Government of the Republic of Tajikistan;
  - 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 (wholesale, retail) and (or) the quantity of goods being valued.
3. When using the reserve method to determine customs value, information available with the customs authorities, 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 in the domestic market of the country of exportation;
  - 2) the system, which stipulates the use of the highest value from two alternative values for customs purposes;
  - 3) the price of goods supplied by the country of exportation to third countries;
  - 4) the price of the goods on the domestic market of the Republic of Tajikistan in relation to goods of Tajik origin;
  - 5) an arbitrarily established or unconfirmed value of goods;

- 6) the value of identical or similar goods determined by cost of production not stipulated by Article 359 of this Code;
- 7) minimum customs value.

### **Article 361**

#### **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 for the cases stipulated by Paragraph 4 of Article 362 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 charter 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 contracts;
- 7) storage receipts;
- 8) delivery orders;
- 9) catalogues, specifications, price lists of manufacturing companies;
- 10) estimations by the manufacturing company for goods being valued;
- 11) other documents that may be used to confirm the information stated in the customs value declaration.

3. After release of goods, originals of the documents enumerated in Sub-paragraphs 2)-6) of Paragraph 1, as well as in Sub-paragraphs 1)-8) of Paragraph 2 of this Article, shall be subject to be returned to the declarant.

In this respect, along with originals of these documents, their copies certified by the declarant must be submitted for the customs clearance purposes

### **Article 362**

#### **Conditions for Declaring 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 authorized body on customs affairs.

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. The customs value declaration shall be filled out for all goods conveyed across the customs border of the Republic of Tajikistan under the customs regimes for release of goods into free circulation or export, 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 1000 US dollars, 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 Tajikistan with regard to goods that are conveyed across the customs border of the Republic of Tajikistan by natural persons are complied with.

5. In the cases specified in Paragraph 4 of this Article, the customs value shall be stated in the customs declaration.

### **Article 363**

#### **Adjustment of 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 customs control of the customs value:

- a discrepancy in the method of determining the customs value of goods declared by the declarant and in the amount and (or) structure of the customs value of goods are revealed in contradiction to the data in the documents submitted for confirmation, except in the case 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;

-- goods are transferred to the use of the declarant and are conditionally released based on the price information available with the customs authority, in compliance with Article 366 of this Code;

2) after the release of goods:

- based upon additional information submitted by the declarant when determining the final customs value of conditionally released goods, or when accepting the customs value of goods determined by the customs authority with regard to conditionally released goods;

- technical mistakes which affect the amount and (or) the structure of the customs value are revealed when declaring goods;

- 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 participants in foreign economic and other activity);

- it is revealed that the declared customs value does not correspond to the actual value of goods effective on the date of registration 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);

3) the transaction value has changed due to state control over transfer pricing.

2. The documents confirming nonconformity of the quantity of goods shall be:

1) for goods exempted from customs payments - 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 case of reveal of loss, shortage or damage to goods 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, shortage or damage. The documents confirming the fact of loss, shortage or damage shall be a resolution (statement of examination) by an independent expert and 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 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 body on customs affairs, concerning levying customs duties and taxes, shall be considered as the document confirming an adjustment in the transaction value of goods.

5. When making an adjustment after the customs clearance of goods under the regime for export or release of goods into free circulation with the computation of customs duties and taxes to be paid (also upon the initiative of the declarant prior to the start of the financial inspection), the difference between customs payments and taxes charged and those actually paid shall be charged interests in the amount established by the Tax Code of the Republic of Tajikistan for each day of delinquency. The interests shall be calculated beginning on the date the customs declaration was registered for customs clearance.

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 authorized

body on customs affairs. The mentioned 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 364**

##### **The Rights and Obligations of the Declarant When Determining Customs Value**

1. The declarant shall have the right:

- 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 a disagreement with the decision made by the customs authority with regard to the customs value of goods, to appeal this decision in compliance with the procedures stipulated by the normative legal acts of the Republic of Tajikistan.
- 5) to receive from customs authorities preliminary decision with regard to the customs value of goods conveyed across the customs border of the Republic of Tajikistan, according to the procedures and under the conditions stipulated by Articles 41-44 of 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 with him/her in connection with clarification of the declared customs value, or with provision of additional information to the customs authority.

#### **Article 365**

##### **The Rights and Obligations of the Customs Authority in Determining Customs Value**

1. The customs authority conducting the customs clearance of goods shall have the right:

- 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 with him/her to be used for determination of the 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 sufficient for their 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 procedure and method 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 366**

#### **Conditional Release of Goods with Use of Information on Prices Available With Customs Authorities**

1. When it is impossible to use the method for determining the 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, the customs authority shall be entitled to conditionally release the goods, provided that the customs duties and taxes are secured in compliance with the customs valuation of goods performed by the customs authority, based on information on prices which is available with the customs authority.
2. The information on prices, which is available with the customs authorities, shall be generated by the authorized body on customs affairs with use of statistical data that is contained in the customs cargo declaration, which was formulated on the basis of reliable, quantifiable and documentarily confirmed information.
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 for cases 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 46 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 prior to expiration of the established time limit shall result in transfer of the amount of customs duties 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 43**

### **CALCULATION OF CUSTOMS DUTIES AND TAXES**

#### **Article 367**

#### **The Object of Levying of Customs Duties and Taxes**

Goods conveyed across the customs border shall be the object of levying of customs duties and taxes. Customs value of goods and (or) their quantity shall be a taxable base for the purposes of customs duties and taxes calculation.

#### **Article 368**

#### **The Procedure for Determination and Declaration of Customs Value of Goods**

1. The customs value of goods shall be determined by the declarant according to the methods of determining the customs value established by this Code, and shall be declared to the customs authority when declaring goods.
  2. The declared customs value and information relating to its determination shall be based on reliable and documentary confirmed information.
  3. The control of the accuracy of determining the customs value shall be carried out by the customs authority according to the procedure determined by the authorized body on customs affairs and in accordance with this Code.
- Based on the documents and information provided by the declarant and also based on available information used when determining customs value of goods, the customs authority shall make a decision with regard to agreement with the method of determining the customs value of goods as declared by the declarant and accuracy of determining the customs value declared by the declarant.

4. If documents and information provided by the declarant are not sufficient to make a decision with regard to the customs value declared, the customs authority, in writing, shall request the declarant to provide additional documents and information and establish a time limit sufficient for their submission. In order to confirm the declared customs value, upon the request of the customs authority, the declarant shall submit required additional documents and information or explain, in writing, the reasons for which the documents and information can not be provided. The declarant shall be entitled to prove lawfulness of application of the method for determining customs value of goods declared by him (her) and reliability of the information provided by him (her).

5. In the event of absence of the information confirming the accuracy of determination of the customs value declared by the declarant or disclosure of features that the documents and information provided by the declarant are not reliable and (or) sufficient, the customs authority shall be held reliable to make a decision on disagreement with the method of customs valuation and offer the declarant to determine the customs value based on the other method. In this case, customs authority and the declarant may have consultations regarding the choice of the method for determining the customs value of the goods.

6. If within the time limits of the release of goods (Article 152) the procedure for determining the customs valuation is not finalized, the release shall be performed under the security of the payment of customs duties and taxes which may be additionally estimated. The customs authority shall inform, in writing, the declarant on the amount of the security required for payment of customs duties and taxes. The additional security for payment of export customs duties and taxes shall not be provided in case of export of quoted goods, the sale price of which is unknown at the moment of customs clearance.

7. In the cases when the declarant failed to submit the additional documents and information within the time limits established by the customs authority, or the customs authority discovered the evidence that the information provided by the declarant may not be reliable and (or) sufficient, and the declarant refuses to determine the customs value of goods based on the other method offered by the customs authority, the customs authority shall independently determine the customs value of goods by consecutive application of the methods for determining the customs value of goods. The customs authority shall notify, in writing, the declarant about making such decision no later than the day following the day of making such a decision. In the event when the customs authority determines the customs value of goods after the release of goods, the customs authority shall request to pay customs payments (Article 394) if extra payment of customs duties and taxes is required. The payment of additionally calculated amounts of customs duties and taxes shall be made during 10 working days from the day of receiving the request. The interests for additional amount of customs duties and taxes paid within the said time limits shall not be imposed.

#### **Article 369**

##### **The Procedure for Calculation of Customs Duties and Taxes**

1. Customs duties and taxes shall be calculated independently by the declarant or other persons responsible for payment of customs duties and taxes, except for cases stipulated by Paragraph 3 of Article 317 of this Code and by Paragraph 2 of this Article.

2. When maintaining the claim on customs payment in accordance with Article 394 of this Code, the customs authority shall make a calculation of the customs duties and taxes payable.

3. The calculation of customs duties and taxes payable shall be made in the currency of the Republic of Tajikistan.

#### **Article 370**

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

1. For the purposes of calculation of customs duties and taxes, the rates effective on the day of submission of the customs declaration to the customs authority shall apply, except for cases stipulated by Articles 150, 334 and Paragraph 1 of Article 372 of this Code.

2. For the purposes of calculation of customs duties and taxes, the rates corresponding to the name and classification of goods in accordance with the normative legal acts of the Republic of Tajikistan shall apply, except for the cases stipulated by Point 2 of this Article and also stipulated by Article 304 of this Code when applying single rates of customs duties and taxes to the goods transferred across the customs border by natural persons for personal use.

When declaring goods of several names with the same classification code under the Commodity Nomenclature of the Foreign Economic Activity in accordance with Article 128 of this Code, the rates

of customs duties and taxes which are correspondent to this classification code, shall apply to all such goods.

#### **Article 371**

#### **Conversion of Foreign Currency for the Purposes of Calculation of Customs Duties and Taxes**

When for the purposes of calculation of customs duties and taxes, including determination of customs value of goods, the conversion of foreign currency is required, the rate of the foreign currency against the currency of the Republic of Tajikistan quoted by the National Bank of Tajikistan for the purposes of accounting and customs payment, and effective on the day of registration of the customs declaration by the customs authority, shall apply.

#### **Article 372**

#### **Calculation of Customs Duties, Taxes in Cases of Illegal Conveyance of Goods Across the Customs Border or Using Goods in Violation of the Restrictions Established**

1. With respect to goods imported to the customs territory of the Republic of Tajikistan in violations of the requirements and conditions established by this Code, and with respect to which customs duties and taxes are not paid, the amounts of customs duties and taxes payable shall be calculated based on the rates of the customs duties and taxes effective on the day of crossing the customs border. When it is impossible to establish such a day – on the day when goods were discovered by the customs body. In case of loss, non-delivery or issue without permission of the customs body of goods conveyed or stored in accordance with the customs procedures for internal customs transit and temporary storage accordingly, the amounts of customs duties and taxes payable shall be calculated based on the rates effective on the day of placement of goods under the relevant customs procedure.

In the event of illegal export of goods from the customs territory of the Republic of Tajikistan, the amounts of customs duties payable shall be calculated based on the rates of customs duties effective on the day of crossing the customs border. When it is possible to establish such date – on the first day of the month or at the first date of the first month of the year during which the goods are exported.

2. For the purposes of calculation of customs duties and taxes with regard to goods imported to the customs territory of the Republic of Tajikistan, the customs value of goods, their quantity or other features shall be used as a tax base on the day of application of the rates of customs duties and taxes in accordance with Paragraph 1 of this Article. If it is impossible to determine the amount of customs duties and taxes payable due to non-submission to the customs authority of accurate information concerning the nature of goods, their names, quantity, country of origin and customs value, the amount of customs payments shall be calculated based on the largest amount of the rates of customs duties and taxes, quantity and value of goods which may be determined based on the information available. When fixing up the accurate information about the goods within one year from the date of payment or release of goods, the refund of overpaid amounts of customs duties and taxes or recovery of underpaid amounts shall be made in accordance with this Section.

The amount of VAT paid under circulation of goods, confirmed by the documents used for calculation of VAT in accordance with the Tax legislation of the Republic of Tajikistan, shall be deducted from the amounts of customs duties and taxes with regard to goods imported to the customs territory of the Republic of Tajikistan.

3. When using conditionally released goods for the purposes other than those in connection with which full or partial exemption from payment of customs duties and taxes was granted, the rates of customs duties and taxes effective on the day of registration of the customs declaration by customs authority shall apply. The customs value of goods, their quantity or other features used for determination of the tax base shall be determined as of the day of application of customs duties and taxes rates.

### **CHAPTER 44**

### **DEADLINES AND PROCEDURES FOR PAYMENT OF CUSTOMS DUTIES AND TAXES**

#### **Article 373**

#### **Payers of Customs Duties and Taxes**

1. Declarants and other persons which are authorized to pay customs duties and taxes by this Code, shall be payers of customs duties and taxes.
2. Any person shall be entitled to pay customs duties and taxes for the goods conveying across the customs border.

#### **Article 374** **Time Limits For Payment of Customs Duties and Taxes**

1. Customs duties shall be paid prior to or on the day of registration of the customs declaration, except for the cases stipulated by this Code.
2. When importing goods, customs duties and taxes shall be paid not later than 15 days from the day of filing goods to the customs authority at the place of their arrival on the customs territory of the Republic of Tajikistan, or from the day of completion of the internal customs transit when goods are not declared at the place of their arrival.
3. When exporting goods, the customs duties shall be paid not later than the day of submission of the customs declaration unless otherwise established by this Code.
4. When changing the customs regime, the customs duties and taxes shall be paid not later than the day established by this Code for completing the customs regime being changed.
5. When conditionally released goods are used for the purposes other than those in connection with which customs preferences were granted, for the purpose of calculating interests (Article 393), the first date on which the person violated the restrictions on use and disposal of goods, shall serve as the deadline for payment of customs duties and taxes. When it is impossible to establish such day, the date of registration of the customs declaration shall be considered as the deadline for payment of customs duties and taxes.
6. When violating requirements and conditions of the customs procedures which, in accordance with this Code, entail liability to pay customs duties and taxes, the day of committing the violation shall be the deadline for customs payments for the purposes of calculation of interests. When it is impossible to establish such a day - the date of starting of the relevant customs procedure shall be deemed as the deadline for payment of customs duties and taxes.
7. The deadlines of customs payments with regard to goods conveyed by natural persons for personal use, by international mails, pipeline transport and electric power transmission lines, to goods temporarily imported with partial exemption from customs duties and taxes, to illegally imported goods discovered with their buyers (organizations carrying out wholesale and retail sale of imported goods) on the territory of the Republic of Tajikistan, shall be specified by this Code.

#### **Article 375** **Advance Payments**

1. Advance payments shall mean the money transferred to the deposit account of the customs authority, the form and the procedure of use of which shall be determined by the authorized body on customs affairs in coordination with the state authorized body in the field of finance on account of future customs payments, and not identified by the payer as concrete types and amounts of customs payments with regard to concrete goods.
2. Advance payments may be placed in cash or transferred to the deposit account of the customs authority in the Treasury of the Republic of Tajikistan in the currency of the Republic of Tajikistan and also in the foreign currency in accordance with the legislation of the Republic of Tajikistan.
3. Money received by the customs authorities as advance payments shall be in ownership of the person who made advance payments, and may not be deemed as customs payments until this person notifies the customs authority thereon or customs authority levies execution of advance payments in accordance with this Code and other normative legal acts of the Republic of Tajikistan. Submission by the person who made advance payments or on his behalf of a customs declaration or performance of other actions demonstrating his/her intention to use the money as customs payments, shall be deemed as notification of the person who made advance payments.
4. Upon the request of the payer, the customs authority shall make a written report on the expenditure of money deposited as advance payments not later than 30 days from the day when the request is made. In case of disagreement of the payer with the results of the report made by the customs authority, a joint reconciliation of expenditures of the payer shall be carried out. The results of the reconciliation shall be formalized by the act in the form determined by the authorized body on customs affairs. The

act shall be drawn up in two copies signed by the customs authority and the payer. One copy of the act after signing is subject to be handled to the payer.

5. Advance payments shall be refunded under the regulations stipulated by this Code for refund of customs duties and taxes (chapter 48), if the application on the refund is submitted within three years from the day when the advance payments are made to the cash desk of the customs authority or the day of their receipt to the deposit account of the customs authority of the Republic of Tajikistan.

#### **Article 376**

##### **Procedures and Forms for Payment of Customs Duties and Taxes**

1. Customs duties and taxes shall be paid to a cash desk of the customs authority or deposited to the account of the treasury system of the Republic of Tajikistan of the customs authority, opened for these purposes in accordance with the normative legal acts of the Republic of Tajikistan, except for the cases stipulated by Paragraph 4 Article 317 of this Code.

2. Customs duties and taxes shall be paid at payer's option both in the national currency of the Republic of Tajikistan and foreign currency, the exchange rate of which shall be quoted by the National Bank of Tajikistan in accordance with the legislation of the Republic of Tajikistan.

3. The conversion of currency of the Republic of Tajikistan to the foreign currency for the purposes of payment of customs duties and taxes estimated in the national currency of the Republic of Tajikistan shall be made at the exchange rate effective on the day of registration of the customs declaration by the customs authorities; and in the cases when the liability of payment of customs duties and taxes does not relate to the submission of customs declaration, the conversion shall be made on the date of the actual payment.

4. Customs duties and taxes may be paid in any form in accordance with the normative legal acts of the Republic of Tajikistan.

#### **Article 377**

##### **Fulfillment of an Obligation on Payment of Customs Duties and Taxes**

The obligation on payment of customs duties and taxes shall be deemed as fulfilled taking into account the features established by this Code:

- 1) from the moment of write off of money from the bank account of the payer;
- 2) from the moment of making payment in cash to the cash desk of the customs authority;
- 3) from the moment of offsetting overpaid amounts and overpaid amounts of customs duties and taxes against future payments of customs duties and taxes; and if this offsetting is made on the initiative of the payer – from the moment of accepting an application on offset;
- 4) from the moment of offsetting advance payments or secured amount against future payments of customs duties and taxes, and if this offset is made at the initiative of the payer – from the moment of receiving an instruction concerning offsetting by the customs authority;
- 5) from the moment of offset of money paid by the bank, other loan organization or insurance organization in accordance with the bank guarantee or insurance agreement and also by a guarantor against future payments of customs duties and taxes in accordance with the guarantee agreement.
- 6) from the moment of recovering against the goods, in respect of which the customs payments are not paid or against the subject of the guarantee or other property of the payer if the amounts of the indicated money are not less than the amounts of the debt on payment of customs duties and taxes.

### **CHAPTER 45**

#### **CHANGES IN THE DEADLINES FOR PAYMENT OF CUSTOMS DUTIES AND TAXES**

#### **Article 378**

##### **The General Terms of Changes in the Deadlines for Payment of Customs Duties and Taxes**

1. If there are grounds established by Article 379 of this Code, the Government of the Republic of Tajikistan shall determine the procedure for change in the deadlines for payment of customs duties and taxes.

2. The change in deadlines for payment of customs duties and taxes shall be made in the form of deferred payment or payment by installments.

3. Refuse to grant deferred payment or payment by installments shall be possible only when there are grounds thereof stipulated by Article 380 of this Code.
4. Deferred payment or payment by installments may be granted with regard to one or several types of customs duties and taxes and also with regard to the total amount of the customs duties and taxes subject to payment, or to a part of it.
5. Deferred payment or payment by installments shall be granted, provided that customs payments are secured in compliance with the procedure stipulated by Chapter 46 of this Code.
6. Deferred payment or payment by installments of customs duties and taxes shall be granted for the period up to six months.
7. The decision to grant deferred payment or payment by installments of customs duties and taxes, or refusal thereon shall be brought in writing to the notice of the person who applied for its granting. The decision shall specify the period for which deferred payment or payment by installments of customs duties and taxes is granted, and in case of refusal, the reasons for refusal.

#### **Article 379**

##### **Grounds for Granting Deferred Payment or Payment by Installments**

Deferred payment or payment by installments of customs duties and taxes shall be granted to the payer of customs duties and taxes, if at least one of the following grounds is available:

- 1) causing damage to the person in question, as a result of natural calamities, technological disaster or other circumstances of insuperable force;
- 2) making supplies by the person in question under intergovernmental agreements;
- 3) other exceptional cases determined by the Government of the Republic of Tajikistan.

#### **Article 380**

##### **Circumstances Which Exclude Granting of Deferred Payment or Payment by Installments**

1. Deferred payment or payment by installments of customs duties and taxes shall not be granted if the following is initiated against the person who applied for granting the indicated deferred payment or payment by installments:

- 1) a criminal or administrative case associated with violations of customs legislation of the Republic of Tajikistan;
- 2) a procedure of bankruptcy.

2. When there are circumstances indicated in Paragraph 1 of this Article, the decision on granting deferred payment or payment by installments of customs duties and taxes can not be made, and the decision which has been previously made shall be cancelled. The person who applied for granting deferred payment or payment by installments shall be notified in writing thereon within three working days.

#### **Article 381**

##### **Interests for Granting Deferred Payment or Payment by Installments**

1. For granting deferred payment or payment by installments of customs duties and taxes and also in other cases stipulated by Subsection 2 of Section II of this Code, interests shall be added to the amount of the debt on payment of customs duties and taxes in compliance with the tax legislation of the Republic of Tajikistan.

2. Interests shall be paid prior to payments or along with payment of the amount of debt on payment of customs duties and taxes, but not later than the day following the day of expiration of the deadline for the deferred payment or payment by installments of customs duties and taxes.

3. Payment, recovery and refund of interests shall be carried out according to the procedure stipulated by this Code with regard to payment, recovery and refund of customs duties and taxes.

### **CHAPTER 46**

#### **SECURING CUSTOMS PAYMENTS AND TAXES**

#### **Article 382**

##### **General Provisions Regarding Securing Payment of Customs Duties and Taxes**

1. An obligation on securing payment of customs duties and taxes shall be fulfilled in the following cases:
  - 1) granting deferred payment or payment by installments of customs duties and taxes;
  - 2) conditional release of goods;
  - 3) conveyance and (or) storage of foreign goods;
  - 4) carrying out activities in the field of customs affairs.
2. Payment of customs duties and taxes shall not be secured if the amount of customs duties, taxes, and interests payable constitutes less than 150 times the minimum monthly wage established by the legislation.
3. If several customs operations are carried out within a definite period by the same person, a customs authority shall be obliged to accept the security for payment of customs duties and taxes for performing all such operations (general security). Customs authorities shall accept general security for payment of customs duties and taxes for performing customs operations in several customs authorities, if such security may be used by any of customs authorities in case of violation of obligations secured in accordance with this Code.
4. Security of payment of customs duties and taxes shall be made by the person responsible for their payment or by any person in favor of the person responsible for payment of customs duties and taxes.
5. Refund of security for payment of customs duties and taxes shall be made within three days after the customs authority is convinced of fulfillment of the secured obligations or after termination of the activities, which were performed under this security of payment of customs payments except for security in the form of the money deposit, the refund of which is made in accordance with Article 398 of this Code.

### **Article 383**

#### **Size of the Security for Customs Duties and Taxes**

1. The size of security for customs duties and taxes shall be defined by the customs authority based on the amounts of customs payments, interests payable, when releasing goods for free circulation or when exporting them in accordance with the customs regime of exportation, and may not exceed the size of the amounts in question.
2. If when establishing the size for securing customs duties and taxes it is impossible to determine the exact amount of customs duties and taxes payable due to non-submission of accurate information regarding the nature of goods, names, quantity, country of origin and customs value, the amount of security shall be determined based on the largest amount of the rates of customs duties and taxes, value of goods and (or) their quantity, which may be determined on the basis of the information available.
3. In the case stipulated by Paragraph 3 of Article 153 of this Code, the amount of security for customs duties and taxes shall be determined by customs authority as a difference between the amount of customs duties and taxes which may be additionally charged, taking into account the requirements established by Paragraphs 1 and 2 of this Article and the amount of customs duties and taxes paid.
4. The authorized body on customs affairs shall have the right to establish the fixed size of the security for customs payments in respect to certain kinds of goods, taking into account the requirements established by Paragraphs 1 and 2 of this Article.

### **Article 384**

#### **Securing Customs Duties and Taxes by Persons Carrying Out Activity in the Field of Customs Affairs**

1. Activities of customs brokers, owners of temporary storage warehouses, customs warehouses, free warehouses, duty-free shops and customs carriers are stipulated by securing customs payments.
2. When carrying out these types of activities, the size of security for customs payments may not be less than:
  - 1) 3000- times minimum monthly wage of a customs broker established by the law;
  - 2) 150- times minimum monthly wage and additionally 4-times of minimum monthly wage for one square meter of usable area if an open site is used as a warehouse, or 2-times monthly wage, established by law, for 1 cube meter of the usable space of the premise if a premise is used as a warehouse, for owners of temporary storage warehouses, free warehouses and also for customs warehouses of open and closed types;
  - 3) 3000-times the minimum monthly wage established by law for a duty-free shop owner;

3) 6000-times the minimum monthly wage established by law for a customs carrier.

#### **Article 385**

#### **Forms of Securing Customs Duties and Taxes**

1. Customs duties and taxes shall be secured in the following forms:

- 1) pledge of goods and other property;
  - 2) bank guarantee;
  - 3) deposit of money with the cash desk of the customs authority or deposit account of the customs authority (money deposit);
  - 4) guarantee.
2. A person shall have the right to choose any type of securing customs duties and taxes stipulated by Paragraph 1 of this Article.

#### **Article 386**

#### **Pledge of Goods and Other Property**

1. The object of the pledge may be goods imported to the customs territory of the Republic of Tajikistan and also other property which may serve as an object of the pledge in accordance with the normative legal acts of the Republic of Tajikistan.
2. The pledge shall be executed in the form of agreement between the customs authority and depositor. A person responsible for payment of customs duties and taxes or any other person may be a depositor.
3. In the event of non-fulfillment of customs obligations secured by the pledge, the amounts of the debt on payment of customs payments shall be transferred to the national budget at the expense of the pledged property.
4. Recovery against goods placed under customs control and transferred to the customs authorities as a pledge, as well as against other pledged property shall be levied in the procedure established by legislation of the Republic of Tajikistan.

#### **Article 387**

#### **Bank Guarantee**

1. As security for payment of customs duties and taxes, the customs authorities shall accept bank guarantees issued by banks, included in the Register of banks administered by the authorized body on customs affairs (hereinafter – Register) in the procedure defined by this body.
2. The authorized body on customs affairs shall be obliged to ensure regular publication of the lists of banks and organizations, included in the Register, in their official publications.
3. The provisions of the legislation of the Republic of Tajikistan shall apply to legal relations associated with the issuance of a bank guarantee, laying claims in respect to a bank guarantee, fulfillment of obligations by the guarantor and termination of a bank guarantee.
4. The maximum amount of a bank guarantee and maximum amount of all bank guarantees effective at one time issued by the same bank or the same organization for accepting bank guarantees by customs authorities for the purpose of securing payment of customs duties and taxes shall be established by the authorized body on customs affairs for banks, included in the Register.

#### **Article 388**

#### **The Procedure for Including Banks in the Register**

1. Banks shall be included in the Register under the conditions stipulated by this Article. No fees shall be charged for including the bank in the Register.
2. The conditions for including the bank in the Register shall be as follows:
  - 1) license for carrying out bank operations, issued by the bank of the Republic of Tajikistan and carrying out bank activities for not less than 5 years;
  - 2) absence of the debt associated with customs payments and other obligations with customs authorities;
  - 3) availability of the registered charter capital of the bank in the amount of not less than 1.1 times minimum charter capital for banks established by the National bank of Tajikistan;
  - 4) compliance with mandatory economic norms for all reporting dates during the last calendar year.
3. Branch offices of the banks shall be included in the Register under the following conditions:

- 1) including of the branch office in the Single Register for state registration of representative offices and branch offices of legal entities;
- 2) right of the branch offices for issuing bank guarantees stipulated by the statute of the branch office;
- 3) compliance of the main office of the bank with the conditions for including in the Register or including of the main office of the bank in the Register.

4. For including in the Register, the bank shall submit to the customs authority an application, which contains the information confirming the conditions for including in the Register, and shall submit the following documents:

1) the bank submits:

- foundation documents;
- a certificate of registration of a legal entity;
- license of the National Bank of Tajikistan for carrying out bank operations;
- a card certified in the established procedure with the samples of signatures of bank officials which have the rights of signing bank guarantees and affixes of bank stamps;
- document containing the calculations of own capital (equity) for each reporting date within the last calendar year signed by the head and chief accountant and certified with the seal;
- balance report for the last reporting date signed by the head and chief accountant certified with the seal;
- report on income and losses for the last reporting date signed by the head and by the chief accountant and certified with the seal;
- statement on fulfillment of compulsory economic norms and value indices for their estimation at each reporting date within the last calendar year, signed by the head and chief accountant and certified with the seal;
- a copy of the audit opinion on reliability of financial statements for the passed period, signed by the head and chief accountant and certified with the seal;

2) the branch office of the bank shall additionally submit:

- a statute of the branch office;
- certificate on including the branch office in the Single register for state registration of representative offices and branch offices of legal entities;
- a card certified in the established procedure with the samples of signatures of the officials of the branch office which have the rights of signing bank guarantees and affixes of the branch office stamps.

5. Documents stipulated by Paragraph 4 of this Article may be submitted in the form of originals or copies, certified in the established procedure.

Upon the completion of considering applications, the authorized body on customs affairs shall be obliged to return to the applicant, at his(her) request, the originals of the documents submitted.

6. The authorized body on customs affairs shall review the application on including in the Register within the period not exceeding 30 days from the day of its receipt, and shall make a decision on the inclusion of the bank in the Register. The authorized body on customs affairs shall make a decision to refuse the inclusion in the Register only in the case of non-compliance with the conditions of including in the Register, stipulated by Paragraph 2 of this Article.

An applicant shall be notified in writing on the decision made, within three days from the day of making the decision.

7. The authorized body on customs affairs, which reviews the application on including in the Register, shall have the right to request documents containing necessary information from third parties and also from state bodies to back up the documents and information submitted by the applicant. The persons in question shall be obliged to submit the documents requested within 10 days from the day of receiving the request.

8. The decision to refuse inclusion in the Register may be made only in the cases of non-compliance with the conditions stipulated by this Article.

The applicant shall be sent a notification on refusal to include in the Register with indication of the reasons of making such decision within three days from the day of making the decision.

9. Banks shall be included in the Register from the first date of the month following the month of making the decision on including in the Register.

#### **Article 389**

#### **Exception of Banks from the Register**

1. A bank shall be excluded from the Register based on the decision of the authorized body on customs affairs in the following cases:

- 1) liquidation or reorganization of the bank;
  - 2) revocation by the National Bank of Tajikistan of the license issued for carrying out bank operations for non-compliance with at least one conditions for including in the Register;
  - 3) non-fulfillment of obligations under bank guarantee;
  - 4) expiration of one year from the day of including in the Register, if an application for repeated inclusion in the Register is not submitted according to the established procedure prior to expiration of the indicated time period.
2. Exclusion of the bank from the Register shall not terminate the validity of bank guarantees issued to it and accepted by customs authorities, and shall not release it from the responsibility for non-fulfillment or improper fulfillment of the terms of such bank guarantees.
3. A bank excluded from the Register, may be repeatedly included in the Register in a year, provided that the reasons for excluding it from the Register are eliminated.

#### **Article 390**

#### **Money Deposits to Deposit Accounts of the Customs Authority (Money Deposit)**

1. Deposits to the cash desk or deposit accounts of the customs authority as a guarantee of payment of customs payments (money deposit) shall be made in the national currency of the Republic of Tajikistan or in the foreign currency, the exchange rate of which is quoted by the National Bank of the Republic of Tajikistan.
  2. No interests shall be imposed on the amount of money deposits.
  3. In the event of failure to fulfill the obligation under the money deposit, the payable amounts of customs payments and interests shall be transferred from the money deposit to the national budget.
  4. In fulfillment of the obligations under the money deposit, the amounts paid shall be refunded in accordance with Article 398 of this Code, or upon payer's request, shall be used for payment of customs payments, for offset against future customs payments or for security for payment of customs payments under other obligations with customs authorities.
  5. To prove making money deposit to the cash of the customs body or to the deposit account of the customs authority, the person who made this money deposit shall be issued a customs receipt in the form and according to the procedure defined by the authorized body on customs affairs in coordination with the central executive body authorized in the field of finances, in accordance with Article 398 of this Code.
- The customs receipt can not be transferred to another person

#### **Article 391** **Guarantee**

The guarantee shall be completed in accordance with the civil law of the Republic of Tajikistan by signing the agreement between the customs authority and guarantor. Customs brokers, owners of temporary storage warehouses, owners of customs warehouses and duty free shops and also other persons may act as a guarantors.

### **CHAPTER 47** **RECOVERY OF CUSTOMS PAYMENTS**

#### **Article 392** **General Provisions Concerning Forced Recovery of Customs Duties and Taxes**

1. When customs duties and taxes are not paid or are not fully paid within the specified period, customs authorities shall forcibly recover customs duties and taxes according to the procedure stipulated by legislation of the Republic of Tajikistan.
2. Customs duties and taxes shall be forcibly recovered from persons, responsible for payment of customs duties and taxes or on the accounts of value of goods, in respect to which customs duties and taxes are not paid.
3. Customs duties and taxes shall be forcibly recovered from persons through recovery of customs duties and taxes from the money held in the payer's bank accounts or against other property of the payer under judicial procedure.

4. Prior to taking measures associated with the forced recovery of customs duties and taxes, a customs authority shall lay a claim concerning payment of customs payment to the person, responsible for their payment.

### **Article 393** **Interests**

1. In case of non-payment of customs duties and taxes within the established deadlines (delinquency), interests shall be paid.

2. Except for the cases stipulated by Paragraphs 3-5 of this Article, interest shall be charged for every calendar day of delinquency of payment of customs duties and taxes, starting from the day following the deadline for payment of customs duties and taxes to the day of fulfilment of obligations on payment of customs duties and taxes or to the day of making the decision on granting deferred payment or payment by instalments of customs duties and taxes. Interests shall be paid in the amounts established by the Tax Code of the Republic of Tajikistan.

3. When laying a claim on payment of customs duties and taxes to the guarantor or the pledger, interests shall be charged for no more than three months from the day following the deadline for fulfilment of obligations, secured by the pledge or the bank guarantee.

4. When laying a claim on payment of customs duties and taxes to the person responsible for their payment, interest shall be charged through the day of laying the claim inclusive. In case of non-payment of customs duties and taxes within the deadlines, specified in the claim, interests shall be charged in accordance with Paragraph 2 of this Article.

5. In case of violating the deadline for lodging the customs declaration when goods are stored in temporary storage warehouse (Chapter 12), interest shall not be charged and shall not be paid for the period of temporary storage.

6. Interests shall be paid, apart from amounts of arrears, irrespective of the application of other measures of responsibilities for violation of customs legislation of the Republic of Tajikistan.

7. Interests shall be paid along with payment of customs duties and taxes or after payment of such amounts, but not later than one month from the day of payment of customs duties and taxes.

8. Lodging of an application on granting deferred payment or payment by instalments of customs duties and taxes shall not suspend charge of the interest with respect to the amount of arrears.

9. An interest shall be paid, recovered and refunded in compliance with the procedures stipulated by this Code with regard to payment, recovery and refund of customs payments and taxes.

### **Article 394** **Claim on Payment of Customs Duties and Taxes**

1. Claim on payment of customs duties and taxes shall mean a written notification issued by the customs authority on the amounts of customs duties and taxes not paid within the established time period, and on the responsibility to pay the amount of unpaid customs payments and interests within the time limit specified by this demand.

2. Claim on payment of customs duties and taxes shall contain the information on the amounts of customs duties and taxes, the amount of payable interests charged on the day of sending the demand, on the deadlines for payment of customs duties and taxes in accordance with this Code; on the deadline for fulfilling the obligation and also on measures on forced recovery of customs duties and taxes and ensuring their recovery which are used in the case of non-fulfilment of the claim by the payer, and on the grounds of laying a claim. The form of the claim on payment of customs duties and taxes shall be established by the authorized body on customs affairs.

3. A claim on payment of customs duties and taxes shall be sent to the payer not later than 10 days from the date of establishing the fact that customs duties and taxes are not paid or are not fully paid.

4. The deadline for fulfilling the claim on payment of customs duties and taxes shall be not less than 10 working days and not more than 20 days from the day of receiving the claim. In case of non-fulfilment of this claim, customs authorities shall take measures on forced recovery of customs duties and taxes in accordance with this Chapter.

5. A claim on payment of customs duties and taxes may be submitted to the head or other authorized representative of the organization or to a natural person on receipt or in another way that confirms the receipt and the date of receipt of the claim. If these persons refuse to accept the claim, it shall be mailed by a registered letter. The claim on payment of customs duties and taxes shall be considered as received upon expiration of six days from the day of mailing the registered letter.

6. In case of non-fulfilment of the claim on payment of customs duties and taxes within the deadlines stipulated by Paragraph 4 of this Article, customs authorities shall take measures stipulated by Articles 397-399 of this Code.

7. A claim on payment of customs duties and taxes shall be sent to the payer, regardless of administrative or criminal procedures, instituted against him/her.

#### **Article 395**

#### **Measures Taken by Customs Authorities in Case of Non-Fulfilment of the Claim on Payment of Customs Duties and Taxes**

Customs authorities shall suspend accounting operations against the person's accounts in banks and other financial and credit organizations, shall arrest his/her property and recover the payable sums in compliance with this Code and other laws of the Republic of Tajikistan.

### **CHAPTER 48**

#### **REFUND OF CUSTOMS DUTIES, TAXES AND OTHER FUNDS**

#### **Article 396**

#### **Refund of Overpaid or Overcharged Customs Duties and Taxes**

1. The overpaid or overcharged amount of customs duties and taxes shall mean the amount of actually paid or charged customs duties, taxes and funds, the amount of which exceeds the amount payable in accordance with this Code and other normative legal acts of the Republic of Tajikistan.

2. Application on refund of overpaid or overcharged amounts of customs duties and taxes shall be submitted to the customs authority, in which the indicated amount have been paid or recovered, not more than three years from the date of their payment or recovery.

3. When discovering a fact of overpayment or overcharge of customs duties and taxes, a customs authority shall inform a payer about the amount of overpaid or overcharged amount of customs duties and taxes not later than one month from the day of discovering such a fact.

4. Overpaid or overcharged customs duties and taxes shall be refunded by the central executive body authorized in the area of finances, upon the decision of the authorized body on customs affairs. The total period for considering the application on refund, making a decision on refund and refund of overpaid or overcharged customs duties and taxes may not exceed one month from the day of lodging the application on refund and submission of all the required documents. In case of violation of the indicated deadline, interests for each day of violation of the refund deadline shall be charged on the amounts of overpaid or overcharged customs duties and taxes, non-refunded by the established deadline. The amount of interests shall be determined by the Tax Code of the Republic of Tajikistan.

If payment or recovery of customs duties and taxes is carried out in a foreign currency, then interests shall be charged on the amount of overpaid or overcharged customs duties and taxes, re-calculated to the currency of the Republic of Tajikistan at the rate of the National Bank of Tajikistan on the day when overpayment and overcharge occurred.

5. Overpaid or overcharged customs duties and taxes shall be refunded to the account indicated in the application on refund.

6. Overpaid or overcharged customs duties and taxes shall be refunded in the national currency of the Republic of Tajikistan. If payment or recovery of customs duties and taxes is made in foreign currency, refund of overpaid or overcharged customs payments shall be made at the exchange rate of the National Bank of Tajikistan, effective on the day of overpayment or overcharge.

7. When refunding overpaid or overcharged customs duties and taxes, the amounts of interests paid or recovered from the amount of refunded customs duties and taxes shall be also subject to be refunded, except for the refund of customs duties and taxes in accordance with Article 397 of this Code.

8. Upon payer's request, overpaid or overcharged customs duties and taxes may be refunded in the form of offset against fulfilment of obligations on payment of other customs payments, interests or penalties. Offset of overpaid or overcharged customs payments shall be carried out in accordance with this Article, applicable to the procedure for refund, taking into account Paragraph 9 of this Article.

9. Overpaid or overcharged amounts of customs duties and taxes shall not be refunded in the following cases:

1) if a payer has a debt on payment of customs duties and taxes in the amount of the indicated debt. In this case, overpaid or overcharged customs duties and taxes may be offset.

2) if the amount of customs payments, subject to refund, is less than 2 times minimum monthly wage, established by the law, except for the cases of overpayment by natural persons or overcharge from those persons;

3) in case of submitting an application on refund of amounts of customs duties and taxes upon the expiration of the established deadlines.

10. If there is debt on payment of customs payments and interests, the customs authority shall have the right to independently redeem the debt from the amounts of overpaid or overcharged customs payments. The customs authority shall be obliged to inform a payer on the offset made within three days from the date of the offset.

11. No interests shall be charged when refunding customs payments, except for the case stipulated by Paragraph 4 of this Article, and the amounts shall not be indexed.

#### **Article 397**

##### **Other Cases of Refund of Customs Duties and Taxes**

1. Refund of customs duties and taxes shall also be made in the following cases:

1) if the customs declaration submitted to the customs authority is deemed as not being lodged in accordance with this Code;

2) withdrawal of the customs declaration;

3) granting tariff benefits in the form of refund of customs duty paid;

4) restoration of the most favoured nation treatment or of preferential tariff treatment;

5) if refund of the paid amounts of customs duties and taxes for foreign goods exported from the customs territory of the Republic of Tajikistan, or destroy of goods, or reject in favour of the state, or re-import of goods, is stipulated by this Code;

6) alteration of the previously declared customs regime with the permission of the customs authority, if the amounts of customs duties and taxes payable under the newly selected customs regime are less than the amounts of customs duties and taxes paid under the original procedure, except for the case, stipulated by Paragraph 6 of Article 212 of this Code;

7) measures on protecting economic interests of the Republic of Tajikistan when carrying out external trade of goods, established by the normative legal acts of the Republic of Tajikistan with regard to temporary special, antidumping or countervailing duties;

2. An application on refund of customs duties and taxes in the cases specified in Paragraph 1 of this Article shall be lodged not later than one year from the day following the day of emergence of the circumstances, involving refund of customs duties and taxes in compliance with Article 396 of this Code. In this respect, provisions of Paragraph 7 of Article 396 of this Code shall not apply.

#### **Article 398**

##### **Refund of Money Deposit**

1. A deposit shall be refunded, provided that the obligation required by the deposit is fulfilled, if the request on the refund is submitted to the customs authority not later than three years from the day following the day of fulfilment of the obligation. Upon the expiry of the period indicated, unclaimed amounts of money deposit shall be transferred to the state budget and shall not be subject to refund.

2. A money deposit shall be refunded by the customs authority to the account or a cash desk of which amounts of money deposit have been paid, or by the customs authority in which the customs procedure or the customs regime, under which the obligations on fulfilment are secured by the money deposit, is completed.

3. A money deposit shall be refunded upon a customs receipt (Paragraph 5 of Article 390) in the currency of the payment. In case of payment of money deposit in foreign currency in the absence of money in this currency, a customs authority shall have the right to refund the deposit in other foreign currency, the rate of which is quoted by the National Bank of Tajikistan, or, at payer's request, in currency of the Republic of Tajikistan. For the purposes of conversion of the foreign currency, the rate of the National Bank of Tajikistan on the day of refund of the amounts of the money deposit shall apply.

4. If the amounts of money deposit are lodged to the cash desk of the customs authority in cash, on the payer's request, refund of money deposit may be made to the bank account, indicated by the payer.

5. Refund of money deposit shall not be made, if a payer has a debt on payment of customs payments and interests in the amount of the debt. Customs authority shall have the right to recover the payments against a money deposit in accordance with Article 394 of this Code.

6. When refunding amounts of the money deposit, the interests shall not be refunded, the amounts shall not be indexed, and commission fees on bank operations shall be paid at the expense of the funds being transferred.

## **SECTION IV CUSTOMS CONTROL**

### **CHAPTER 49 GENERAL PROVISIONS RELATING TO CUSTOMS CONTROL**

#### **Article 399 Principles of Exercising Customs Control**

1. When exercising customs control, customs authorities shall proceed from the principle of selectivity, and, as a rule, shall restrict themselves to those methods of customs control that are sufficient to comply with the customs legislation of the Republic of Tajikistan.
2. When selecting the forms of customs control, the risk management system shall be used. Risk shall mean the degree of possible non-compliance with the customs legislation of the Republic of Tajikistan. The risk management system shall be based on effective use of the resources of customs authorities to prevent violations of customs legislation of the Republic of Tajikistan:
  - 1) that have a stable nature;
  - 2) related to evasion from payment of customs duties and taxes in significant amounts;
  - 3) undermining competitiveness of local producers;
  - 4) affecting other significant interests of the State, the compliance with which is imposed on customs authorities.
3. Customs authorities shall apply methods of risk assessment to identify goods, means of transport, documents and persons to be subject to examination, and the level of this examination.
4. The authorized body on customs affairs shall determine a strategy of customs control, based on the system of risk assessment measures.
5. With the purpose of improving customs control, the authorized body on customs affairs shall cooperate with customs authorities of foreign countries and sign agreements on mutual assistance.
6. Customs control shall be exercised exclusively by customs authorities in accordance with this Code.

#### **Article 400 Time Limit for Checking Customs Declaration and Other Documents and for Examining Goods in the Course of Customs Clearance**

1. When conducting customs clearance, checking customs declaration and other documents, submitted to the customs authority, and examining goods in order to verify conformity of the information indicated in the customs declaration and other documents, with the name, origin, quantity and value of goods, shall be completed by the customs authority not later than two working days from the date of acceptance of the customs declaration by customs authorities, and submission of documents and goods, except for the cases, when shorter time limits are established by this Code.
2. A customs authority shall have the right to extend time limits for checking goods, when goods submitted for examination are not divided into separate packing lots according to the types and (or) names, and (or) when information concerning package and marking is not stated in the commercial and (or) shipping documents. Extension of the time limits shall be allowed, provided that these circumstances prevent customs authorities from performing the required operations for verification of the conformity of the goods with the information presented on them. The time limit for customs examination of such goods shall be extended through the period, required for the person authorized with respect to goods to divide the goods into separate lots.

#### **Article 401 Goods and Means of Transport Under Customs Control**

1. Goods and means of transport imported onto the customs territory of the Republic of Tajikistan shall be considered being under customs control from the moment when they cross the customs border of the Republic of Tajikistan up to the moment when they are:
  - 1) released for free circulation;
  - 2) destroyed;
  - 3) refused in favour of the state;

- 4) transferred into state ownership or disposal of them by other means in accordance with Section VI of this Code;
  - 5) actually exported outside the customs territory of the Republic of Tajikistan.
- Use and disposal of imported goods and means of transport under customs control shall be allowed according to the procedure and under conditions specified by this Code.
2. When exported from the customs territory of the Republic of Tajikistan, domestic goods and means of transport shall be subject to customs control from the moment of submission of the customs declaration or of performing other actions aimed at exporting goods outside the customs territory of the Republic of Tajikistan, up to the moment when they cross the customs border.
  3. Customs authorities shall exercise customs control over fulfilment by persons of their obligations with regard to re-import of domestic goods and means of transport that were earlier exported from the customs territory of the Republic of Tajikistan, or with regard to re-import of the processed products thereof, in compliance with the terms of the customs procedures, according to the procedure stipulated by this Section, if such goods (processed goods) were earlier exported from the customs territory of the Republic of Tajikistan and are subject to obligatory re-import in accordance with normative legal acts of the Republic of Tajikistan.

#### **Article 402**

#### **Checking Reliability of Information After Release of Goods and (or) Means of Transport**

1. After release of goods and (or) means of transport, customs authorities shall have the right to check reliability of the information declared during customs clearance, according to the procedure stipulated by Chapter 50 of this Code.
2. Customs authorities may check reliability of information after release of goods and (or) means of transport within one year, starting from the day, when the goods lose the status of being under customs control.
3. In cases and according to the procedure which are stipulated by this Code and other normative legal acts of the Republic of Tajikistan, customs authorities shall carry out customs control in circulation of goods imported to the customs territory of the Republic of Tajikistan by checking the information, confirming the release of such goods by customs authorities in accordance with requirements and conditions, established by this Code and also by checking the existence of marks and identification signs, used for verification that the goods are legally imported to the customs territory of the Republic of Tajikistan.

#### **Article 403**

#### **Customs Control Zones**

1. Customs control zones shall be established for the purposes of customs control in the forms of customs examination and customs search of goods and means of transport, their storage and transportation under customs control.  
Customs control zones may be established along the customs border, in areas intended for customs clearance and customs operations; in the places of transloading of goods; their examination and search, temporary storage; parking places of means of transport which transport goods subject to customs control; and in other places identified by this Code.
2. Customs control zones shall be established as permanent zones when goods subject to customs control are kept there on a regular basis; or as temporary zones. Temporary customs control zones may be established in the following cases:
  - 1) for performing customs clearance of goods and means of transport outside of places for performing customs operations (Article 465) – for the period of their performance, if when performing such operations there is a need to identify the customs control zone based on the need for customs authorities to ensure conditions for fulfilling their direct duties;
  - 2) when there is need to exercise examination or search of goods and means of transport discovered by customs authorities outside permanent customs control zones.Decision on establishing a temporary customs control zone shall be made in writing by the head of customs authority or the official acting for the latter.
3. The procedures for establishing and marking customs control zones, and also requirements to them shall be established by the authorized body on customs affairs, except for establishing customs control zones along the customs border. Customs control zones along the customs border shall be established according to the procedure identified by the government of the Republic of Tajikistan.  
The procedures for establishing and marking customs control zones and also requirements to them in the event of establishing them in the territory of checkpoints through the State border of the Republic of Tajikistan shall be identified by the authorized body on customs affairs in accordance with legislation of the Republic of Tajikistan.

4. Production activity and other commercial activities, transportation of goods and means of transport, persons, including officials of other state bodies, across borders of customs control zones and within the territories of such zones, shall be allowed only with permission of customs authorities and under their control, except for cases established by this Code and other laws of the Republic of Tajikistan. In these cases, the access to customs control zones shall be allowed upon preliminary notification of customs authorities.

The indicated restrictions for carrying out activities, transportation of goods, means of transport and persons across the borders of customs control zones shall apply only within the regime established in accordance with normative legal acts of the Republic of Tajikistan.

5. Examination of goods may be exercised only in customs control zones.

#### **Article 404**

##### **Submission of Documents and Information Required for Customs Control**

1. Persons conveying goods and means of transport across the customs border, customs brokers (agents), owners of temporary storage warehouses, owners of customs warehouses and customs carriers shall be obliged to submit for the purposes of customs control to customs authorities the documents and information, the submission of which is stipulated by this Code.

2. The customs authority shall request the documents and information required for customs control in a written form and shall establish the deadline for their submission which shall be sufficient for that. Upon a motivated request of the person, the deadline shall be extended by the customs authority for the period required for submitting the documents and information indicated.

3. In order to exercise customs control, customs authorities shall be entitled to receive from banks and other loan organizations data on operations relating to foreign economic activities and payment of customs payments of the persons indicated in Article 15 of this Code, and also data on operations of customs brokers, owners of temporary storage warehouses, owners of customs warehouses and customs carriers in accordance with normative legal acts of the Republic of Tajikistan.

4. In order to verify reliability of information after release of goods, customs authorities shall have the right 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, with regard to goods imported onto the customs territory of the Republic of Tajikistan, also concerning further operations with those goods, from the declarant or any other person involved in operations with the goods.

5. Customs authorities shall have the right to receive information required for exercising customs control from bodies carrying out registration of legal entities and other bodies.

6. Documents required for customs control purposes shall be stored by persons not less than three calendar years starting from the year, within which goods lose their status of being under customs control. Customs brokers (agents), owners of temporary storage warehouses, customs warehouses and customs carriers shall keep the documents during three calendar years following the year, during which customs operations were performed.

#### **Article 405**

##### **Submission of Report for Customs Control Purposes**

Customs brokers (agents), owners of temporary storage warehouses, owners of customs warehouses, duty-free shops and customs carriers, persons using special simplified procedures (Article 68) and also persons using and (or) owning conditionally released goods shall be obliged, upon the request of customs authorities, to submit to the customs authorities reports on goods being stored, conveyed, sold, processed and (or) used according to the forms identified by authorized body on customs affairs.

#### **Article 406**

##### **Not Causing Illegal Damage in the Course of Customs Control**

1. When exercising customs control, it is not permissible to cause damages to the carrier, declarant, their representatives, owners of temporary storage warehouses, customs warehouses, duty-free shops and other persons concerned, as well as to goods and means of transport.

2. Losses caused by illegal decisions, actions (inaction) of customs authorities and their officials, when exercising customs control, shall be subject to compensation in full, including lost profit (opportunity costs).

3. Customs authorities or customs officials shall bear responsibility for inflicting losses as stipulated by legislation of the Republic of Tajikistan.

4. Losses caused by legal decisions, actions of customs officials shall not be subject to compensation, except for cases stipulated by legislation of the Republic of Tajikistan.

**CHAPTER 50**  
**FORMS AND PROCEDURES FOR EXERCISING CUSTOMS CONTROL**

**Article 407**  
**Forms of Customs Control**

The following shall be forms of customs control:

- 1) checking documents and information;
- 2) verbal interviews;
- 3) receipt of explanations;
- 4) customs surveillance;
- 5) customs examination of goods and means of transport;
- 6) customs search of goods and means of transport;
- 7) personal search;
- 8) checking of marking of goods with special marks, availability of identification marks;
- 9) inspection of premises and territories for customs purposes.
- 10) customs audit.

**Article 408**  
**Checking of Documents and Information**

1. Customs authorities shall check the documents and information presented in the course of customs clearance of goods and means of transport in accordance with this Code, for the purpose of verifying the authenticity of documents and the reliability of information therein, and for checking accuracy of their completion.
2. Verification of the reliability of the information presented to customs authorities in the course of customs clearance shall be performed by comparing the data with information obtained from other sources, including those obtained based on the results of performing other forms of customs control, analyzing special customs statistics, processing the data with the use of information technologies, and by other means which are not prohibited by legislation of the Republic of Tajikistan.
3. When performing customs control, a customs authority shall have the right to reasonably request for additional documents and information, solely for the purpose of checking the information, contained in the customs declaration and other customs documents. The customs authority shall in writing request for such documents and information and shall set up a deadline for their submission which is sufficient for this.
4. Request for additional documents and information and their checking shall not impede the release of goods (Article 149), unless otherwise stipulated by this Code.

**Article 409**  
**Verbal Interview**

When conducting customs clearance of goods and means of transport, conveyed across the customs border; customs officials shall have the right to conduct verbal interviews of natural persons and also persons who are representatives of organizations authorized with regard to such goods and means of transport, without recording the results of the interview in a written form.

**Article 410**  
**Receipt of Explanations**

1. Receipt of explanations shall mean receipt of the required information regarding circumstances significant for exercising customs control from persons indicated in article 15 of this Code, from declarants and other persons involved in conveyance of goods and means of transport across the customs border and possessing such information.
2. The explanations shall be recorded in a written form. The form of the explanation shall be established by the authorized body on customs affairs.

**Article 411**  
**Customs Surveillance**

Customs surveillance shall mean a transparent, targeted, systematic or single, direct or indirect (using technical facilities) visual observation by the authorized customs officials, over the transportation of goods and means of transport that are under customs control, and over the performance of cargo and other types of operations with them.

#### **Article 412**

#### **Customs Examination of Goods and Means of Transport**

1. Customs examination of goods and means of transport shall mean external visual examination of goods, baggage of natural persons, means of transport, containers, customs seals, stamps and other identification marks on goods, for the purpose of customs control exercised by authorized customs officials, if such an examination does not involve unsealing means of transport or cargo compartments and damaging the packaging of the goods.
2. Within a customs control zone, customs examination of goods and means of transport may be conducted in the absence of the declarant or other persons, authorized with respect to goods and means of transport, and their representatives, except when the above-mentioned persons express a desire to assist in the examination.
3. If in the course of customs examination of goods and means of transport, the fact of indicating incorrect quantity of goods and means of transport, when declaring, is established, the customs authority shall independently identify the quantity of goods for customs purposes.
4. Customs officials may draw up an act in the form approved by the authorized body on customs affairs, on the results of customs examination of goods and means of transport, if the results of such examination may be needed in the future. Upon request of the person, authorized with respect to goods and (or) means of transport, customs officials shall be obliged to draw up an act or put a mark, proving the fact of performing customs examination on the transport (shipping) document available with the person in question. The second copy of the act on the performance of the customs examination shall be delivered to the person authorized with respect to goods and (or) means of transport.

#### **Article 413**

#### **Customs Search of Goods and Means of Transport**

1. "Customs search" shall mean inspection by customs officials of goods and means of transport, which involve removal of seals, stamps and other means of identification of goods, unpacking of goods or cargo compartments of a vehicle, or tanks, containers and other places where goods are, or may be, located.

Customs search of goods shall be conducted after accepting a customs declaration for goods. Prior to filing the customs declaration for goods, imported to the customs territory of the Republic of Tajikistan, customs search may be performed for the purposes of identification of goods for customs purposes or when there is information on violations of the customs legislation of the Republic of Tajikistan, for the purpose of checking this information, as well as for exercising selectivity based customs control.

2. The authorized customs official, after making a decision to perform customs search, shall notify about it the declarant or other person authorized with respect to goods and (or) means of transport, if this person is known. The persons in question or their representatives may be present and, upon the request of the authorized customs official, shall be obliged to be present in the course of search of goods and means of transport. In the absence of the representative specifically authorized by the carrier, the individual, running the vehicle, shall act as such a representative.

3. The customs authority shall be entitled to conduct customs search 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 persons in question to appear upon the expiration of the period stated in Paragraph 1 of Article 129 of this Code;
- 2) the existence of threat to the national security, public order, life and health of people, animals and plants, to nature and the environment, to the preservation of cultural values and in other exigent circumstances (including when there are signs indicating that the goods are highly inflammable substances, explosive items, poisonous, dangerous chemical and biological substances, narcotic drugs, psychotropic substances, hard, toxic, poisonous, radioactive substances, nuclear materials and other similar goods if the goods amplify stench);
- 3) delivery of goods by international mail (Chapter 38);
- 4) the abandonment of goods and means of transport on the customs territory of the Republic of Tajikistan in violation of the customs regime, which stipulates the exportation of goods and means of transport from such territory.

In these cases, customs search of goods and means of transport shall be conducted in the presence of witnesses.

4. When part of the goods indicated in the customs declaration under one name was subject to customs search, the results of the search shall apply to all of the goods indicated in the customs declaration. A declarant or other person

authorized with regard to goods shall have the right to call for performing an additional customs search of the rest of the goods if he/she believes that the results of customs search performed may not apply for all goods.

5. If, in the course of customs search of goods and means of transport, the fact of indication of incorrect quantity of goods and means of transport, when declaring, is established, the customs authority shall have the right to independently identify the quantity of goods for customs purposes.

6. Based upon the results of customs search, an act shall be drawn up in duplicate. The act regarding the customs search shall contain the following information:

- 1) information on the customs officials who performed the search, and on other persons attended;
- 2) reasons for conducting customs search in the absence of the declarant or other person authorized with respect to goods and (or) means of transport;
- 3) results of customs search.

The form of the act shall be approved by the authorized body on customs affairs.

The second copy of the act shall be handed over to the person authorized with respect to goods and (or) means of transport, or his/her representative, if known.

#### **Article 414** **Personal Search**

1. Personal search, as an exclusive form of customs control, may be conducted with the written permission of the head of the customs authority or of a person substituting for him/her, provided that there are sufficient grounds to believe that a natural person, who is crossing the state border of the Republic of Tajikistan, or who is in the customs control zone, or in a transit zone of an international airport, hides on himself and does not extradite goods which are prohibited to be imported to the customs territory of the Republic of Tajikistan or to be exported from this territory, or conveys them with violation of the procedures established by this Code.

Decision to perform a personal search shall be documented in writing by the head of the customs authority or by the person substituting for him/her in the form of putting his/her resolution on the report submitted by the customs official.

2. Prior to personal search, a customs official shall be obliged to notify the natural person on the decision to conduct personal search, to familiarize the natural person with his/her rights and responsibilities in connection with the search, and to propose that he/she voluntarily extradites hidden goods.

The fact of familiarization of the natural person with the decision to perform a personal search shall be certified by putting an appropriate signature on the decision. In case of the refusal to do this, it shall be noted in the decision, certified by signature of the customs official announcing the decision to perform a personal search.

3. A personal search shall be performed by a customs official of the same sex as the person being searched, 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 individuals, and possibility of observation by such persons of the process of the personal search shall not be allowed. The examination of the body organs of persons being searched shall be performed only by a medical specialist, who shall not evade to execute the decision of the head of the customs authority or persons acting for the latter to perform a personal search.

In case of a personal search of juvenile or incapable individuals, legal representatives (parents, adopters, guardians, trustees) or accompanying persons shall have the right to be present during the search.

4. A personal search shall be performed in a civil form excluding humiliation of dignity, dishonour and undue harm to health and property of the person under search within the limits, necessary for disclosing goods hidden by the person in question.

5. During the personal search, an individual (or his/her legal representative), subject to a personal search, shall meet the legal requirements of the customs official, and shall have the following rights:

- 1) to call for being notified about the decision of the head of the customs authority or the official, acting for the latter, to perform a personal search;
- 2) to be familiarized with their rights and responsibilities;
- 3) to give explanations, present petitions;
- 4) to review the act of the personal search when it is finalized and make a statement subject to be incorporated to the act;
- 5) to use native language and also use an interpreter;
- 6) to appeal, in accordance with this Code, against actions of the customs officials upon the completion of the personal search if the person in question believes, that his/her rights and legal interests have been discriminated in the course of the personal search,

6. The personal search shall be documented in the form of the act in two copies drawn up in accordance with the form approved by the authorized body on customs affairs.

The act shall be signed by the customs official, who performed personal search, by the natural person (his/her legal representative) subjected to personal search, by witnesses and, in case of medical examination, by the medical specialist. The second copy of the act shall be handed over to the person (his/her legal representative) subjected to personal search.

#### **Article 415**

##### **Checking Special Marking of Goods, Availability of Identification Marks on Them**

1. In the cases, stipulated by legislation of the Republic of Tajikistan, customs officials shall check the availability 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 Tajikistan.
2. The absence on goods, indicated in Paragraph 1 of this Article, of special markings, identification marks or other means of designating the goods, shall be considered as import of goods onto the customs territory of the Republic of Tajikistan without customs clearance and release of goods, if the person, at whose disposal such goods were discovered, does not prove the contrary.

#### **Article 416**

##### **Inspection of Premises and Territories**

1. 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 in temporary storage warehouses, customs warehouses, duty-free shops, and with respect to persons, who must have the goods in compliance with the terms of customs procedures or customs regimes, stipulated by this Code. Inspection of premises and territories shall be conducted based upon information that goods and (or) means of transport have been lost, alienated or disposed of by other means, or disposed in violation of the requirements and terms established by this Code for the purpose of verifying such information, and based upon selective control.
2. Inspection of premises and territories, not indicated in Paragraph 1 of this Article, may be carried out by customs authorities in checkpoints on the State border of the Republic of Tajikistan, in customs control zones established along the customs border and also with persons carrying out wholesale or retail sale of imported goods, if there is information that goods and means of transport, imported to the customs territory of the Republic of Tajikistan with violation of the procedure stipulated by this Code, are located in the premises or territories of those persons, for the purpose of verifying such information.
3. Inspection of personal accommodations shall not be allowed.
4. Inspection of premises and territories shall be conducted upon presentation of the permission, signed by the head of the customs authority or the official acting for the latter, and of the certificate of employment. The list of customs officials, having the right to access to the indicated territories and premises and also a form of the permission, shall be defined by the authorized body on customs affairs. If the customs legislation of the Republic of Tajikistan establishes other procedure for access by state officials to specific objects, then customs officials shall have access to those objects according to the procedures stipulated by these legislative acts.
5. In the cases when customs officials are refused access to the territory or premises, they shall have the right to enter the territory and premises by suppression of the resistance and by opening the locked premises in the presence of two witnesses, except for the cases when the other procedure of access of officials of state bodies to specific objects is stipulated by legislation of the Republic of Tajikistan. Customs authorities shall inform the public prosecutor within twenty-four hours of all cases of entering premises by suppressing resistance and by opening locked premises.
6. Inspection of premises and territories shall be conducted within a minimum period, required for conducting the inspection and may not be more than 24 hours.
7. The act in the form approved by the authorized body on customs affairs shall be drawn up in the result of the inspection. The second copy of the act shall be delivered to the person, whose premises and territories were inspected.

#### **Article 417**

##### **Customs audit**

1. Customs authorities shall carry out customs audit in order to verify the fact of release of goods and also reliability of the information, indicated in a customs declaration and other documents submitted in the course of customs clearance by comparing the information with accounting and reporting data, with accounts and other information available with persons indicated in this Article.

Customs audit shall be carried out in the general and special forms. General and special audits shall be carried out according to the procedure defined by the authorized body on customs affairs.

2. General customs audit shall be carried out by customs officials with regard to actions of declarants and persons indicated in Article 15 of this Code and not acting as a declarant.

Prior to the beginning of the audit, the copy of the decision of the customs authority on carrying out an audit shall be delivered to the person subject to audit, with making an appropriate note into the Register book for inspection of entrepreneurs.

When carrying out a general customs audit, customs authorities shall have the right to access, within the limits of their competence, to database and databank of automated information systems of the person being audited, taking into account the requirements of the legislation of the Republic of Tajikistan with regard to the information security. Customs audit shall be carried out in the minimum period required for its carrying out, and may not be more than three working days. Carrying out an audit shall not interfere with production or commercial activities of the person under audit.

Repeated performance of a general customs audit with regard to one and the same goods shall not be allowed.

3. Special customs audit may be carried out by customs authorities:

1) with regard to persons indicated in Paragraph 2 of this Article - in the cases, when as a result of general customs audit or conducting other forms of customs control, stipulated by this Chapter, the data which may prove unreliability of the information, submitted in the course of customs clearance or use and disposal of goods with violation of established requirements and restrictions are discovered;

2) with regard to brokers (agents), owners of temporary storage warehouses, owners of customs warehouses, free warehouses, duty-free shops and customs carriers - when discovering the data which may bear evidence of violations of record keeping of goods, conveyed across the customs border and reporting on them, or non-compliance with requirements and terms of performing a relevant type of activity, established by this Code;

3) with regard to persons carrying out wholesale and retail sale of imported goods - when discovering the data which may prove that the goods were imported to the customs territory with violation of requirements and terms, established by this Code, that resulted in violation of the procedure for payment of customs duties and taxes or non-compliance with prohibitions and restrictions established by the normative legal acts of the Republic of Tajikistan.

Special customs audit shall be allowed by the head of the customs house or of the superior customs authority or by the official acting for the latter. The decision on conducting special customs audit shall be made in the written form. Prior to carrying out special customs audit, a copy of such decision shall be delivered to the person subject to the audit.

4. When carrying out special customs audit, customs authorities shall have the right:

1) to request, for free of charge, submission of any documents and information (including banking information), including electronic versions relating to carrying out production, commercial and other operations with goods, imported to the customs territory of the Republic of Tajikistan and review them;

2) to inspect premises and territories of the person under audit, and also to exercise examination and search of goods in accordance with this Code in the presence of the authorized representatives of the person under audit; and in the case of auditing an individual entrepreneur – in the presence of two witnesses;

3) to carry out a stocktaking of goods in accordance with legislation of the Republic of Tajikistan;

4) to withdraw goods or seize goods in accordance with Article 418 of this Code.

5. Special customs audit shall be carried out within a minimum time frame required for its carrying out, and may not be more than 15 days from the day of making a decision on carrying out special customs audit. The indicated time frame shall not include the period between handling a requirement on submission of documents and information and actual submission of the documents and information indicated. In exclusive cases, the superior customs authority may extend the period of audit up to one month.

Repeated special customs audit with regard to one and the same person and one and the same goods shall not be allowed.

6. Customs audit (both general and special) shall be carried out only with respect to legal entities and individual entrepreneurs.

7. For the purposes of customs audit (both general and special forms), customs authorities may use the results of stocktaking, carried out by the person authorized with respect to goods, and carrying out storage of such goods or by controlling bodies, also audit opinions and also acts and conclusions of state bodies.

8. The results of a customs audit (general and special forms) shall be formalized as an act according to the form defined by the authorized body on customs affairs. The act indicated shall be drawn up:

1) on the day following the day of completing general customs audit;

2) within 10 days after completing special customs audit.

The second copy of the act shall be submitted to the person audited.

9. If in the course of customs audit (general and special forms), features of crime or administrative violation in the sphere of customs activity are discovered, the audit with regard to the direct objects of a violation established shall

be completed. In this cases, the act on the results of a customs audit shall be formalized immediately. Further actions shall be taken by customs authorities in accordance with the criminal and procedural legislation of the Republic of Tajikistan or with the legislation of the Republic of Tajikistan on administrative violations.

#### **Article 418**

#### **Seizure of Goods or Withdrawal of Goods in the Course of Special Customs Audit**

1. In the course of special customs audit, goods shall be seized in the following cases:

1) discovery of goods without special marks, identification signs or other methods of identification of goods which are stipulated by this Code and other normative legal acts of the Republic of Tajikistan for verifying that the goods are legally imported to the customs territory of the Republic of Tajikistan, or discovery of goods with false marks or signs;

2) absence of the information concerning release of goods by customs authorities in the commercial documents of the person under audit, if in accordance with normative legal acts of the Republic of Tajikistan, this information is obligatory to be specified in commercial documents, when goods are circulated on the territory of the Republic of Tajikistan, and also when it is discovered that such information is unreliable, or the commercial documents in which this information is to be specified are not available;

3) discovery of the facts of using and (or) disposing of conditionally released goods for other purposes than those in connection with which full or partial exemption from payment of import customs duties and taxes is granted;

2. Seized goods shall be transferred for storage to their owner or to another person authorized with respect to such goods. The place for storage of such goods shall be declared as a customs control zone (Article 403).

3. If goods are prohibited to be imported to the Republic of Tajikistan or to be circulated in accordance with the legislation of the Republic of Tajikistan, and also when there are sufficient grounds to believe that the seizure of goods is not an adequate measure for ensuring their safety, customs authorities shall withdraw the goods.

The withdrawn goods shall be placed in a temporary storage warehouse or other place that is a customs control zone.

4. Goods may not be withdrawn or seized, if the person with whom the goods were discovered, provides a security for payment of customs payments, which may be recovered, except for the cases, when goods are prohibited from importation to the Republic of Tajikistan or circulation in accordance with the normative legal acts of the Republic of Tajikistan, or when quantity restrictions are established with respect to goods, when importing, in accordance with the normative legal acts of the Republic of Tajikistan.

Calculation of customs duties and taxes for the purposes of determining the amounts of security of their payments shall be made in accordance with Article 372 of this Code.

5. Withdrawal of goods and their seizure shall be carried out based on the justified resolution of the customs official conducting a special customs audit in the presence of the person with whom the goods are discovered or his/her representative and also in the presence of not less than two witnesses.

When necessary, a specialist is invited to carry out a withdrawal or seizure of goods (Article 425).

Prior to withdrawal or seizure of goods, a customs official shall present a resolution concerning withdrawal or seizure to the person whose goods are subject to be withdrawn or seized.

6. A protocol shall be compiled upon performance of a withdrawal or seizure. Seized or withdrawn goods shall be listed and described in the protocol or in descriptions which are attached to the protocol with precise indication of the name, quantity and individual features of those goods. The protocol shall be signed by the customs official, who conducted a withdrawal and seizure, by the person with whom the withdrawn or seized goods are discovered or his/her representative, and also by witnesses. The copy of the protocol shall be submitted to the person, with whom the goods are discovered or to his/her representative.

7. Return of withdrawn goods and release from seizure shall be carried out not later than the day when special customs audit is completed, except for the cases, when they may be confiscated, used as material evidences or may be recovered against payment of customs payments. If in the course of the audit it will be proved, that the legislation of the Republic of Tajikistan was not violated with regard to such goods, then goods shall be subject to be returned to the owner, or release from the seizure shall be made immediately, and expenses relating to temporary storage shall be covered from the national budget.

8. Disposal of the withdrawn and seized goods shall be indicated in the act with the results of the audit (Paragraph 8 of Article 417).

9. Disposal of unclaimed goods upon expiration of two months from the day of completing special customs audit shall be carried out according to the procedure stipulated by Section VI of this Code.

#### **CHAPTER 51**

#### **EXPERT EXAMINATIONS AND RESEARCHES IN THE**

## **COURSE OF CUSTOMS CONTROL**

### **Article 419**

#### **Assignment of a Customs Expert Examination in the Course of Customs Control**

1. Expert examination of goods, means of transport and documents containing information on goods and means of transport or on performance of operations (actions) with regard to them shall be assigned in the cases, when special knowledge is required to clarify issues raised in the course of customs control.
2. Experts of customs laboratories and other relevant organizations or other experts, assigned by customs authorities, shall carry out an expert examination. Any person, possessing special knowledge required for making a conclusion, may be assigned as an expert. An expert shall be invited on a contractual basis. In the event of assigning an expert examination on the initiative of a declarant or other person concerned, the indicated persons shall have the right to propose candidates of expert to customs authorities.
3. A customs official, with the permission of the head of the customs authority or the official acting for the latter, shall make a resolution on assigning an expert examination. The resolution shall specify the grounds for carrying out an expert examination; family name, first name and patronymic name of the expert; the name of the organization in which the expert examination shall be carried out; issues to be solved by the expert; list of materials and documents provided to the expert; period of carrying out an expert examination and presentation of the conclusion to the customs authorities.  
The resolution shall also specify that the expert is warned on the administrative responsibility for making an admittedly false conclusion.
4. The time frame for carrying out an expert examination shall not exceed:
  - 1) the deadlines for temporary storage (Article 103) - if the release of goods is not carried out until receiving the results of the expert examination;
  - 2) six months - if the expert examination is carried out with regard to means of transport;
  - 3) one year - in other cases.
5. The customs official shall be obliged to familiarize the declarant or another person, authorized with respect to goods (if known), with the resolution on the assignment of the expert examination, and to explain his/her rights as stipulated by Articles 423 of this Code. A note regarding familiarizing the declarant shall be made on the resolution, and shall be signed by the person in question or his/her representative.
6. Expenses for carrying out an expert examination incurred by customs authorities, customs laboratories and other experts and organizations, carrying out expert examinations, shall be covered from the national budget, except for the cases when expert examination is not carried on the initiative of customs authorities.

### **Article 420**

#### **Expert's Conclusion**

1. Based on the researches carried out and taking into consideration their results, an expert shall give his/her conclusion in writing on his/own behalf.
2. The expert's conclusion shall indicate the time and place of the research conducted; who carried out the research and on what basis; questions to be answered by the expert; objects of researches; materials and documents provided to the expert; content and results of the researches with indicating method applied; assessment of the results of researches; findings with regard to the issues and their justification.  
Materials and documents illustrating the conclusion of the expert or several experts shall be attached to the conclusion and shall serve as its constituent part.  
If an expert, when carrying out an expert examination, establishes that there are significant circumstances, that are not covered by his/her tasks, he/she shall have the right to include the findings on these circumstances in his/her conclusion.
3. When a customs expert examination is conducted by several experts, the conclusion shall be signed by all the experts. If there are disagreements among experts, each of them shall give his/her own conclusion.
4. The customs authority, which assigns an expert examination, shall deliver to the declarant or other persons authorized with respect to goods and (or) means of transport, if these persons are identified, a copy of the conclusion of the expert or his/her statement on impossibility to give the conclusion.
5. When making a decision, customs authorities shall consider conclusions of the expert on the results of expert examinations, including those carried out on the initiative of the declarant or another person concerned.

### **Article 421**

#### **Additional and Repeated Expert Examinations**

1. If the conclusion is not clear and full enough, an additional customs expert examination shall be assigned to the same expert or another expert or organization.
2. If the conclusion of the expert is unjustified or there are doubts in its accuracy, a repeated expert examination may be assigned to another expert.
3. Additional and repeated expert examinations shall be assigned and conducted in accordance with Articles 419 and 420 of this Code.

**Article 422**  
**Expert's Rights and Duties**

1. An expert shall have the right:
  - 1) to review materials relating to the subject of the expert examination;
  - 2) with agreement with the customs authority, to invite other experts to carry out an expert examination;
  - 3) to request for additional materials, required for carrying out an expert examination;
  - 4) to refuse to give a conclusion, if the materials provided to him/her are not sufficient, and if he/she does not have the knowledge, required for carrying out an expert examination. An expert shall inform in writing a customs authority if it is impossible for him/her to give a conclusion.
  - 5) with the permission of the customs authority, to participate in certain actions, when carrying out customs control.
2. The information presenting commercial, banking and other secret, protected by the law, and also other confidential information, obtained by the expert in the course of the expert examination or at the stage of its preparation, shall not be disclosed, used for other purposes or transferred to third persons, except for the cases stipulated by the legislation of the Republic of Tajikistan.

**Article 423**  
**Rights of the Declarant, Other Persons Authorized in Respect to Goods and (or) Means of Transport and Their Representatives, when Assigning and Carrying Out an Expert Examination**

1. When assigning and carrying out an expert examination, a declarant or other person authorized with respect to goods and (or) means of transport and their representatives shall have the right:
  - 1) to reasonably file objection to the expert;
  - 2) to present a petition on assigning a certain expert;
  - 3) to present a petition on giving additional questions to the expert for receiving a conclusion thereon;
  - 4) to attend the expert examination and give explanations to the expert, with the permission of the customs authority, which assigned the expert examination;
  - 5) to take samples and specimens of goods (Article 424);
  - 6) to review the conclusion of the expert or his statement concerning impossibility of giving a conclusion and receive a copy of such conclusion or statement;
  - 7) to request for carrying out an additional or repeated expert examination.
2. In the event of satisfaction of the petition of the declarant, other persons authorized with respect to goods and (or) means of transport or their representative, a customs official, which assigned an expert examination, shall issue an appropriate resolution.  
In the event of declining a petition, a customs official shall reasonably inform in writing about it the person who submitted the petition.

**Article 424**  
**Samples and Specimens**

1. When carrying out customs control, customs official shall be entitled to take samples or specimens of goods required for researches. Taking samples or specimens of goods shall be formalized as an act according to the format determined by the authorized body on customs affairs. The second copy of the act shall be presented to the person authorized with respect to goods, if identified, or his/her representative.  
When necessary, taking samples or specimens shall be carried out with participation of an expert or specialist.
2. With written permission of the customs authority, samples or specimens of goods under customs control may be taken by declarants, by persons authorized with regard to the goods, by their representatives, by the persons indicated in Paragraph 1 of Article 442 of this Code and by officials of other state bodies.
3. Samples or specimens of goods shall be taken in the minimum quantities required to make examination possible. The permission for taking samples and specimens of goods shall be issued to the persons indicated in Paragraph 2 of this Article in the event if such taking samples and specimens of goods does not
  - 1) complicate exercising customs control;

- 2) change the characteristics of goods;
- 3) entail evasion from payment of customs duties and taxes or non-compliance with prohibitions and restrictions, established in accordance with the normative legal acts of the Republic of Tajikistan.
4. When taking samples or specimens by the declarant, a separate customs declaration for samples and specimens shall not be submitted, provided that they are included in the customs declaration on the goods.  
A declarant shall have the right to decrease a customs value of declared goods by the customs value of samples and specimens, if such samples and specimens were taken by the customs authority and were not returned within the established time limits.
5. The declarant, persons authorized with respect to goods, and their representatives shall have the right to be present upon taking of samples or specimens by customs officials and officials of other state bodies.
6. Customs officials shall have the right to be present upon the taking of samples or specimens by officials of other state bodies and also by other persons indicated in Paragraph 2 of this Article.
7. Declarants and their representatives shall be obliged to provide assistance to the customs officials, when taking samples or specimens of goods, including carrying out cargo and other required operations with goods at their own expense.
8. Customs officials shall have the right to take samples or specimens of goods in the absence of the declarants or their representatives in the cases indicated in Paragraph 3 of Article 413 of this Code. Taking samples or specimens in the indicated cases shall be carried out in the presence of not less than two witnesses.
9. Customs authorities must be informed on the results of the tests of samples or specimens of goods, which are taken by other state bodies, and notify the persons indicated in paragraph 2 of this Article thereon.
10. The procedures for taking samples or specimens of goods, and the procedure for their testing shall be established by the authorized body on customs affairs in accordance with this Code and other normative legal acts of the Republic of Tajikistan.
11. Upon completion of the research, the samples or specimens shall be returned to the declarant, except for the cases when such samples or specimens are subject to destruction or utilization in compliance with the normative legal acts of the Republic of Tajikistan, and also when expenses associated with return of samples or specimens exceed their value.

**Article 425**  
**Participation of an Expert in the Course of Customs Control**

1. When necessary, an expert with special knowledge and skills required for providing assistance to customs authorities including when applying technical facilities, may be invited to participate in performing certain actions, where that specialist has no interest in the outcome of these actions.
2. An expert shall be invited on a contractual basis.
3. An expert shall have the right:
  - 1) to review materials relating to the subject of actions that are carried out with his/her participation;
  - 2) with the permission of a customs official, to ask the participants of appropriate actions questions relating to the subject of such actions;
  - 3) review documents prepared on the basis of the results of the performed actions, when carrying out customs control, in which he/she participated, and make statements or comments, subject to be included in such documents with regard to the actions in progress.
4. An expert shall be obliged:
  - 1) to participate in performing actions, which require special knowledge, give explanations with regard to actions taken by him/her;
  - 2) to certify by signature the fact of performance of the actions indicated, their content and results.
5. The information obtained by an expert during his/her engagement in performing actions associated with the customs control, which contains commercial, banking or other secrets, protected by law, and also other confidential information shall not be disclosed, used for other purposes, transferred to third persons, except for cases stipulated by legislation of the Republic of Tajikistan.
6. Expenses, incurred with customs authorities due to invitation of an expert, shall be reimbursed from the national budget, except for cases of inviting an expert not on the initiative of customs authorities.

**Article 426**  
**Inviting Specialists of Other State Bodies to Provide Assistance  
in the Course of Customs Control**

1. Customs authorities shall have the right to invite specialists of other law enforcement and controlling bodies to provide assistance in exercising customs control in accordance with the normative legal acts of the Republic of Tajikistan.
2. Expenses associated with attracting specialists from other state bodies, if this work goes beyond their official duties, shall be reimbursed according to the procedure, determined by the Government of the Republic of Tajikistan.

## **CHAPTER 52 RISK ASSESSMENT AND MANAGEMENT**

### **Article 427 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 Tajikistan, which may lead to losses to the state.
- "Risk assessment" shall mean systematic determination of risk management priorities by means of assessment and comparison of the degree of risk against 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 high risk spheres and to ensure more effective use of available resources;
  - 2) to increase possibilities to reveal violations in the sphere of customs activity;
  - 3) to create favourable conditions for participants in foreign economic activities, who comply with the customs legislation of the Republic of Tajikistan, to convey goods and means of transport across the customs border of the Republic of Tajikistan.

### **Article 428 Risk Categories**

The following objects may be attributed to risk categories:

- 1) types of goods;
- 2) classification codes of goods under the Commodity Nomenclature of the Foreign Economic Activity;
- 3) country of origin of goods;
- 4) country of departure of goods;
- 5) country of destination of goods;
- 6) means of transport;
- 7) customs value;
- 8) route of transportation of goods;
- 9) participant in foreign economic activities;
- 10) documents, presented for customs clearance.

### **Article 429 Activities of Customs Authorities Regarding Risk Assessment and Management**

1. The authorized body on customs affairs shall collect, process and analyze statistical and operational information on violations in the field of customs, including all cases of violations, which are in the process of verification and with respect to which a procedural decision was made.
  2. The authorized body on customs affairs shall determine the lists of risk factors, criteria for their determination and application.
  3. The established lists of risk factors shall be used by customs authorities in the course of customs control in order to use differentiated forms of customs control, and may not be considered as grounds for restricting the conveyance of goods across the customs border of the Republic of Tajikistan. These lists shall be regarded as confidential information.
  4. Upon proposals by regional customs offices of the authorized body on customs affairs, the lists of risk factors may be changed during the entire period of their validity, taking into account the current operational situation.
  5. Participants in foreign economic activities may be referred to the minimum or maximum risk categories in compliance with procedures established by the authorized body on customs affairs.
- The procedures for referring participants in foreign economic activities to the minimum risk category and for application of certain types of customs procedures and customs control forms to them shall be established based

upon proposals developed by regional customs offices of the authorized body on customs affairs jointly with non-profit organizations in the field of customs affairs.

## **CHAPTER 53 ADDITIONAL PROVISIONS RELATING TO CUSTOMS CONTROL**

### **Article 430 Exemption From Certain Forms of Customs Control**

1. Exemption from application by customs authorities of certain forms of customs control shall be established exclusively by this Code and by international legal acts accepted by the Republic of Tajikistan.
2. The personal baggage of the President of the Republic of Tajikistan and his family members shall not be subject to customs examination.
3. The personal baggage of members of Madzhlici milli Madzhlici Oli of the Republic of Tajikistan, deputies of Madzhlici namoyandagon Madzhlici Oli of the Republic of Tajikistan, of the Prime-Minister of the Republic of Tajikistan and their family members that accompany them, shall be exempted from customs examination. Personal baggage of the members of the Government of the Republic of Tajikistan when they cross the customs border of the Republic of Tajikistan due to fulfilment of their service duties, shall not be subject to customs examination.
4. The head of the authorized body on customs affairs or the official acting for the latter shall have the right to exempt certain people, certain goods and means of transport from certain forms of customs control when this is associated with ensuring security of the Republic of Tajikistan.

### **Article 431 Information on Persons**

1. When exercising customs control and customs clearance of goods and means of transport, conveyed across the customs border, customs authorities shall collect information on the persons involved in the activities related to the conveyance of goods and means of transport across the customs border, or information on persons conducting activities in the field of customs affairs (Chapter 3) in the cases and according to the procedures stipulated by this Code.
2. With the purpose of exercising customs control and levying customs payments, customs authorities shall have the right, in compliance with the legislation of the Republic of Tajikistan, to compile information including the following information:
  - 1) on founders of the organization;
  - 2) on state registration of the legal entity or as an individual entrepreneur;
  - 3) on the structure of the property used for carrying out entrepreneurial activities;
  - 4) on bank accounts opened;
  - 5) on the activities in the field of foreign economic activities;
  - 6) on location of the organization;
  - 7) on registration in tax bodies as a taxpayer and identification number of a tax payer;
  - 8) on solvency of the persons included into registers of persons carrying out activities in the field of customs affairs;
  - 9) with respect to natural persons – on personal data of citizens (surname, first name, patronymic name, citizenship, date of birth, sex, personal address, identification number of a tax payer (if available), and also information on the frequency of movement of goods across the customs border.
3. Persons indicated in Paragraph 1 of this Article, shall have the access to the documented information on themselves, available with customs authorities, and shall have the right to make clarifications of this information in order to ensure its completeness and accuracy. Customs authorities shall provide the information to the persons in question free of charge.

### **Article 432 Use of Technical Facilities, River Vessels and Aircrafts in the Course of Customs Control**

1. In order to reduce the time for exercising customs control and to enhance its effectiveness and optimization, customs authorities may use technical facilities, the list of which shall be formulated by the authorized body on customs affairs.  
These technical facilities shall not endanger the life and health of people.

2. Customs control of goods and means of transport within the territorial waters of the Republic of Tajikistan and also on the territory adjacent to the customs border, shall be exercised by using river vessels and aircrafts of customs authorities.

3. The procedure for using river vessels and aircrafts of customs authorities for customs control purposes shall be established by the authorized body on customs affairs in accordance with this Code.

#### **Article 433**

#### **Cargo and Other Operations with Goods and Means of Transport Required for Customs Control**

1. Upon request of the customs authority, a declarant, owner of a temporary storage warehouse, owner of a customs warehouse, owner of a free warehouse, a customs broker, or other person, authorized with regard to goods, shall be obliged to provide transportation, weighing of goods or determining 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, containers and other places, where goods are or may be located.

2. The carrier shall be obliged to assist with cargo or other operations with goods that he/she conveys, and (or) with means of transport that are conveyed across the customs border.

#### **Article 434**

#### **Identification of Goods and Means of Transport**

1. Identification of goods and means of transport under customs control may be executed by sealing; stamping; marking with numbers, letters or other symbols, or identification marks; using transport (shipping), commercial and other documents, punching stamps; taking samples and specimens; describing goods and means of transport in detail; preparing designs, images to scale, photographs, or illustrations; and by other identification means.

2. Means of identification may be destroyed or changed (replaced) only by 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 change, removal, destruction or damage of identification marks, and shall be provided with the proof that such threat exists. The act in the form approved by the authorized body on customs affairs on the fact of change, removal, destruction and replacement of identification means shall be drawn up.

3. Provisions of Paragraph 2 of this Article shall be valid in the cases, when seals, stamps or other identification means are applied by customs authorities of foreign countries.

4. Upon request of a declarant, customs authorities shall identify local goods declared to be exported from the customs territory of the Republic of Tajikistan in the place of their declaration.

#### **Article 435**

#### **Additional Powers of Customs Authorities When Detecting Goods Illegally Imported to the Customs Territory of the Republic of Tajikistan**

1. When customs authorities detect goods, illegally conveyed across the customs border, that entailed non-payment of customs duties and taxes or non-compliance with prohibitions and restrictions established in accordance with normative legal acts of the Republic of Tajikistan, with the persons who purchased goods on the customs territory of the Republic of Tajikistan when carrying out entrepreneurial activities, such goods shall be seized or withdrawn and placed for temporary storage according to the procedures stipulated by Article 418 of this Code. For customs purposes, the indicated goods shall be deemed as goods under customs control.

2. The persons indicated in Paragraph 1 of this Article shall have the right to pay customs payments in accordance with Article 372 of this Article, and to fulfil other requirements and conditions of customs clearance of goods in a simplified procedure, determined by the authorized body on customs affairs. In this respect, goods shall not be withdrawn, if persons pay customs payments not later than 5 days from the day of detection of goods, or secure their payment in accordance with Chapter 46 of this Code. No interests shall be charged on the amounts of customs payments.

3. Provisions of Paragraph 2 of this Article with respect to granting persons the right to pay customs payments and carry out customs clearance of goods that are illegally imported to the customs territory of the Republic of Tajikistan shall not be valid for goods prohibited to be imported to the Republic of Tajikistan; for goods, the circulation of which is prohibited under the normative legal acts of the Republic of Tajikistan; and also for goods subject to quantity restrictions for import under the normative legal acts of the Republic of Tajikistan.

4. When paying customs payments and carrying out customs clearance by the persons indicated in Paragraph 1 of this Article, goods for customs purposes shall be deemed as released for free circulation, and this shall not prevent customs bodies from taking measures required to detect persons, involved in illegal conveyance of goods across the customs border.

5. In the event of refusal of persons who purchased goods, illegally imported to the customs territory of the Republic of Tajikistan to pay customs payments and perform customs operations, the disposal of such goods shall be carried out in accordance with this Code. Goods indicated in Paragraph 3 of this Article shall transfer to the state ownership based on the decision of the court upon application of customs authorities.

#### **Article 436**

#### **Use of the Results of Customs Control When Processing Cases on Administrative Violations and Considering Civil and Criminal Cases**

The results of customs control, drawn up in accordance with the provisions of this Section, may be recognized as an evidence on criminal, civil cases and cases on administrative violations, and shall be subject to the review by the court or an official, when considering the indicated cases, appeals against decisions, action (inaction) of customs authorities and their customs officials, or cases on economic disputes, settled by the economic court along with other evidences in accordance with the procedural legislation of the Republic of Tajikistan.

### **CHAPTER 54**

#### **MEASURES TAKEN BY CUSTOMS AUTHORITIES IN RESPECT TO CERTAIN GOODS**

#### **Article 437**

#### **Grounds for Suspension in Release of Goods**

1. According to the procedures stipulated by this Chapter, customs authorities shall take measures relating to suspension in release of goods based on the application of an owner of exclusive rights (intellectual property) with respect to the objects of copyright or related rights, trade marks, service marks and owner of the right to use a name of the place of origin of goods (hereinafter referred to as an owner of the right). The measures envisaged by this Chapter shall be taken, when conveying goods across the customs border or performing other actions with goods under customs control.

2. Measures taken by customs authorities in accordance with this Chapter, shall not prevent the owner of the right from applying any ways of protecting his/her rights in accordance with legislation of the Republic of Tajikistan.

#### **Article 438**

#### **Filing an Application by Owner of the Right and the Procedure for Its Consideration**

1. The owner of the right, who has sufficient grounds to believe that his/her rights may be violated in accordance with the legislation of the Republic of Tajikistan on intellectual property in connection with conveyance of goods across the customs border which are, in his/her opinion, counterfeited, or when performing other actions with goods under customs control, shall be entitled to file an application with the authorized body on customs affairs for taking measures to suspend release of such goods. The application may be filed on behalf of the owner of the right by his/her agent.

2. The application on taking measures to suspend release of goods shall contain the following data:

- 1) on the owner of the right, and if the application is filed by his/her agent – also on the agent;
- 2) on the objects of intellectual property;
- 3) on the goods which are, in the opinion of the owner of the right, counterfeited; this information shall be sufficiently detailed for the customs authorities to identify such goods;
- 4) on the period of time within which customs authorities shall take measures in accordance with this Chapter.

The documents verifying the intellectual property right (a certificate, agreement (including licensing agreement) on the transfer of exclusive rights, other documents, which the owner of the right may submit in witness of his/her intellectual property rights, shall be attached to the application on taking measures relating to suspension in release of goods. If an application is filed by an agent, a power of attorney, issued by the owner of the right to such person, shall be attached to the application in question.

The owner of the right (his/her agent) may attach to the application samples of the goods, which may serve as the evidence of the existence, in his/her opinion, of the fact of violation of his/her right.

3. The procedure for filing an application and requirements to the information being declared depending on the type of the intellectual property object shall be determined by the authorized body on customs affairs.

4. The obligation in a written form of the owner of the right concerning compensation for the property harm which may be caused to a declarant, owner, consignee or to the person indicated in Article 15 of this Code in connection with suspension in release of goods, shall be attached to the application.

5. The authorized body on customs affairs shall consider the application within the period of time not exceeding one month from the day that it was submitted, and shall make a decision on taking measures in accordance with this Chapter or the decision on declining to take such measures.

With the purpose to verify the reliability of the information submitted by the owner of the right (his/her agent), the authorized body on customs affairs shall have the right to request from third parties and also from state bodies the documents, confirming the information declared. The indicated persons shall be obliged to submit the documents requested within 10 days from the day of receiving the request. In this respect, the authorized body on customs affairs shall have the right to extend the period of considering the application but not more than for one month.

The decision on the refusal to take measures in accordance with this Chapter, shall be made in the event of submitting by an owner of the right (his/her agent) unreliable information and also in case of non-compliance with the requirement established by Paragraph 2 of Article 439 of this Code.

The owner of the right (his/her agent) shall be notified on the decision made in writing within three days from the day of making such decision.

6. In the event of changes in the information indicated in the application or in the attachments, the owner of the right (his/her agent) shall be obliged to immediately inform thereon the authorized body on customs affairs.

#### **Article 439** **Customs Register of Objects of Intellectual Property**

1. Objects of intellectual property in respect of which the authorized body on customs affairs made a decision on taking measures in accordance with this Chapter, shall be included in the customs register of objects of the intellectual property (hereinafter in this Chapter - the Register). No payment shall be levied for including in the Register.

The authorized body on customs affairs shall maintain the Register according to the procedure determined by this body.

2. The object of intellectual property shall be included in the Register, provided that the owner of the right shall ensure the fulfilment of the obligation indicated in Paragraph 4 of Article 438 of this Code, by methods envisaged by the civil legislation of the Republic of Tajikistan. Instead of ensuring the fulfilment of the obligation, the owner of the right shall have the right to submit the agreement on insuring the risk of the obligation for causing damage in favour of the persons indicated in Paragraph 4 of Article 438 of this Code. In this respect, the amount of ensuring the obligation or insurance amount shall not be no less than 6000-times minimum monthly wage, established by the law.

3. The objects of intellectual property shall be subject to exclusion from the Register in the following cases:

- 1) upon the will of the owner of the right (his/her agent);
- 2) if the owner of the right failed to comply with the conditions envisaged by Paragraph 2 of this Article;
- 3) when the duration of the legal protection of objects of intellectual property terminates;
- 4) if the owner of the right failed to apply to the body authorized in accordance with the legislation of the Republic of Tajikistan, to protect his/her rights within the time limits of suspending the release of goods (Article 441).

4. The authorized body on customs affairs shall ensure publication of the list of objects of intellectual property included in the Register in their official publications.

#### **Article 440** **Time Limits for Customs Authorities to Take Measures Related to Suspension in Release of Goods**

Time limits, within which customs authorities take measures related to suspension in release of goods, shall be established based on the application of the owner of the right (his/her agent), but not more than for five years from the day of including the object of intellectual property in the Register. The indicated time limits may be extended based on the application of the owner of the right (his/her agent), provided that the requirements envisaged by Article 438 and Paragraph 2 of Article 439 of this Code are met. The time limits within which customs authorities take measures related to suspension in release of goods may not exceed the time limits for the legal protection of an object of intellectual property.

#### **Article 441**

### **Suspension in Release of Goods**

1. If in the course of customs clearance and customs control, the customs authority discovers any goods indicated by the owner of the right (his/her agent) as being counterfeit, the release of such goods shall be suspended for 10 working days. Under a reasonable written request of the owner of the right (his/her agent), the indicated time limit may be extended but not more than for 10 working days, if the person in question applied to the body authorized in accordance with the legislation of the Republic of Tajikistan to protect the rights of the owner of the right.

The decision to suspend the release of goods and extend the period of suspension of the release of goods shall be made in writing by the head of the customs authority or by the official acting for the latter.

2. The customs authority shall notify the owner of the right (his/her agent) and the declarant on the suspension in release of goods, on the reasons for suspension, on the period of suspension, and shall also inform the declarant of the name (family name, first name, patronymic name) and address of the owner of the right (his/her agent), and shall inform the owner of the right (his/her agent) of the name (family name, first name, patronymic name) and address of the declarant.

3. In accordance with the civil legislation of the Republic of Tajikistan, the owner of the right shall be liable for damages caused to the declarant, owner or consignee of goods, or to the person indicated in Article 15 of this Code in result of suspension in release of goods in accordance with this Chapter, if according to the procedure established by the legislation of the Republic of Tajikistan, it is not defined that the goods (including their packaging and label) are counterfeited.

### **Article 442**

#### **Provision of Information. Taking Samples and Specimens**

1. With the written permission of the customs authority, the owner of the right and the declarant ((their agents) may take, under customs control, samples and specimens of goods with respect of which the decision to suspend release was made; make their testing, and also inspect, take a photo or fix such goods in other ways.

2. Upon request of the owner of the right (his/her agent), the customs authority may provide additional information, which may be needed for the owner of the right to prove violations of his/her rights, except for the cases envisaged by legislation of the Republic of Tajikistan.

3. Information received by the owner of the right (his/her agent) 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 for the cases stipulated by legislation of the Republic of Tajikistan.

### **Article 443**

#### **Cancel of the Decision to Suspend Release**

1. If prior to expiration of the time limits for suspension in release of goods, the decision on withdrawal of goods, their seizure or confiscation is not received from the authorized body in accordance with normative legal acts of the Republic of Tajikistan, the decision on suspension in release of goods shall be subject to be cancelled on the day following the day of the expiration of the period for suspending in release of goods.

2. The decision to suspend release of goods must be cancelled prior to expiration of the deadline for release of goods, if:

1) the owner of the right (his/her agent) applies to the customs authority with the request to cancel the decision to suspend release;

2) the object of intellectual property is excluded from the Register.

3. The decision to suspend release of goods must be cancelled on the day when the ground indicted in Paragraph 2 of this Article has become evident.

4. The decision to suspend release of goods shall be cancelled in writing by the head of the customs authority who made the decision, or by the person substituting for him/her. After cancel of such decision, goods shall be released according to the procedure established by this Code (Chapter 16)

### **Article 444**

#### **Goods with Regard to Which Customs Authorities do not Apply Measures Related to Suspension in Release**

Customs authorities shall not take measures related to suspension in release of goods in accordance with this Chapter with regard to goods containing objects of intellectual property and conveyed across the customs border by natural persons or sent via international mail in insignificant quantity, if such goods are intended for personal, family, house and other purposes not related to entrepreneurial activities.

**SECTION V**  
**CUSTOMS CONTROL IN THE FIELD OF CURRENCY AND EXPORT CONTROL**

**CHAPTER 55**  
**FUNCTIONS OF CUSTOMS AUTHORITIES IN THE FIELD OF CURRENCY CONTROL**

**Article 445**  
**Functions of Customs Authorities in the Field of Currency Control**

Within their competency, customs authorities shall exercise control over compliance with the currency legislation of the Republic of Tajikistan when conveying goods and means of transport across the customs border of the Republic of Tajikistan.

**Article 446**  
**Competency of Customs Authorities in the Field of Currency Control**

In order to ensure compliance with the currency legislation of the Republic of Tajikistan, customs authorities shall:

- 1) ensure control over observance of the currency legislation of the Republic of Tajikistan by participants in foreign economic activity;
- 2) inform the National Bank of Tajikistan on movement of goods and means of transport across the customs border of the Republic of Tajikistan in compliance with the procedure established by the authorized body on customs affairs in coordination with the National Bank of Tajikistan;
- 3) inform the National Bank of Tajikistan and of the second-level banks on violations of the currency legislation of the Republic of Tajikistan, that are discovered by customs authorities.

**CHAPTER 56**  
**EXPORT CONTROL EXERCISED BY CUSTOMS AUTHORITIES**

**Article 447**  
**Customs Authorities as Authorities of Export Control**

1. Within their competency and in compliance with legislation of the Republic of Tajikistan, customs authorities shall carry out regulation in the field of export control.
2. Within their competency and in compliance with normative legal acts of the Republic of Tajikistan, the authorized body on customs affairs shall determine the functions and the competencies of customs authorities by developing normative legal acts in the field of export control.

**Article 448**  
**Competencies of Customs Authorities in the Field of Export Control**

1. Customs authorities shall exercise customs control over goods subject to export control when they are conveyed across the customs border of the Republic of Tajikistan.
2. Customs authorities shall participate in the development of normative legal base in the field of export control, and shall prevent and suppress illegal conveyance of goods subject to export control across the customs border of the Republic of Tajikistan.

**Article 449**  
**Observance of Confidentiality of Information**

Customs officials, who are authorized to exercise export control, shall observe confidentiality of the information obtained from participants in foreign economic activity and from other appropriate authorized state bodies.

**SECTION VI**  
**TRANSFERS AND DISPOSAL OF GOODS AND MEANS OF TRANSPORT**

**CHAPTER 57**

## **GROUND AND PROCEDURES FOR TRANSFERRING GOODS AND MEANS OF TRANSPORT TO STATE OWNERSHIP**

### **Article 450**

#### **Grounds for Transferring Goods and Means of Transport to State Ownership**

Goods and means of transport shall be transferred to state ownership based upon:

- 1) the court's decision, when employing confiscation for administrative violations or crimes;
- 2) the court's decision, when transferring goods to state ownership in accordance with Paragraph 9 of Article 418 and Paragraph 5 of Article 435 of this Code;
- 3) the customs declaration, processed under the customs regime for refusal in favour of the state and an acceptance report for goods or means of transport.

### **Article 451**

#### **Procedures for Transferring Goods and Means of Transport to State Ownership Upon the Court's Decision**

1. Goods and means of transport shall be transferred to state ownership due to violations in the field of customs affairs from the moment when the court's decision comes into force.
2. Based upon the court's decision, the customs authority shall transfer confiscated goods or means of transport to the appropriate authorized state body under the acceptance act.

### **Article 452**

#### **Procedures for Transferring Goods and Means of Transport that are Processed under the Customs Regime for Refusal in Favour of the State to State Ownership**

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 favour of the state.
2. Goods and means of transport processed under the customs regime for refusal in favour of the state, shall be transferred to state ownership, based on the customs declaration and on the acceptance act from the moment when the goods and means of transport are transferred to the appropriate authorized state body.

## **CHAPTER 58**

### **PROCEDURES FOR DISPOSAL OF GOODS AND MEANS OF TRANSPORT TRANSFERRED TO STATE OWNERSHIP**

#### **Article 453**

##### **Procedures for 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 this Code and other normative legal acts of the Republic of Tajikistan.

#### **Article 454**

##### **Disposal of Goods which Time Limit for Temporary Storage or Time Limit for Storage in the Temporary Storage Warehouse Has Expired**

Disposal of goods which time limit for temporary storage or time limit for storage in the temporary storage warehouse has expired, shall be carried out based on the act of the customs authority that checks the expiration of the time limit for temporary storage or for storage in a temporary storage warehouse. The act shall be completed in the form determined by the authorized body on customs affairs. The second copy of the act shall be submitted to the legal owner of goods, if this person is identified by customs authority. The copy of the act shall be submitted to the owner of the temporary storage warehouse or to the owner of the customs warehouse.

#### **Article 455**

##### **Disposal of Goods and Means of Transport that are Exhibits for Cases on Administrative Violations**

1. Customs authorities may dispose of goods and means of transport that are exhibits for cases on administrative violations in cases when there are no due conditions for their storage, and when actual costs for their storage exceed the value of goods, and in other cases stipulated by the Code of the Republic of Tajikistan on Administrative Violations and by other laws of the Republic of Tajikistan.
2. If in the course of consideration of the case on administrative violation, the decision is made to confiscate goods and means of transport that are indicated in Paragraph 1 of this Article, then the sums obtained from sale of such goods and means of transport shall be transferred to the state budget.
3. Disposal of goods and means of transport that are exhibits for cases on administrative violations, with regard to which the decision is made to return them to their legal owners and that are not claimed by them within one month from the day when the decision on the administrative case came into force, shall be carried out in compliance with this Chapter, if they were stored by the customs authorities or under their control.  
These goods and means of transport shall be disposed based on the act of the customs authority that checks the expiration of the time limit for their claim. The act shall be completed in the form determined by the authorized body on customs affairs.

#### **Article 456**

#### **The Procedure for and Methods of Disposal of Goods and Means of Transport**

1. Goods and means of transport shall be disposed by the organization that is authorized by the Government of the Republic of Tajikistan through their sale, destruction or utilization, according to the procedure determined by Government of the Republic of Tajikistan.
2. The customs authority in advance, but not later than 15 days in advance, shall notify in writing the legal owner or the person indicated in Article 15 of this Code (if these persons are identified by customs authorities) on the forthcoming transfer of goods and means of transport by the authorized organization.
3. Goods and means of transport shall be sold for prices determined by the normative legal acts of the Republic of Tajikistan.
4. Goods and means of transport that are subject to sale can not be purchased by customs officials, officials of the authorized body and by their family members.
5. Unless otherwise stipulated by the international legal acts of the Republic of Tajikistan, by normative legal acts of the Republic of Tajikistan, goods and means of transport that are prohibited for circulation in the Republic of Tajikistan, as well as goods which expenses for storage and sale exceed their value, shall be subject to be destructed or utilized in compliance with laws of the Republic of Tajikistan and other normative legal acts of the Republic of Tajikistan.
6. Destruction or utilization of goods and means of transport shall be performed at the expense of the person indicated in Article 15 of this Code; and if this person is not identified - at the expense of the legal owner; and in his/her absence - at the expense of the state budget, unless otherwise stipulated by legislation of the Republic of Tajikistan with regard to certain types of goods.

#### **Article 457**

#### **Disposal of Funds Obtained through Sale of Goods and Means of Transport**

1. Funds, obtained through sale of goods and means of transport that are not transferred to state ownership, shall be paid to their legal owner in compliance with the procedure determined by the Government of the Republic of Tajikistan within three years from their sale. The sums of import customs duties and taxes with regard to foreign goods that would be subject to payment if they were released for free circulation, also expenses for transportation, storage of goods and their sale (including expert examination and determining value), borne by customs authorities and other persons, shall be deducted from these funds.
2. If the funds, obtained through sale of goods, are not enough for levying customs duties and taxes and for covering all the expenses borne by customs authorities and other persons that in accordance with the civil legislation of the Republic of Tajikistan have right to claim for compensation of their expenses at the expense of these funds, then they shall be disposed of in the following order:
  - 1) first of all, the sums of customs duties and taxes shall be transferred to the state budget;
  - 2) second, expenses for transportation, storage and sale of goods shall be compensated.
3. Expenses shall be compensated, and calculation of such expenses shall be carried out according to the calendar queue of submitting documents that confirm the right to compensate expenses in compliance with legislation of the Republic of Tajikistan.
4. Upon expiration of the period indicated in Paragraph 1 of this Article, the funds obtained through sale of goods and means of transport shall be transferred to the state budget.

5. The funds obtained through sale of goods and means of transport that are transferred into state ownership, shall be transferred to the state budget, except for the expenses for transportation, storage and sale that are indicated in Paragraph 1 of this Article.

#### **Article 458**

##### **The Right of the Authorized Body on Customs Affairs for Free Transfer of Goods Transferred into State Ownership**

In compliance with the procedure determined by the Government of the Republic of Tajikistan, the authorized body on customs affairs shall transfer free of charge medicines, perishable food staff, children's nourishment, also clothes, shoes and other living essentials to institutions authorized in the field of social maintenance, health care, education and to children's institutions, to the bodies in charge of social security of the population; the objects of history, science and arts that are not of cultural value – to museums; flora and fauna items – to zoological parks, forest reserves, museums; the cult items – to religious organizations.

#### **Article 459**

##### **Peculiarities of Disposal of Certain Types of Goods**

Disposal of precious metals, precious stones and items thereof, cultural values, goods subject to marking, and other goods the circulation of which is restricted on the territory of the Republic of Tajikistan, shall be carried out in compliance with normative legal acts of the Republic of Tajikistan.

### **SECTION VII CUSTOMS AUTHORITIES**

#### **CHAPTER 59 CUSTOMS AUTHORITIES AND MAINTENANCE OF THEIR ACTIVITY**

##### **§ 1. Customs Authorities**

#### **Article 460**

##### **Customs Authorities and their Place in the System of State Bodies of the Republic of Tajikistan**

1. Customs authorities, being a state law enforcement body, shall ensure defence of the sovereignty and economic security of the Republic of Tajikistan, observance of rights and obligations of natural and legal persons when conveying goods and means of transport across the customs border of the Republic of Tajikistan.
2. None of the state bodies, except for Madzhlisi milli of the Madzhlisi Oli of the Republic of Tajikistan, Madzhlisi namoyandagon Madzhlisi Oli of the Republic of Tajikistan, President of the Republic of Tajikistan and the government of the Republic of Tajikistan, shall be entitled to make decisions that affect the competence of the customs authorities of the Republic of Tajikistan, fulfil without appropriate permission or change their functions, assign additional tasks or otherwise interfere in the activity of the customs authorities, which is carried out in compliance with the provisions of this Code and other acts of the legislation of the Republic of Tajikistan.
3. Influence on the functional activity of customs officials shall be prohibited.

#### **Article 461**

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

1. Customs authorities shall consist of the following:

- 1) an authorized body on customs affairs;
- 2) regional customs departments;
- 3) customs houses;
- 4) customs departments;
- 4) customs points;

2. The authorized body on customs affairs shall establish, reorganize and liquidate regional customs departments, customs houses, customs departments and customs points according to the procedure determined by the Government of the Republic of Tajikistan.

The competency of specific customs authorities in respect to specific functions, performance of certain customs operations and also the region for the activities of customs authorities shall be determined by the authorized body on

customs affairs. The authorized body on customs affairs shall be entitled to establish specialized customs bodies, the competency of which shall be restricted with certain rights for fulfilment of some functions of the customs bodies or for performance of customs operations in respect to certain types of goods.

3. Regional customs departments, customs houses and customs points shall operate on the basis of the requirements of this Code, other normative legal acts of the Republic of Tajikistan and also of the regulations, approved by the authorized body on customs affairs. Customs houses and customs points may not have the status of a legal person.

4. The system of customs authorities shall also include institutions which are not law enforcement bodies and which are founded by the authorized body on customs affairs to ensure the activity of customs authorities.

#### **Article 462** **Tasks of Customs Authorities**

The following shall be the principal functions of customs authorities:

- 1) participation in the development and implementation of the customs policy of the Republic of Tajikistan;
- 2) ensuring, within their competency, the economic safety and sovereignty of the Republic of Tajikistan;
- 3) ensuring compliance with customs and other legislation of the Republic of Tajikistan, control over the enforcement of which is imposed on customs authorities;
- 4) ensuring observance of prohibitions and restrictions relating to goods conveyed across the customs border, established by the normative legal acts of the Republic of Tajikistan and international legal acts approved by the Republic of Tajikistan;
- 5) protecting the rights and interests of the state and participants in foreign economic activity in the field of customs affairs;
- 6) developing the material and technical basis of customs authorities;
- 7) ensuring, within their competency, measures on protecting national security, life and health of people, preservation of the environment and cultural values;
- 8) carrying out customs clearance and customs control, creating conditions which assist in expediting the movement of goods through the customs border;
- 9) levying of customs duties, taxes and other customs payments, customs fees, antidumping, special and countervailing duties, fines relating to cases of customs violations, control over the accuracy of calculation and timely payment of duties, taxes and fees indicated, taking measures for their enforced recovery;
- 10) ensuring compliance with the procedure for transferring goods and means of transport across the customs border;
- 11) ensuring, within their competency, the protection of intellectual property rights;
- 12) combating smuggling and other crimes, administrative violations in the field of customs affairs, prevention of illegal trafficking through the customs border of drugs, psychotropic substances, arms and ammunition, explosives, cultural values, radioactive substances, endangered species of flora and fauna, their parts and derivatives, objects of intellectual property and other goods, and also rendering assistance in the struggle against international terrorism and prevention of illegal interference at the airports of the Republic of Tajikistan with the activities of the international civil aviation;
- 13) exercising, within their competency, the currency control of operations relating to transfer of goods and means of transport across the customs border in accordance with the legislation of the Republic of Tajikistan;
- 14) maintaining the customs statistics of foreign trade and the Commodity Nomenclature of the Foreign Economic Activity;
- 15) ensuring the execution of international obligations of the Republic of Tajikistan as much as they concern customs affairs; collaborating with customs and other authorized bodies of foreign countries, international organizations which deal with customs affairs;
- 16) exercising informing and consulting in the field of customs affairs; providing state bodies, organizations and citizens with information in accordance with the established procedure.
- 17) carrying out scientific research work in the field of customs affairs;
- 18) carrying out other tasks, stipulated by legislation of the Republic of Tajikistan.

#### **Article 463** **Flag, Pendant and Symbol of Customs Authorities**

Customs authorities shall have the flag and the symbol. River vessels of customs authorities shall have the pendant. Automobile transport vehicles and aircrafts of customs authorities shall have the symbol. The description and pictures of the flag and symbols of customs authorities and also the pendant of marine and river vessels of customs authorities shall be approved by the President of the Republic of Tajikistan.

**Article 464**  
**Locations of Customs Authorities**

1. Customs authorities shall be located at the checkpoints on the State border of the Republic of Tajikistan. Other locations of customs authorities shall be determined by the authorized body on customs affairs, taking into consideration the flow of passengers and goods, the intensity of growth in foreign economic relations of separate regions, demands of transport organizations, exporters, importers and other participants in foreign economic activity.
2. Customs authorities shall be located in premises, directly belonging to the customs authorities. Customs authorities may be located in premises, belonging to:
  - 1) owners of temporary storage warehouses, customs warehouses, duty free shops and free warehouses;
  - 2) organizations carrying out international air, rail and road transportations of passengers;
  - 3) other organizations carrying out regular export-import delivery of goods.

**Article 465**  
**Places for Exercising Customs Operations by Customs Authorities**

Customs operations on customs clearance with regard to goods and means of transport shall be exercised directly in the locations of customs authorities and their structural subdivisions. Upon a motivated request of the person concerned and with written permission of the head of customs authority or the person authorized by him/her, customs operations may be exercised in other locations. Customs authorities shall not hinder the performance of customs operation in the locations of goods and means of transport, if it does not decrease the efficiency of customs control.

**Article 466**  
**Business Hours of Customs Authorities**

1. Business hours of customs authorities shall be defined by the authorized body on customs affairs in compliance with legislation of the Republic of Tajikistan.  
Business hours of customs authorities at seaports, airports, and other checkpoints on the State border of the Republic of Tajikistan shall correspond to business hours of other controlling bodies and services, operating at these points. Business hours of customs authorities in other locations assigned for customs clearance shall be defined, taking into account the demands of transport organizations and participants in foreign economic activity.  
When possible, business hours of customs authorities in checkpoints on the State borders of the Republic of Tajikistan that are adjacent to checkpoints of neighbour states, shall correspond to business hours of customs authorities of these neighbour states.
2. Upon motivated request of the person concerned, and as far as possible, for customs authorities, certain customs operations may be performed outside of business hours of customs authorities.

**§ 2. POWERS, DUTIES AND RESPONSIBILITY OF CUSTOMS AUTHORITIES**

**Article 467**  
**Powers of Customs Authorities**

In order to fulfil the assigned functions, customs authorities shall have the following rights:

- 1) take measures, stipulated by this Code, with the purpose of ensuring observance of the customs legislation of the Republic of Tajikistan;
- 2) call for documents, information, the submission of which is stipulated by this Code;
- 3) check documents of citizens and officials participating in customs operations in order to verify their identity;
- 4) call for confirmation of authorities for performing certain actions or carrying out certain activity in the field of customs affairs from natural and legal persons;
- 5) carry out operative and investigative activities in accordance with legislation of the Republic of Tajikistan, in order to reveal, warn, restraint, disclose crimes; to carry out processing of immediate investigative actions and inquiry which according to the criminal procedure legislation of the Republic of Tajikistan fall under jurisdiction of customs authorities; to reveal and identify the persons, who prepare, commit or have committed them;
- 6) carry out immediate investigative actions and inquiry, within the limits of their competency, and according to the procedure, defined by the criminal procedure legislation of the Republic of Tajikistan;
- 7) make proceedings in respect to cases on administrative violations, and bring persons to responsibility for administrative violations in accordance with legislation of the Republic of Tajikistan on administrative violations;

- 8) use in exigent cases communication facilities or means of transport, owned by organizations or public associations (except for communications and means of transport of diplomatic representative offices, consular and other agencies of foreign states and international organizations) in order to prevent crimes in the field of customs affairs, to prosecute and detain persons who committed such crimes or are suspected in committing such crimes. Damage and expenses borne in such cases by owners of communication facilities or means of transport shall be compensated according to the procedure determined by the legislation of the Republic of Tajikistan;
- 9) detain and deliver to premises belonging to customs authorities or to offices of interior of the Republic of Tajikistan persons, who are suspected in committing crimes, or have committed or are committing crimes and administrative violations in the field of customs affairs in accordance with legislation of the Republic of Tajikistan;
- 10) make documentation, video and audio recordings, film and photographs of the facts and events relating to conveyance of goods and means of transport across the customs border and to transportation and storage of goods under customs control, to performing cargo operations with them.
- 11) obtain information, required for fulfilling their tasks, from state bodies, organizations, enterprises, public associations and other individuals in accordance with this Code;
- 12) give a written notice to heads of state bodies, organizations, enterprises, social associations and also citizens with the demand to eliminate violations of the customs legislation of the Republic of Tajikistan, and control observance of the indicated demands;
- 13) bring suits and claims to courts:
  - on forced recovery of customs duties and taxes;
  - on transfer of the sums recovered against future payment of customs duties and taxes;
  - in other cases stipulated by this Code and other normative legal acts of the Republic of Tajikistan.
- 14) establish and maintain official relations of consultation nature with participants in foreign economic activity, other persons whose activity relates to foreign economic activities and with their professional unions (associations) with the purpose of collaboration and interaction on the issues of introducing the most effective methods of customs clearance and customs control;
- 15) when being in business trips, have the right to reserve and get rooms in hotels, and to book and purchase travel documents for all types of transport;
- 16) establish and maintain international contacts in the field of customs affairs;
- 17) carry out other duties stipulated by this Code and other normative legal acts of the Republic of Tajikistan.

**Article 468**  
**Rights of Customs Authorities When Exercising Customs Control with**  
**Use of River Vessels and Aircrafts of Customs Authorities**

1. When exercising customs control with use of river vessels and aircrafts of customs authorities, these authorities shall have the right:
  - 1) to stop the vehicle and search it (Article 413), when discovering the features of illegal transportations of goods subject to customs control,
  - 2) to detain persons in the vehicle, suspected in committing crimes, the proceedings of immediate investigative actions and inquiry with respect of which attributes to criminal and procedural legislation of the Republic of Tajikistan under the supervision of customs authorities, unless otherwise stipulated by international legal acts approved by the Republic of Tajikistan;
  - 3) to prosecute and detain outside the territorial waters of the Republic of Tajikistan river vessels, leaving the customs territory of the Republic of Tajikistan without permission of customs authorities, in the adjacent zone of the Republic of Tajikistan until it enters the territorial waters of a foreign country, if the prosecution was started in internal waters, territorial waters of the Republic of Tajikistan after making a visual or audio signal to stop in a distance allowing to see or hear this signal, and made continuously;
  - 4) to detain vehicles to withdraw them until termination of the case, in accordance with legislation of the Republic of Tajikistan, when discovering the signs of a violation in the field of customs affairs.
  - 5) to carry out the escort of vehicles, also with customs officials in them, in cases stipulated by this Code;
2. Crews of river vessels and aircrafts of customs authorities shall have the right:
  - 1) to use free of charge water and air space of the Republic of Tajikistan, aquatic area of river ports and also airports, airdromes (landing sites) on the territory of the Republic of Tajikistan regardless of their designation and belonging, except for cases stipulated by legislation of the Republic of Tajikistan;
  - 2) use free of charge the preferential right to enter and exit the ports according to the procedure coordinated with authorized state bodies;
  - 3) obtain free of charge information relating to navigation, hydrometeorology, drainage and other information;
  - 4) ensure free of charge flight servicing and navigation.

**Article 469**  
**Rights of Customs Authorities in Respect to Means of Transport that Convey Goods under Customs Control**

1. Customs authorities shall be entitled to stop means of transport, including those that do not carry out international transportation of goods, if these means of transport convey goods under customs control, with the purpose of examination goods and the documents thereon. Customs authorities may stop means of transport in the customs control zones established along the customs border.
2. In case of stopping means of transport outside the customs control zone, the time for examining goods and documents by customs authorities may not exceed two hours. An act on examination goods and documents shall be drawn up according to the form determined by the authorized body on customs affairs. One copy of the act shall be handled to the carrier. Forced placement of means of transport on the territory of the temporary storage warehouse or other place, being a permanent customs control zone (Article 403) shall be allowed only in case of institution of an action on administrative violation with handling a copy of a relevant decision or protocol to the carrier or to the person, running a vehicle. The means of transport may be located on the territory of a temporary storage warehouse or in other place, being a customs control zone, within the period, required for its unloading, except for the case, when the means of transport is subject to withdrawal in accordance with legislation of the Republic of Tajikistan.

**Article 470**  
**Interaction and Collaboration of Customs Authorities with Other State Bodies**

1. Customs authorities shall fulfil their tasks independently and in cooperation with other state bodies.
2. In accordance with this Code and other normative legal acts of the Republic of Tajikistan, customs authorities shall be entitled to allow other state bodies to the customs control zone to carry out certain actions, relating to their competence.
3. When customs authorities reveal indications of violation (crime), performance of inquiry of which is within the authority of other state bodies according to the legislation of the Republic of Tajikistan, customs authorities shall immediately inform relevant state bodies thereon.

**Article 471**  
**Internal Control of the Activity of Customs Authorities**

Within the procedures for internal control, the superior customs authority or superior customs official shall have the right to cancel or change any time the decision of inferior customs authority or inferior customs official as non-conforming to the requirements of the legislation of the Republic of Tajikistan, and also take any measures, stipulated by legislation of the Republic of Tajikistan in respect to illegal actions (inaction) of inferior customs bodies or inferior customs officials.

**Article 472**  
**Responsibility of Customs Authorities and Customs Officials**

1. Customs officials shall bear disciplinary, administrative, criminal and other liability for illegal decisions, actions (inaction) in accordance with legislation of the Republic of Tajikistan.
2. Customs authorities shall compensate the damage caused to persons or their property in consequence of illegal decisions, actions (inaction) of their officials and other employees, when executing official or work duties, in accordance with legislation of the Republic of Tajikistan.
3. The damage caused by legal actions of customs authorities and their officials, shall not be compensated, unless otherwise stipulated by this Code and other normative legal acts of the Republic of Tajikistan.

**§ 3. USE OF PHYSICAL FORCE, SPECIAL MEANS AND FIREARMS BY CUSTOMS OFFICIALS**

**Article 473**  
**Conditions for Using Physical Force, Special Means and Firearms by Customs Officials**

1. In compliance with the procedures stipulated by this Code, customs officials shall be entitled to use physical force, special means and firearms.
2. Use of physical force, special means and firearms shall be preceded by clearly stated warning of the intention to use them, and in the case of using a firearm, it shall be preceded by cautionary blasts. In this regard, customs officials shall be obliged:

- 1) to provide sufficient time for fulfilment of their legal requirements, except when the delay in application of physical force, special means and arms entails direct danger to their life and health, may entail other serious consequences – in cases of sudden or armed offences, offences with use of military technical means, vessels and means of transport or in other circumstances, when such warning is inappropriate or impossible in the given situation;
- 2) to provide pre-medical aid to the injured persons, and immediately notify the head of the customs authority on the case, which shall inform the prosecutor on the case within 24 hours.
3. When using physical force, special means and arms, depending on the nature and extent of danger of the violation and the level of the resistance, customs officials shall make efforts to minimize any damage, caused by elimination of the danger.
4. In order to ensure the required defence and in cases of emergency, when there are no special means, customs officials shall be entitled to use firearms or any other means available.
5. In case of using physical force, special means and firearms with violation of the established procedures, customs officials shall entail the responsibility in accordance with legislation of the Republic of Tajikistan.

**Article 474**  
**Use of Physical Force by Customs Officials**

1. When on duty, customs officials shall have the right to use physical force, including martial arts, only in those cases when non-violent methods do not allow customs officials to fulfil their duties.
2. Physical force shall be used for:
  - 1) suppressing offences;
  - 2) seizing people who committed offences;
  - 3) overcoming the resistance to fulfil legal requirements of customs officials;
  - 4) preventing access to the premises, territory, goods and means of transport, which are under customs control.

**Article 475**  
**Use of Special Means by Customs Officials**

1. When on duty, customs officials shall have the right to use special means available with them, 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 or means of transport which belong to or are used by customs authorities; on goods and means of transport subject to customs control, and also to release these objects if they are seized;
  - 3) to detain offenders or deliver them to the office of customs authority or of the interior bodies, when these persons show resistance or other counteraction, or if these persons can injure other persons or themselves;
  - 4) to head off physical resistance to the customs official;
  - 5) to stop a vehicle, driver of which has not obeyed the order of the customs official to stop;
2. It shall be prohibited to apply special means with respect to women with visible indications of pregnancy, persons with visible signs of disability, or minors, except in cases when they show armed resistance and commit group attacks, which threaten the life and health of people, safety of goods and means of transport, which are under customs control.
3. The list of special means, used by customs authorities, shall be identified by the Government of the Republic of Tajikistan.

**Article 476**  
**Use of Firearms by Customs Officials**

1. When on duty, customs officials shall be entitled to use firearms in the following cases:
  - 1) for warding off the attack on customs officials, when their life and health are under direct danger, if this attack can not be warded off by other means and forms;
  - 2) for suppressing an attempt to capture firearms, belonging to customs officials, including attempts of the person being arrested by a customs official to come around decreasing the distance indicated by the customs official, or touch the firearms of the customs official;
  - 3) for warding off the group or armed attack on buildings, premises and means of transport, river vessels, aircrafts belonging to or used by customs authorities, goods and means of transport which are under customs control or objects where such goods and means of transport are placed;

- 4) for detaining the person (persons), who show armed resistance, and also the armed person (persons) refusing to execute a lawful order to lay down the arms;
  - 5) for stoppage of means of transport, river vessels by damaging them, when they create an actual threat to life and health of customs officials, or do not obey to repeated orders to stop after cautionary blasts;
  - 6) for rendering protection from attacks by animals posing threat to life and health of customs officials;
  - 7) for warning about the intention to use arms, to signal an alarm or to call for help.
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 commit an armed, group attack, threatening the life of people.
  3. In each case of using arms, the customs official shall as soon as possible notify in writing thereon the head of the customs authority, who shall inform about the case the prosecutor within 24 hours from the moment of using arms.
  4. The list of types of firearms and ammunition thereto to be used by customs authorities shall be identified by the Government of the Republic of Tajikistan.
  5. The customs official shall be entitled to make the arms ready for action, if he/she considers that under the situation, the grounds for its use stipulated by Paragraph 1 of this Article, may occur.

#### **§ 4. SUPORT OF ACTIVITY OF CUSTOMS AUTHORITIES**

##### **Article 477**

##### **Financing and Material and Technical Support of Activity of Customs Authorities**

Financing of expenses to maintain and develop customs authorities shall be carried out from the state budget and other sources stipulated by legislation of the Republic of Tajikistan on state budget.

##### **Article 478**

##### **Location of Objects of Customs Authorities**

1. Land areas intended for location of objects of customs authorities shall be granted according to the procedure for land allocation not for agricultural needs, in accordance with the land law of the Republic of Tajikistan.
2. If, in order to exercise customs operation, structural subdivisions of customs authorities are located in the objects of organizations, indicated in Paragraph 2 of Article 464 of this Code, these organizations shall ensure material and technical support to activity of customs authorities through providing them with communication facilities, furniture and office equipment based on the agreement with owners of these objects.

##### **Article 479**

##### **Protection of Information Relating to Activity of Customs Authorities**

1. Documents and materials containing information about personnel of customs authorities, their organization, tactics, methods and means of carrying out operative and investigative activities shall be kept in archives of customs authorities in accordance with normative legal acts of the Republic of Tajikistan.
2. Materials from archives of customs authorities, presenting historical and scientific value that are declassified in accordance with legislation of the Republic of Tajikistan, shall be transferred for storage to the archives of the central executive body authorized in the field of storage of state archives, according to the procedure established by normative legal acts of the Republic of Tajikistan.
3. Protection of the state, bank and tax secrets and also confidential information in customs authorities shall be ensured in accordance with legislation of the Republic of Tajikistan.

##### **Article 480**

##### **Institutions and State Unitary Enterprises of Customs Authorities**

1. For supporting the activity of customs authorities, the authorized body on customs affairs shall establish, in accordance with legislation of the Republic of Tajikistan, customs laboratories, scientific and research institutions, educational institutions of higher, professional and additional education, printings, data processing centres and other institutions, and also have state unitary enterprises, the activity of which shall promote the performance of tasks assigned on customs authorities.
2. The tasks of institutions and state unitary enterprises of customs authorities shall be identified in accordance with requirement of normative legal acts of the Republic of Tajikistan.

##### **Article 481**

##### **Property of Customs Authorities and Organizations of Customs Authorities**

The property of customs authorities, institutions and state unitary enterprises of customs authorities shall be in ownership of the state. The authorised body on customs affairs shall dispose of the indicated property in accordance with normative legal acts of the Republic of Tajikistan.

## **CHAPTER 60 PROCEDURE FOR SERVING IN CUSTOMS AUTHORITIES**

### **Article 482 Service in Customs Authorities**

1. Service in customs authorities shall be a specific kind of service for citizens of the Republic of Tajikistan, who perform their professional activity in implementation of tasks, rights and duties of customs authorities in compliance with normative legal acts of the Republic of Tajikistan.
2. The procedure for serving in customs authorities shall be regulated by this Code and other normative legal acts of the Republic of Tajikistan.

### **Article 483 Recruitment for Serving in Customs Authorities**

1. Capable citizens of the Republic of Tajikistan aged from 20 to 35, with secondary special or higher education, who are able to fulfil the responsibilities imposed on them due to their personal, moral, business and professional attributes, and health state, may be customs officials.
2. Citizens shall join the service in customs authorities on a voluntary basis, in compliance with the labour legislation of the Republic of Tajikistan, and taking into account the specifics stipulated by this Code.
3. Citizens having secondary special or higher education, shall be applied for the junior commanding staff.
4. To be recruited for serving in customs authorities, the following documents shall be submitted:
  - 1) personal application;
  - 2) documents proving professional education;
  - 3) medical certificate that confirms the ability to serve;
  - 4) curriculum vitae;
  - 5) other documents stipulated by normative legal acts of the Republic of Tajikistan.
5. The requirements to the health of citizens entering into service in customs authorities shall be identified in accordance with criteria established for military servants.
6. A probation period of up to six months, without awarding a special rank, shall apply to those recruited to serve in the customs authorities.

For graduates of higher educational institutions, forwarded for study by the authorized body on customs affairs, or by transfer from other law enforcement bodies or militarized units, no probation period shall apply.
7. Citizens that had or have convictions (regardless of punishment, act of amnesty), except for those who were discharged or recognized by the court as innocent, shall not be recruited for service in customs authorities.
8. Persons liable for call-up, who have been recruited for serving in customs authorities, shall be taken off the military register in compliance with the established procedures and shall be duly registered in the special books in customs authorities.
9. With the purpose of technical maintenance of activity of customs authorities, their personnel lists shall provide for appropriate positions of free-lance customs employees (hereinafter referred to as workers and employees). The list of the indicated positions shall be determined by the authorized body on customs affairs. The labour relations of the free-lance customs staff (workers and employees) shall be regulated by the labour law of the Republic of Tajikistan.
10. The lists of positions of customs officials of junior, middle and senior commanding staff, and also qualification requirements to the customs officials, occupying the indicated positions, shall be approved by the authorized body on customs affairs.
11. Service in customs authorities shall be reflected in the personal records of customs officials. The personal records of customs officials shall be kept by the personnel department of customs authorities, and in case of rotation of officials shall be forwarded to a new place of service. The procedure for keeping personal records of customs authorities shall be identified by the authorized body on customs affairs.
12. When being recruited and in the course of serving in customs authorities, the citizen must undergo state fingerprinting registration.

13. Collection and filing in personal records of customs officials of information, relating to their political, religious views and private life shall be prohibited.

14. In compliance with the Law of the Republic of Tajikistan “On Corruption”, a customs official shall undertake obligations in writing.

#### **Article 484** **Restrictions to Serving in Customs Authorities**

1. Customs officials shall not have the right:

- 1) to fulfil any paid part-time job, except for pedagogical, scientific or other creative activity;
- 2) to perform entrepreneurial activity personally or through intermediaries;
- 3) to participate independently or through representatives in the governance of economic entities;
- 4) to be the attorney or the agent for third parties on cases in customs authorities;
- 5) to fulfil customs-related works on legal agreements of civil nature;
- 6) to provide any assistance not stipulated by the legislation of the Republic of Tajikistan to the persons with the use of the official position, and receive remuneration, services and privileges for that.
- 7) to use their official position in the interests of political parties, public organizations, including religious associations for propaganda of attitude to them (establishment and operation of political parties, and also religious associations shall not be allowed in customs authorities);
- 8) to organize strikes and participate in them.

Other restrictions established by legislation of the Republic of Tajikistan shall apply to customs officials.

2. Customs officials shall entrust, for the period of serving in customs authorities shares (shareholdings) in the charter capital of commercial organizations, according to the procedure established by legislation of the Republic of Tajikistan.

3. Customs officials who are close relatives or related parties (parents, spouses, brothers, sisters, sons, daughters, also brothers and sisters of parents, children of spouses) shall not be allowed to serve in the same customs authority, if their service relates to direct subordination and controllability of one to the other.

#### **Article 485** **Information Relating to Income of Customs Officials and Property Belonging to them under the Ownership Right**

In accordance with legislation of the Republic of Tajikistan, customs officials shall annually submit to the tax authorities of the Republic of Tajikistan the information relating to the income derived and property owned by them under the property right, including the information about stocks, shares in the charter capital of legal entities, that are taxable objects.

#### **Article 486** **Oath of the Customs Official**

1. Citizens of the Republic of Tajikistan assigned for the positions in customs authorities of the Republic of Tajikistan for the first time, after two months of awarding him/her with the first special rank, shall take the following oath:

“I swear, that when fulfilling the authorities of customs official, I will inviolately comply with the Constitution and legislation of the Republic of Tajikistan, protect sovereignty and economic security of Tajikistan, conscientiously fulfil my official responsibilities and obey the discipline of the customs service”.

2. The ceremony of taking the oath shall be approved by the authorized body on customs affairs.

#### **Article 487** **Special Ranks of the Customs Official**

1. Special ranks of customs officials shall be determined by the Madzhlisi namoyandagon Madzhlisi Oli of the Republic of Tajikistan.

2. The procedure for awarding special ranks shall be determined by the President of the Republic of Tajikistan.

3. Provisions of this Article shall also apply to heads and specialists of specialized customs institutions.

#### **Article 488** **Grounds for Cessation of Service in Customs Authorities**

1. The service of a customs official shall cease for the following grounds:
  - 1) upon his/her own wish;
  - 2) in case of reaching the age limit in compliance with the Regulation on the Procedure for Serving, approved by the Government of the Republic of Tajikistan;
  - 3) upon expiration of the period of service, that gives the right to retire under long-service (on own wish or with consent of the official);
  - 4) upon expiration of the period of service under the contract;
  - 5) in case of non-observance of the terms of the contract;
  - 6) due to reduction of staff;
  - 7) due to disease – based on the conclusion by the military medical commission on non-aptitude for serving in customs;
  - 8) due to disablement - based on the conclusion by the military medical commission on restricted aptitude for serving in customs, due to health state and inability to fulfil his/her duties related to the position occupied, if there is no possibility to rotate him/her to another job;
  - 9) due to regular violation of discipline;
  - 10) due to committing actions discrediting the dignity of a customs official;
  - 11) due to the court conviction coming into effect, or due to closure of a criminal case against a customs official for non-rehabilitative reasons;
  - 12) due to non-conformity of his/her qualification with the requirements of the occupied position, detected in the course of official attestation;
  - 13) due to death;
  - 14) in other cases stipulated by legislation of the Republic of Tajikistan.
2. Customs officials shall be transferred to the reserve and shall be registered in for military liability, if the customs officials going on retirement have not reached the maximum age established by legislation of the Republic of Tajikistan for enrolment in the reserve for persons capable of military service.

#### **Article 489** **Rights and Responsibilities of Customs Officials**

1. Customs officials shall have the right for the following:
  - 1) to get familiarized with all the materials of his/her personal records;
  - 2) to obtain professions and specialties, to re-train and re-qualify at the expenses stipulated for maintenance of the authorized body on customs affairs;
  - 3) to enjoy social guarantees and protection stipulated by legislation of the Republic of Tajikistan.Customs officials shall also have other rights stipulated by legislation of the Republic of Tajikistan.
2. The responsibilities of customs officials with regard to the positions occupied shall be determined by the duty regulation. The procedure for development and approval of duty regulations shall be established by the authorized body on customs affairs.
3. The execution of official duties of customs authorities shall also include the following actions:
  - 1) participation in meetings, manoeuvres, competitions and other official activities, carried out in accordance with the plans approved by the head of the customs authority;
  - 2) actions directed at protecting life, health, honour and dignity of persons, and also ensuring personal security in connection with fulfilment of official duties;
  - 3) being as a hostage in connection with fulfilment of official duties;
  - 4) trip to the place of service and back, when in a business trip.

#### **Article 490** **Incentives for Customs Officials**

1. Customs officials shall be rewarded for fidelity in duty, high standards of service, displaying initiative and energy, careful treatment to state, public and personal property, continuous perfect service and also for bravery and dedication, shown when fulfilling the official duty.  
The following incentives shall be provided to customs officials:
  - 1) expressing gratitude;
  - 2) rescinding of a previously imposed disciplinary action;
  - 3) rewarding with a bonus;
  - 4) rewarding with a valuable present;
  - 5) rewarding with a certificate of honour;

6) rewarding with lapel badges “Honoured Customs Officer of the Republic of Tajikistan”. “Excellent Customs Officer”;

7) other types of incentives stipulated by normative legal acts of the Republic of Tajikistan.

Rewarding of customs officials shall be carried out in the procedure identified by the authorized body on customs affairs.

2. For special credits relating to protection of economic security of the Republic of Tajikistan, and also for other official distinctions, customs officials may be rewarded with state awards of the Republic of Tajikistan.

#### **Article 491**

#### **Disciplinary Actions Imposed on Customs Officials**

1. The following disciplinary actions may be imposed on customs officials for violation of official discipline:

- 1) reprimand;
- 2) admonition;
- 3) down-grading;
- 4) demotion in special rank to one stage;
- 5) dismissal from customs authorities.

2. Application of disciplinary actions shall not release the person who committed an offence, from material responsibility.

3. The disciplinary action shall correspond to the degree of guilt and gravity of the offence committed. When determining the type and measure of recovery, the nature of the offence, circumstances under which the offence was committed, previous behaviour of the guilty, his/her attitude to the service; period of tenure in the position occupied and qualification shall be taken into account.

It shall be prohibited to impose several punishments for the same offence.

4. The procedure for imposing a disciplinary action on the customs official shall be carried out in compliance with the Charter approved by the Government of the Republic of Tajikistan.

#### **Article 492**

#### **Appointment of Customs Officials and the Procedure for their Rotation and Transfer**

1. Heads of structural subdivisions and their deputies, heads of divisions of structural subdivisions of the authorized body on customs affairs, heads of regional customs departments, customs houses and customs points and their deputies shall be appointed for those positions on a contractual basis. The appointment shall be formalized by the order of the head of the authorized body on customs affairs.

2. Chief inspectors, senior inspectors and inspectors of structural subdivisions of the authorized body on customs affairs, chief inspectors of regional customs departments, customs houses and customs points shall be appointed for those positions on the contractual basis. The appointment shall be formalized by the order of the head of the authorized body on customs affairs.

3. Senior inspectors, inspectors and junior inspectors of regional customs departments, customs houses and customs points shall be appointed for those positions by heads of the regional customs departments on a contractual basis, in coordination with the head of the authorized body on customs affairs. The appointment shall be formalized by the order of the head of the regional customs department.

4. A labour agreement (contract) for up to 3 years shall be signed with customs officials, indicated in Paragraphs 1, 2 and 3 of this Article. The probation period up to 6 months shall be established for customs officials, who are appointed for the first time.

5. Customs officials, with respect of which formal investigation is under process, may be temporarily, but not more than for two months, removed from fulfilment of their official duties with retaining average monthly salary. Decision on temporary removal of customs officials, indicated in Paragraphs 1 and 2 of this Article from fulfilment of their official duties shall be made by the head the authorized body on customs affairs, and the decision with regard to the officials indicated in Paragraph 3 of this Article shall be made by the head of the regional customs department.

6. In order to define the compliance of the customs official with the position occupied, attestation of customs officials shall be carried out. Attestation of customs officials shall be carried once in three years.

The procedure for conducting attestation of customs officials shall be determined by the Statute on the Procedure and Conditions of Attesting customs officials, approved by the head of the authorized body on customs affairs.

#### **Article 493**

#### **Internal Regulations of Customs Authorities**

1. Rules for internal regulations of the authorized body on customs affairs and regional customs departments shall be approved by their heads.

2. Weekly business hours of customs officials shall not exceed the number of weekly working hours, established by the labour law of the Republic of Tajikistan.

In order to fulfil urgent or unforeseen duties, customs officials may be invited, according to the procedure determined by legislation of the Republic of Tajikistan, to fulfil their duties out of business hours, also at night time, weekends and holidays.

For customs officials, fulfilling their duties under harmful conditions, business hours shall be reduced.

#### **Article 494**

##### **Specific Features of Providing Vacation for Customs Officials**

1. Customs officials shall be granted labour vacation in accordance with normative legal acts of the Republic of Tajikistan.

When granting labour vacation to the customs official, his/her travel expenses within the territory of the Republic of Tajikistan shall be paid.

2. Regular 30 days annual vacation shall be granted to customs officials, and those officials who serve in high-mountain areas and in areas with hard climatic conditions shall be granted 45 days annual vacation. The list of such areas shall be determined by the Government of the Republic of Tajikistan.

When granting annual labour vacation, customs officials shall get welfare in the amount determined by normative legal acts of the Republic of Tajikistan.

3. Customs officials shall be granted additional paid annual labour vacation:

- 1) after 10 years of working – 5 calendar days;
- 2) after 15 years of working – 10 calendar days;
- 3) after 20 years of working – 15 calendar days.

4. Customs officials may be granted with unpaid vacation due to personal circumstances for not more than two months. Vacation under personal circumstances shall not be added to the regular annual vacation.

#### **Article 495**

##### **Salary of Customs Officials**

Salary of customs officials includes the following:

- 1) official salary;
- 2) special rank salary;
- 3) increment for length of service;
- 4) increment for scientific degree;
- 5) other increments, stipulated by normative legal acts of the Republic of Tajikistan.

2. The amount and the procedure for issuing welfare to customs officials shall be determined by the Government of the Republic of Tajikistan.

3. Instead of product allowance, money compensation shall be paid to customs officials in the amount that shall be annually determined by the Law of the Republic of Tajikistan “On the State Budget of the Republic of Tajikistan”.

#### **Article 496**

##### **Legal and Social Guarantees of Customs Officials**

1. When on duty and upon presenting his/her service certificate, customs officials shall have the right to use all types of transport (except for personal cars and taxi) free of charge within the territory of his/her service.

2. After retirement, customs officials shall have the right to use the privileges stipulated by this Code, including medical care in health care institutions where they are registered.

3. Customs officials shall be subject to compulsory state personal insurance at the expense of the national budget for the amount, equal to 180-times amount of their average monthly salary.

State insurance bodies shall pay insurance sums in the following cases:

- 1) death of the insured customs officials during the period of their service in customs authorities or after dismissal, if it occurred as a consequence of bodily injuries or other damage to health during execution of duties - to their heirs in the amount of 180-times of average monthly salary;
- 2) causing bodily injures or other damage to health of the customs official due to the fulfilment of his/her official obligations, which prevents him/her from further involvement in professional activities - in the amount of 36-times of the average monthly salary;

3) causing bodily injures or other damage to health of the customs official due to the fulfilment of his/her official obligations, without entailing disability and without preventing him/her from further involvement in professional activities - in the amount of 12-times of the average monthly salary.

In case of causing bodily injures or other damage to health of the customs official, due to the fulfilment of his/her official obligations, which prevents him/her from further involvement in professional activities, he/she shall be paid monthly compensation in the amount of the difference between his/her average monthly salary and the assigned pension, without taking into account the sums of payments that were received under the obligatory state personal insurance. To determine the indicated part of the money allowance, the average monthly salary of the dead official shall be divided to the number of members of his/her family that were at his/her maintenance, including those capable of working.

The damage caused to the property of the customs official or his/her family members due to their destruction or damage, in connection with fulfilment of his/her official duties, shall be indemnified to him and his/her family members in full, including loss of profit, according to the procedure established by legislation.

Only the verdict or resolution of the court with regard to the person who is recognized guilty in death (loss of life) of the customs officials, in causing bodily injures, or in destruction or damage to the property belonging to them, shall be the ground for refusing to pay insurance sums and compensations in cases, stipulated by this Article, if it is defined by appropriate decision that these events are not connected with fulfilment of their duties.

#### **Article 497**

#### **Social Maintenance of Customs Officials and their Family Members**

1. Local executive authorities shall provide customs officials with a living space, in the first instance, and not later than one year from the moment of application.

Customs authorities may have an official housing fund formed in the procedure determined by the Government of the Republic of Tajikistan.

In case of death of the customs official in connection with the execution of his/her official duties, the right to receive housing shall be retained for the family of the killed person.

2. Customs officials and their family members shall have the right for free of charge medical care in the medical institutions of the customs system. When such medical institutions of the customs system, or relevant departments in them, or special medical equipment is not available in the place of work or place of residence of the customs official, and also in urgent cases, medical treatment to those officials and their family members shall be rendered in the institutions of state or departmental health care systems.

3. When rotated to work to another place, customs officials and their family members shall have the right for compensation of expenses for travelling and transportation of personal staff by rail, air or road at the expenses of the authorized body on customs affairs, according to the procedure determined by the Government of the Republic of Tajikistan.

#### **Article 498**

#### **Training of Staff for Customs Authorities**

1. Professional training, re-training (re-qualification) and professional development of customs officials shall be carried out in educational institutions of the Republic of Tajikistan, and also in educational institutions of a foreign country, on the basis of the relevant international legal acts accepted by the Republic of Tajikistan.

2. Procedures and terms of training, re-training (re-qualification) and professional development of customs officials shall be determined by the authorized body on customs affairs in coordination with the authorized body on educational issues.

3. After completion of the indicated institutions, the graduator of the education institution, who is sent and trained at the expense of the authorized body on customs affairs, shall be ensured with the position in customs authorities, relevant to the specialization and qualification obtained.

4. Students of a higher foreign educational institution, who are sent under the programs approved by the Government of the Republic of Tajikistan, shall be granted a monthly scholarship, round trip expenses, once a year, to his/her place of permanent residence, and a uniform.

#### **Article 499**

#### **Uniform of Customs Officials**

1. Customs officials shall wear a uniform. The form of the uniform, distinction marks and the norms for clothing allowance supply of customs officials shall be established by the Government of the Republic of Tajikistan. The

procedure for, time period and rules for wearing the uniform shall be established by the authorized body on customs affairs.

2. The uniform shall be provided to customs officials at the expense of the national budget.

3. If a customs official is not provided with the uniform, a compensation allowance equivalent to the value of the uniform shall be granted to customs officials, based on the norms for clothing allowance supply in compliance with the labour legislation of the Republic of Tajikistan.

**Article 500**  
**Pension Security of Customs Officials**

Pension security of customs officials and their family members shall be carried out in compliance with the Law of the Republic of Tajikistan “On Pension Security of Military Personnel”.

**Article 501**  
**Re-Employment of Customs Officials in Customs Authorities**

1. With regard to customs officials, who were re-employed in customs, the period from the day of their dismissal to the day of their re-employment in customs authorities, shall be added to the length of the service to award a special rank, payment of increment for length of the service.

2. Average monthly salary shall be paid to customs officials, who were re-employed in customs authorities, in accordance with legislation of the Republic of Tajikistan.

3. The head of the customs authority, who made the decision on dismissal from serving in customs authorities, or transfer of a customs officials to another position with violation of this Code, or who deferred the fulfilment of the decision on re-employment in customs authorities of the official indicated, shall bear responsibility in accordance with legislation of the Republic of Tajikistan.

**CHAPTER 61**  
**INFORMATION SYSTEMS AND INFORMATION TECHNOLOGIES**  
**IN THE FIELD OF CUSTOMS AFFIARS**

**Article 502**  
**Information Systems, Information Technologies and Means of their Support**  
**Used by Customs Authorities**

1. Customs authorities shall develop, create and use information systems and information technologies, including those based upon electronic means of information exchange, and with use of means of their support, in compliance with this Code and other normative legal acts of the Republic of Tajikistan.

2. Information systems and information technologies shall be implemented by using means of computer technology and communication in accordance with standards used in the Republic of Tajikistan, and with international standards.

3. Information systems, information technologies and programming support that are developed and produced by customs authorities, or purchased by them, shall be in the ownership of the state. The rights of ownership shall be exercised by the authorized body on customs affairs in accordance with normative legal acts of the Republic of Tajikistan.

4. The use of information systems, information technologies and of means of their support which are not in state ownership, shall be carried out based on the contracts.

5. The authorized body on customs affairs shall determine the procedure for and terms for using information systems, information technologies and of means of their support for customs purposes.

**Article 503**  
**Certification of Information Systems, Information Technologies and**  
**Programming Support and Security**

Information systems, information technologies, programming support as well as programming and technical means for protection of information shall be subject to certification in the cases and according to the procedures stipulated by normative legal acts of the Republic of Tajikistan.

**Article 504**

### **Information Resources of Customs Authorities**

1. Information resources of customs authorities shall mean documents and data that are submitted by persons, when performing customs operations in accordance with this Code, and also other documents and information available with customs authorities in accordance with this Code and other normative legal acts of the Republic of Tajikistan.
2. Information resources of customs authorities shall be the property of the state. The rights of ownership shall be exercised by the authorized body on customs affairs in accordance with legislation of the Republic of Tajikistan.
3. The procedure for forming and using information resources of customs authorities, requirements to the information documentation, shall be established by the authorized body on customs affairs in accordance with normative legal acts of the Republic of Tajikistan.
4. 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 of information, established by the authorized body on customs affairs, and other requirements determined by normative legal acts of the Republic of Tajikistan are complied with.
5. The procedure for receiving information from information resources of customs authorities, shall be determined by the authorized body on customs affairs in accordance with this Code and other normative legal acts of the Republic of Tajikistan.

#### **Article 505**

### **Information Systems, Information Technologies and Means of their Support Used by Participants in Foreign Economic Activity**

1. The authorized body on customs affairs shall establish requirements for information systems, information technologies and means of their support that are used:
  - 1) by persons when applying special simplified procedures (Article 68);
  - 2) by owners of temporary storage warehouses, customs warehouses, customs brokers, by other persons, at their request, for submitting documents and information stipulated by this Code.
2. Use of the indicated objects for customs purposes shall be allowed only after checking their compliance with the established requirements. The checking shall be made by the authorized body on customs affairs.

#### **Article 506**

### **Protection of Information and of the Rights of Persons Involved in Information Processes and Automation**

1. Customs authorities shall develop, create and use special software and technical means for protection of information that are compatible with means of support of information systems and information technologies, in order to protect the information, the rights of persons involved in information processes and automation in accordance with this Code and other normative legal acts of the Republic of Tajikistan.
2. The level of protection of information ensured by information protection devices must correspond to the category of information. Customs authorities, under whose jurisdiction the information resources are, shall ensure the compliance of the level of protection of information with each certain category.
3. Control over compliance with the requirements to protection of information, and operation of the information protection devices shall be executed by the authorized body on customs affairs, and by other state bodies, in compliance with normative legal acts of the Republic of Tajikistan.

## **CHAPTER 62**

### **CONTROLLED DELIVERY OF GOODS CONVEYED ACROSS THE CUSTOMS BORDER**

#### **Article 507**

### **Specific Features of Conducting Controlled Delivery of Goods Conveyed Across the Customs Border**

1. Controlled delivery of goods conveyed across the customs border, shall be an operational search action, when, with the knowledge and under the control of the authorities carrying out operational search activities, importation to the customs territory of the Republic of Tajikistan, exportation from this territory or transit of imported goods across the territory are allowed.  
When conveying goods across the customs border, controlled delivery shall be exercised with the purpose of preventing, revealing, constraining crimes relating to illegal trafficking of goods.

Other bodies carrying out operational and search activities, shall exercise controlled delivery of goods in coordination with customs authorities. The procedure for such coordination shall be determined between the authorized body on customs affairs and other relevant state body that carries out operational and search activities.

2. In the event of making a decision on exercising controlled delivery of goods, exported from the customs territory of the Republic of Tajikistan on the basis of international treaties of the Republic of Tajikistan, or under agreement with competent bodies of foreign countries, a criminal case in the Republic of Tajikistan shall not be initiated, and the head of the body, carrying out controlled delivery of goods, shall immediately notify a prosecutor on the decision made in accordance with legislation of the Republic of Tajikistan.

#### **Article 508**

#### **Withdrawal or Replacement of Goods Conveyed Across the Customs Border in the Course of Controlled Delivery**

When exercising controlled delivery of goods, conveyed across the customs border, free sale of which is prohibited or the circulation of which is allowed under a special permission in accordance with legislation of the Republic of Tajikistan, these goods may be fully or partially withdrawn or replaced according to the procedure, determined by the Government of the Republic of Tajikistan. Goods, which present a heightened danger to health of people, environment, or serving as a basis for producing arms of mass destruction, shall be subject to be replaced according to the procedure determined by the Government of the Republic of Tajikistan.

December 3, 2004