

**CUSTOMS CODE  
OF THE REPUBLIC OF KAZAKHSTAN**

**Chapter 39. Determination of the Customs Value of Goods**

**Article 305  
Customs Value of goods**

‘Customs value of goods’ shall mean the value of goods conveyed across the customs border of the Republic of Kazakhstan, which is calculated in compliance with this Chapter and is used for the purposes of:

- 1) levying customs payments and taxes on goods;
- 2) applying other measures on state regulation of the foreign economic activity of the Republic of Kazakhstan.

**Article 306  
Determination of Customs Value for Exported Goods**

1. The customs value of goods, which are exported from the customs territory of the Republic of Kazakhstan, shall be determined based on the transaction value paid or payable during the sale of goods for export.
2. When determining the customs value of goods, the following expenditures shall be included in the transaction value, if they were not included previously:
  - 1) expenditures related to the delivery of goods to the airport, port or any other place of export of goods from the customs territory of the Republic of Kazakhstan:
    - cost of transportation;
    - expenditures relating to loading, unloading, transloading, and transshipping of goods;
  - 2) cost of insurance,
  - 3) expenditures borne by the seller:
    - commissions and brokerage fees
    - cost of containers or other reusable tare if, under the foreign economic activity commodity nomenclature, they are classified as a single whole being valued with the goods;
    - cost of packing, including cost of packaging materials and labor associated with packing;
  - 4) royalty and licensing fees related to the goods being valued, which are subject to payment by the seller, directly or indirectly, as a term of selling the goods being valued, provided that those royalties and fees are not included in the price actually paid or payable;
  - 5) the part of the income received by the seller, directly or indirectly, from subsequent re-sales;
  - 6) taxes levied on the customs territory of the Republic of Kazakhstan, provided they are not subject to being refunded to the seller at the time of export of the goods from the customs territory of the Republic of Kazakhstan, in compliance with the tax legislation of the Republic of Kazakhstan or with international treaties to which the Republic of Kazakhstan is a signatory.
3. When determining the customs value of goods, the following payments and expenditures shall be excluded from the transaction value, provided that they are confirmed by documents:
  - 1) expenditures for installation, assembly, and setting up of equipment or rendering technical assistance after export of equipment from the customs territory of the Republic of Kazakhstan;
  - 2) expenditures for delivery of goods after their export from the customs territory of the Republic of Kazakhstan;
  - 3) cost of insurance for goods after their export from the customs territory of the Republic of Kazakhstan;

4) customs duties and taxes paid in the country of import.

4. In the absence of a transaction value, the customs value of exported goods shall be determined based upon an excerpt from the accounting documents of the seller-exporter on costs associated with production, purchase, storage and transportation of the exported goods, which shall be provided by the declarant. In the process, expenditures specified in Paragraph 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 information that the customs authorities have with regard to identical or similar goods, including information containing the results of an independent expert examination.

#### **Article 307**

#### **Determination of the Customs Value of Imported Goods**

The customs value of goods imported onto the customs territory of the Republic of Kazakhstan shall be based upon the general principles of customs valuation under the General Agreement on Tariffs and Trade (hereinafter referred to as / 29TT/Uion.

- transportation cost;
- costs associated with loading, unloading, transloading and transshipping of goods;
- 2) cost of insurance;
- 3) expenditures borne by the buyer:
  - commissions and brokerage fees, except for commissions on purchases;
  - cost of containers or any other reusable tare if, under the foreign economic activity commodity nomenclature they are classified as a single whole being valued with the goods;
  - cost of packing, including the costs of packaging materials and labor associated with packing;
- 4) the corresponding part of the cost of the following goods ( 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 Kazakhstan and directly required for the manufacture of the goods being valued;
- 5) royalty and licensing fees associated with the goods being valued, subject to payment by the buyer, directly or indirectly, as a term of sale of the goods being valued, provided that those royalties and fees are not included in the price actually paid or payable;
- 6) the amount of direct or indirect income of the seller from any subsequent re-sales, transfer or use of the goods being valued.

3. When importing different types of goods in a single delivery, expenditures to be incorporated into the customs value of each type of imported good and calculated for the entire delivery of goods shall be proportional to the ratio of the value of each type of good to the value of the entire consignment of goods.

4. When determining the customs value of goods, the following payments and expenditures shall not be included, provided that they are excluded from the price actually paid or payable for the imported goods:

- 1) expenditures associated with installation, assembly, setting up or rendering technical assistance after the import of equipment onto the customs territory of the Republic of Kazakhstan;
- 2) expenditures associated with delivery of goods after import onto the customs territory of the Republic of Kazakhstan;
- 3) customs duties and taxes paid in the country of import.

5. The method based on the transaction value of imported goods shall not be used for determining the customs value of goods when:

- 1) there are restrictions with regard to the buyer's right to disposal or use of the goods being valued, except for the following:
  - restrictions established by legislative acts of the Republic of Kazakhstan;

- delivery of goods for the purposes of temporary stay;
- import onto the territory of the Republic of Kazakhstan of wastes for non-commercial utilization purposes;
- 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 to each other shall not be sufficient grounds to consider the transaction value as unacceptable. In this case the customs authority must analyze the circumstances surrounding the transaction, and the transaction value can be used for determining the customs value of goods, provided the relationship has not affected the price.

7. When the customs authority has grounds to believe that the relationship of the transaction participants has affected the price of the goods, the declarant shall be given a recommendation (in writing, upon the declarant's wish) on giving additional information proving that the relationship of the transaction participants has not affected the price of the goods.

8. On the initiative of the declarant, the transaction value may be used as the basis for determining the customs value, provided the declarant proves that the transaction value closely approximates one of the following values, which were determined at approximately the same time:

- 1) transaction value with identical or similar goods for export to the Republic of Kazakhstan between unrelated parties;
- 2) customs value of identical or similar goods, determined by the deduction of costs method;
- 3) customs value of identical or similar goods, determined by the composition of costs method.

9. The prices presented by the declarant for comparison purposes shall be adjusted with regard to differences in:

- 1) the commercial level (wholesale or retail);
- 2) the quantity;
- 3) the elements (expenditures) listed in Paragraph 2 of this Article;

4) other expenses a seller incurred in a transaction between unrelated parties, if such expenses are not borne by the seller in the transaction with a related party.

10. The price of identical or similar goods presented by the declarant for comparison purposes may not be used instead of a transaction value for determining the customs value of goods.

### **Article 310**

#### **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 not produced by the producer of the goods being valued, but by some other person, shall be taken into account if there are no identical goods produced by the same producer of the goods being valued;

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

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

- were carried out in the Republic of Kazakhstan and, owing to that, their cost was not included in the customs value of the goods, based on section 5 Sub-paragraph 4) Paragraph 2 of Article 309 of this Code.

4. Insignificant differences in appearance shall not serve as the basis for refusal to recognize goods as identical, provided such goods meet the requirements of this Article.

5. The transaction value of identical goods shall be accepted as the basis for determining the customs value, provided those goods are:

1) sold for import onto the territory of the Republic of Kazakhstan;

2) imported simultaneously with the goods being valued, or not earlier than ninety calendar days prior to the import of the goods being valued;

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

6. When there are no cases of import of goods in the same quantity and at the same commercial level (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 taking into consideration these differences.

7. If the cost of the expenses specified in Sub-paragraphs 1) and 2) Paragraph 2 of Article 309 of this Code for identical goods significantly differs from the co

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

**Article 311**  
**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 characteristics and consist of similar components, which allow them to perform the same functions as the goods being valued, and to be commercially interchangeable.

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

1) quality, availability of a trademark;

2) reputation on the market.

4. The provisions of Paragraphs 4-7 of Article 310 of this Code shall apply when using the method for determining customs value based on the transaction value of similar goods.

5. When using this method for determining customs value:

1) goods shall not be considered similar to those being valued if they are not manufactured in the same country as the goods being valued;

2) goods, which were manufactured by a person different from the manufacturer of the goods being valued, shall be taken into consideration if there are no similar goods manufactured by the manufacturer of the goods being valued;

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

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

- were manufactured in the Republic of Kazakhstan and, owing to that, their cost was not included in the customs value of the goods on the basis of section 5, Sub-paragraph 4), Paragraph 2, Article 309 of this Code.

**Article 312**  
**Method of Determining Customs Valu**

- 1) commission fees, paid or agreed to be paid, or extra payments charged to derive profit and to cover general expenses in connection with the sale of imported goods of the same class or type in the Republic of Kazakhstan;
  - 2) amounts of import duties, taxes and other mandatory payments to the budget which are subject to payment in the Republic of Kazakhstan in relation to the import onto and (or) sale of goods on the territory of the Republic of Kazakhstan;
  - 3) costs paid in the Republic of Kazakhstan for transportation, insurance, loading and unloading operations carried out on the territory of the Republic of Kazakhstan.
5. Goods of the same class or type shall mean goods, which fall within the group, or class of goods produced by a certain industry, and shall include identical or similar goods but shall not be limited to them.
6. If there are no cases of sale of the goods being valued, or identical or similar goods in the same state as they were at the moment of import then, upon request of the declarant, the price per unit of goods which underwent processing may be used with the deduction of the added value and in compliance with Paragraphs 2-4 of this Article.

### **Article 313**

#### **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 type as the goods being valued, which are produced in the exporting country for delivery to the Republic of Kazakhstan;
- 3) the cost of the expenses listed in Sub-paragraphs 1) 2) of Paragraph 2 Article 309 of this Code.

### **Article 314**

#### **Reserve Method for Determining Customs Value**

1. The customs value of goods on the basis of the reserve method may be applied if the customs value can not be determined by a successive application of the methods described in Articles 309-313 of this Code. The customs value of goods on the basis of the reserved method shall be determined by a more flexible application of methods described in the above mentioned Articles, in compliance with the principles and general provisions of the GATT/WTO related to the customs value of goods.

2. When using the reserve method to determine customs value, the following may be utilized:

- 1) informational reference books determined by the Government of the Republic of Kazakhstan;
- 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 that the customs authorities have, may also be used.

4. In compliance with the provisions of this Article, the following shall not be used as a basis for determining the customs value of goods based on the reserve method:

- 1) the price of the goods on the domestic market of the country of export;

- 2) systems, which stipulate the use of the highest value from two alternative values for customs purposes;
- 3) the price of goods supplied by the country of export to third countries;
- 4) the price of the goods on the domestic market of the Republic of Kazakhstan in relation to domestic goods;
- 5) an arbitrarily established or unconfirmed value of goods;
- 6) the value of identical or similar goods determined on the basis of expenses not stipulated by Article 313 of this Code;
- 7) the minimum customs value.

### **Article 315**

#### **Procedure for Determination and Control of Customs Value of Goods**

1. The customs value of goods conveyed across the customs border of the Republic of Kazakhstan shall be declared by the declarant in compliance with this Chapter.
2. Control over the accuracy of the determination of the customs value of goods shall be exercised by the customs authority. While under customs control, the correctness of the application of the selected method and the structure of the declared customs value, shall be determined.
3. The customs authority that checks the declaration of customs value is not, either upon its own initiative or at the instruction or request of the declarant, entitled to insert any data on the declared customs value, or to make changes, additions or corrections in the declaration.
4. Particular features for determining customs value when applying and changing separate customs regimes are stipulated by Section VI of this Code.
5. With regard to goods conveyed by natural persons with the application of simplified procedures, the customs value of goods shall be determined in compliance with Article 270 of this Code.

### **Article 316**

#### **Submission of Documents to Confirm the Declared Customs Value**

1. To confirm the declared information on customs value, the declarant shall submit the following documents:
  - 1) customs value declaration, except in cases stipulated by Paragraph 4 of Article 317 of this Code;
  - 2) agreement (contract) and additional existing agreements thereto, the data contained in which may affect the determination of the customs value of the goods;
  - 3) invoice or pro-forma invoice (with respect to transactions other than purchase-and-sale transactions);
  - 4) payment documents proving the value of the goods if, under the terms of payment, at the moment of submission of the customs declaration, payment is fully or partially made;
  - 5) transport and insurance documents if, under the terms of delivery, expenses for transportation and insurance are borne by the buyer;
  - 6) transportation invoice or officially certified receipt for transport expenses in cases when transport expenses were not included in the invoice, but were borne by the buyer;
  - 7) copy of the customs declaration of the country of departure, if the declarant can provide it.
2. When the documents specified in Paragraph 1 of this Article are not sufficient to confirm the declared customs value, the declarant may submit the following additional documents when they are necessary:
  - 1) the founding documents of the person transporting the goods;
  - 2) contracts with third parties related to the transaction;



- 3) invoices for payments made to third parties in favor of the seller;
  - 4) invoices for commissions or brokerage services, related to transactions with the goods being valued;
  - 5) excerpts from the buyer's book-keeping documents, proving the value of the goods;
  - 6) licensing or royalty contracts;
  - 7) storage receipts;
  - 8) delivery orders;
  - 9) catalogues, specifications, price lists of manufacturing companies;
  - 10) calculations by the manufacturing company for goods being valued;
  - 11) other documents that may be used to confirm information stated in the customs value declaration.
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.
- Along with originals of these documents, their copies certified by the declarant must be submitted for the customs clearance purposes

### **Article 317**

#### **Conditions for Declaring the Customs Value of Goods**

1. The customs value of goods shall be declared by the declarant to the customs authority when declaring goods, by filling out a customs value declaration. The format and procedures for completion of the customs value declaration shall be established by the authorized body on customs issues.
2. The customs value declared by the declarant, and the data submitted in connection with its determination, shall be based on reliable, quantifiable and documentarily confirmed information.
3. A customs value declaration shall be filled out for all goods conveyed across the customs border of the Republic of Kazakhstan 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 nine hundred monthly calculation indices, except for multiple shipments under one contract, and except for repeated shipments of the same kind of goods by the same shipper to the same consignee's address under different contracts;
  - 2) the standards and conditions established by the Government of the Republic of Kazakhstan with regard to goods that are conveyed across the customs border of the Republic of Kazakhstan by natural persons are complied with.
5. In the cases specified in Paragraph 4 of this Article, the customs value shall be stated in the customs declaration.

### **Article 318**

#### **Adjustment of the Customs Value of Goods**

1. The customs value of goods may be adjusted in the following cases:
  - 1) in the course of customs clearance and 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 321 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

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 319**  
**The Rights and Obligations of the Declarant**  
**when Determining Customs Value**

1. The declarant shall be entitled:

- 1) to prove the reliability of data provided for determining customs value, when the customs authorities have doubts as to its reliability;
- 2) if there is a need to clarify the declared customs value, to accept the declared goods, under the condition that the security of payment of customs duties and taxes, in compliance with the customs valuation of goods performed by the customs authority, is ensured. When it is necessary to clarify the declared customs value of goods not subject to customs payments and taxes, to accept the declared goods with a commitment to submit the required documents within the time limit established by the customs authority;
- 3) to request the customs authority to provide, in writing, the reasons for which the declared customs value of goods cannot be accepted by the customs authority;
- 4) in case of disagreement with a decision by the customs authority with regard to the customs value of goods, to appeal this decision in compliance with the procedures stipulated by the legal acts of the Republic of Kazakhstan.

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 320**  
**The Rights and Obligations of the Customs Authority in**  
**Determining Customs Value**

1. The customs authority conducting the customs clearance of goods shall be entitled:

- 1) to make a decision concerning the permissibility of the method and accuracy of determining the customs value of goods, as declared by the declarant, based on the documents and information submitted by the declarant, and also based on information available to him/her to be used for determination of customs value;
- 2) to require the declarant to submit, in writing, additional documents and information, when the documents and information previously submitted by the declarant are not sufficient for making a decision with respect to the declared customs value, and to establish a time limit 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 order 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 321**

#### **Conditional Release of Goods with Use of Information on Prices Available to Customs Authorities**

1. When it is impossible to use the method for determining customs value based on the transaction value of imported goods, due to absence of documents confirming the customs value, and when it is necessary to clarify the customs value declared by the declarant, 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 to the customs authority .

2. The information on prices, which is available to the customs authorities, shall be generated by the authorized body on customs issues 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 good2 e d o n