

Annex XIV

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

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

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

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

subparagraph 44) to set forth as follows:

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

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

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

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

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

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

15) in **article 74**:

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

paragraph 3 to set forth as follows:

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

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

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

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

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

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

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

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

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

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

20) in article 86:

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

in paragraph 2:

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

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

21) in **article 88**:

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

to insert paragraph 4 as follows:

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

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

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

use of international road transportation procedure;

integrity of identification facilities.

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

23) in **article 91**:

paragraph 2 to set forth as follows:

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

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

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

“1. Any goods may be located in places of temporary storage, except of goods transferred by pipeline transport and by transmi

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

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

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

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

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

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

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

to eliminate subparagraph 3);

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

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

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

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

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

to eliminate words “by its owner”;

33) in **article 156**:

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

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

34) in **article 170**:

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

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

35) in **article 176**:

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

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

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

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

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

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

in the part two:

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

to insert the third sentence as follows:

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

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

“New customs declaration is submitted not later than fifteen calendar days from the transfer date of use and (or) disposal right, or

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

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

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

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

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

measures of non-tariff regulation have been

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

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

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

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

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

1) payment document confirming payment of amounts;

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

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

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

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

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

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

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

68) in article 349:

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

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

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

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

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

69) in article 351:

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

to insert paragraph 5-1 as follows:

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

paragraph 7 to set forth as follows:

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

in paragraph 9:

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

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

83) to insert article 388-1 as follows:

“Article 388-1. Incomplete customs declaration

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

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

88) in article 413:

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

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

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

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

Paragraph 5 to set forth as follows:

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

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

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

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

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

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

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

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

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

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

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

to insert paragraph 3 as follows:

“3. Inspections of foreign-economic and other activity in the sphere of customs affair are

analysis of the information contained in databases and data banks of customs affairs authorized body and state control (supervision) authorities; for verification of information obtained

