

## **TO THE DRAFT LAW OF THE REPUBLIC OF KAZAKHSTAN**

### **Based on EDICT #2368. ON CUSTOMS IN THE REPUBLIC OF KAZAKSTAN, ISSUED BY THE PRESIDENT OF THE REPUBLIC OF KAZAKSTAN WITH THE FORCE OF LAW**

Pursuant to Article 1 of the Law of RK dated 10 December 1993 “On Temporary Delegation of Additional Authority to the President of the Republic of Kazakhstan and Heads of Local Administrations” and for the purpose of protection of economic interests, sovereignty and security of the Republic of Kazakhstan in the process of implementation of domestic and foreign policies, I issue this Edict

#### **Section I. GENERAL PROVISIONS**

##### **Chapter I. Customs Business in the Republic of Kazakhstan**

##### **Article I. The Customs Business in the Republic of Kazakhstan**

Customs business in the Republic of Kazakhstan shall be constituted by the procedures and conditions of transfer of goods and transport vehicles through the customs border of the Republic of Kazakhstan, levying of customs duties and taxes, customs clearance, customs control and other instruments of implementing the customs policy, and also by organizational and legal bases for operations of the customs bodies in the Republic of Kazakhstan.

##### **Article 2. The Customs Policy of the Republic of Kazakhstan**

In the Republic of Kazakhstan a single customs policy shall be implemented which is a constituent of the domestic and foreign policy of the Republic of Kazakhstan.

The customs policy shall be conferred to the authority of the central bodies of the state power.

The following shall be the objectives of the customs policy of the Republic of Kazakhstan:

protection of the Kazakhstan market;

protection of Kazakhstani manufacturers and consumers, stimulation of the economy development;

assistance in conducting the structural transformation in the economy, encouragement of competition and resistance to monopolies;

incentivizing of export and encouragement of import-substituting production;

attraction of foreign investments;

solution of tasks of trade policies;

any other objectives to be determined by the central bodies of the state power of the Republic of Kazakhstan in accordance with this Edict and other legislative acts of the Republic of Kazakhstan.

##### **Article 3. Customs Territory and Customs Frontier of the Republic of Kazakhstan**

Dry land area of the Republic of Kazakhstan, territorial waters, internal waters and aerial space over them shall constitute the customs territory of the Republic of Kazakhstan.

Customs territory of the Republic of Kazakhstan shall also include the following items, located in the exclusive maritime economic zone of the Republic of Kazakhstan and over which the Republic of Kazakhstan has exclusive jurisdiction with respect to the customs business: artificial islands, units, buildings, and any other facilities.

Free customs zones and free warehouses with strictly defined territorial limits may be located on the territory of the Republic of Kazakhstan.

The limits of the customs territory of the Republic of Kazakhstan and perimeters of free customs zones and free warehouses shall form the customs borders.

##### **Article 4. Customs Business and International Economic Integration**

In the interest of development and strengthening of the international economic integration, the Republic of Kazakhstan shall create, in cooperation with other states, customs unions, free trade zones; it shall also enter into customs-related treaties in compliance with the provisions of international law.

##### **Article 5. Customs Legislation**

The customs business in the Republic of Kazakhstan shall be governed by this Edict, edicts of the President of the Republic of Kazakhstan, Government of the Republic of Kazakhstan and legal acts of the authorized body of the Republic of Kazakhstan on customs matters and by legal and normative acts of the central customs body of the Republic of Kazakhstan.

Provisions of other legislative acts of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan related to customs matters must not contradict the provisions of this Edict and shall be applied in the customs business appropriate changes and amendments are made to this Edict.

If an international treaty of the Republic of Kazakhstan stipulates rules which are different from those provided by the customs legislation of the Republic of Kazakhstan, the rules stipulated by the indicated treaty shall be applied.

##### **Article 6. Duration of the customs legislation**

In the customs business, legislative acts of the Republic of Kazakhstan effective to the date of acceptance of a customs declaration and other documents by a customs body of the Republic of Kazakhstan for customs purposes shall be applied, except cases provided in this Edict and other legislative acts of the Republic of Kazakhstan.

The customs legislation effective on the following dates shall be applied to conveyance of goods and transport vehicles through the customs border of the Republic of Kazakhstan with violations of the requirements set forth in this Edict:

the date of actual conveyance of goods and transport vehicles through the customs border of the Republic of Kazakhstan; or the date of identification of a customs violation (fraud), if it is not possible to determine the date of actual conveyance.

## **Chapter 2. Organization of the Customs Business**

### **Article 7. Guidance for the Customs Business**

General guidance of the customs business in the Republic of Kazakhstan shall be carried out by the - Government of the Republic of Kazakhstan and the state body authorized thereby.

Direct guidance of the customs business in the Republic of Kazakhstan shall be carried out by the central customs body of the Republic of Kazakhstan.

The central customs body of the Republic of Kazakhstan shall be a legal entity and shall operate within its authority.

The regulation concerning the customs body of the Republic of Kazakhstan shall be approved by the Government of the Republic of Kazakhstan.

The head of the central customs body shall be appointed by the Government of the Republic of Kazakhstan upon suggestion of the authorized state body on customs matters.

### **Article 8. Customs Bodies of the Republic of Kazakhstan**

The customs bodies of the Republic of Kazakhstan, being law enforcement bodies, constitute a single system consisting of: the central customs body of the Republic of Kazakhstan;

customs departments;

customs houses; and

customs points.

Creation, reorganization and liquidation of the customs departments and customs houses shall be performed by the decision of the Government of the Republic of Kazakhstan and shall operate on the basis of regulations approved by the Government of the Republic of Kazakhstan.

Customs points (posts) shall be created, restructured or liquidated by the decision of the state authorized body on customs matters upon suggestion of the central customs body of the Republic of Kazakhstan and shall operate on the basis of regulations approved by the state authorized body of the Republic of Kazakhstan.

### **Article 9 Organizations Facilitating Customs Operations**

Upon suggestions of the central customs body of the Republic of Kazakhstan, the authorized body on customs matters shall propose to the Government of the Republic of Kazakhstan to create organizations that will facilitate customs operations of the customs bodies of the Republic of Kazakhstan, including scientific and research institutions, professional training institutions and customs laboratories.

The assets of the customs bodies of the Republic of Kazakhstan, customs laboratories, scientific and research institutions and training institutions and other organizations subordinate to the central customs body of the Republic of Kazakhstan shall be state owned.

In privatizing the state property, property used solely for the customs purposes shall be separated and transferred to the balance of the customs bodies of the Republic of Kazakhstan following the procedure determined by the legislation and acts of the Government of the Republic of Kazakhstan.

### **Article 10. Acts of the Central Customs Body of the Republic of Kazakhstan**

The central customs body of the Republic of Kazakhstan shall issue normative legal acts on customs matters within its competence.

Normative legal acts of the central customs body of the Republic of Kazakhstan relating to rights, freedoms and duties of citizens shall be subject to approval by the state authorized body on customs matters.

Such acts shall be subject to the state registration in accordance with the legislation of the Republic of Kazakhstan and shall be subject to publication.

### **Article 11 The Principal Tasks of the Customs Bodies of the Republic of Kazakhstan**

The following shall be the principal tasks of the customs bodies of the Republic of Kazakhstan:

1) participation in the development and implementation of the customs policy of the Republic of Kazakhstan, including customs and tariff regulation;

2) ensuring compliance with the customs legislation and other legislation of the Republic of Kazakhstan, and protection of the legal rights and interests of citizens and organizations when carrying out the customs business;

3) ensuring, within the bounds of their authority, the economic security and economic interests of the Republic of Kazakhstan,

4) applying the means of customs regulation of trade and economic relations;

5) levying of customs payments and taxes;

6) participation in the development of measures of the economic policy with respect to goods which are transferred through the customs border of the Republic of Kazakhstan;

7) ensuring compliance with the permission-based procedure when transferring goods and transport vehicles through the customs border of the Republic of Kazakhstan;

8) combating smuggling and crime in the sphere of the customs business, violations of the customs rules and tax legislation relating to the goods transferred through the customs border of the Republic of Kazakhstan; prevention of illegal trafficking through

the customs border of the Republic of Kazakhstan of narcotic substances, and psychotropic compounds, arms, items of artistic, historic and archeological heritage of the people of the Republic of Kazakhstan and foreign countries, items of intellectual property, species of fauna and flora which are in the danger of extinction, their parts and derivatives, and any other goods; and, rendering assistance in the struggle against the international terrorism and prevention of illegal interference at the airports of the Republic of Kazakhstan with the activities of the international civil aviation;

9) exercising and improving customs supervision and customs clearance, creating conditions which assist in expediting the circulation of goods through the customs border of the Republic of Kazakhstan;

10) maintaining the customs statistics of foreign trade and special-purpose customs statistics of the Republic of Kazakhstan;

11) maintaining the Commodity Nomenclature of Foreign Economic Activity;

12) assisting in the development of foreign economic relations of the Republic of Kazakhstan, and also of activities within the framework of such relations, organizations and citizens;

13) assisting in the exercise of measures to ensure national security, morals of the population, protection of life and health of people, protection of the natural environment, fauna and flora, and protection of the interests of the Republic's consumers of imported goods;

14) exercising supervision of export of strategic and other materials that are vitally important to the interests of the Republic of Kazakhstan;

15) exercising currency supervision within the bounds of their authority;

16) ensuring the execution of international obligations of the Republic of Kazakhstan inasmuch as they concern the customs business; participating in drafting international treaties of the Republic of Kazakhstan relating to the customs business; collaborating with the customs and other appropriately authorized bodies of foreign states and international organizations which engage in issues of the customs business;

17) carrying out of scientific research work and consultancy in the area of the customs business; training, re-training and enhancing the qualifications of specialists in that area for state bodies and organizations;

18) presenting information concerning customs issues to bodies of the state power, organizations and citizens in accordance with the procedure established by legislation,

19) participation in implementing a single financial and economic policy, and developing the material, technical and social base of the customs bodies.

#### **Article 12. The Identification Flag and the Identification Sign of the Customs- Bodies of the Republic of Kazakhstan**

The customs bodies of the Republic of Kazakhstan and marine and river vessels which are at their disposal shall have the identification flag and the identification sign.

Automobile transport vehicles and aircraft which are at the disposal of the customs bodies of the Republic of Kazakhstan shall have the identification sign.

The description and procedure for using the identification flag and the identification sign shall be approved by the Government of the Republic of Kazakhstan.

#### **Article 13. Interaction of the Customs Bodies of the Republic of Kazakhstan with Other State Bodies, Organizations and Citizens**

For the purpose of executing the tasks of the customs business, the customs bodies of the Republic of Kazakhstan shall interact with other state bodies, organizations and citizens. State bodies and their officials shall be obliged to render assistance to the customs bodies of the Republic of Kazakhstan in discharging the functions delegated to them.

In accordance with legislative acts of the Republic of Kazakhstan the customs bodies of the Republic of Kazakhstan shall allow other state bodies and organizations to perform certain acts conferred to the competence of the customs bodies, subject to customs supervision.

State bodies not authorized to perform general administration of the customs business shall not have the right to make decisions conferred to the competence of the customs bodies of the Republic of Kazakhstan, perform or change functions without appropriate permission, to delegate additional tasks to, or in any other way interfere with, the activities of the customs bodies described by the provisions of this Edict and other acts of the Republic of Kazakhstan.

#### **Article 14. Providing of Service and Auxiliary Premises, Equipment and Means of Communications to the Customs Bodies of the Republic of Kazakhstan**

Organizations and citizens which are interested in having customs clearance being carried out directly in their location or premises, rather than the location of customs bodies of the Republic of Kazakhstan, shall provide these bodies with the required service or auxiliary premises, equipment and communication facilities for use free-of-charge in such clearance.

#### **Article 15. Providing of Land to Customs Bodies of the Republic of Kazakhstan**

Land for the customs purposes shall be granted for its use in accordance with legislation of the Republic of Kazakhstan.

#### **Article 16. Treatment of Information Submitted to the Customs Bodies of the Republic of Kazakhstan by Governmental Bodies, Organizations and Citizens for Customs Purposes**

Information, submitted to the customs bodies of the Republic of Kazakhstan by governmental bodies, organizations and citizens in accordance with the customs legislation of the Republic of Kazakhstan, shall be used solely for customs purposes.

Information which constitutes state, commercial, banking or any other secret protected by law, and confidential information, shall not be disclosed, used by officials of the customs bodies of the Republic of Kazakhstan for personal purposes, transferred to third parties and any other governmental bodies, unless otherwise directly set forth the legislation of the Republic of Kazakhstan.

**Article 17. Cooperation of the Customs Bodies of the Republic of Kazakhstan with Customs Bodies of Foreign States and International Organizations**

In discharging their functions, the customs bodies of the Republic of Kazakhstan shall cooperate with the customs bodies and other authorized bodies of foreign states and international organizations.

**Article 18. The Main Concepts Employed in This Edict**

The concepts employed in this Edict shall have the following meanings:

- 1) “declarant” means a person -which declares, presents and submits goods and transport vehicles in his own name,
- 2) “person” means a Kazakhstani or a foreign legal entity, an individual entrepreneur, or physical person, except for the cases where it otherwise stipulated by the provisions of this Edict,
- 3) “a Kazakhstani person ” means a legal entity created in accordance with legislation of the Republic of Kazakhstan, and also its affiliates and representatives which are located in the Republic of Kazakhstan, an individual entrepreneur registered in the Republic of Kazakhstan in accordance with legislation of the Republic of Kazakhstan, physical persons who have permanent residence in the Republic of Kazakhstan;
- 4) “a foreign person ” means a person which is not indicated in paragraph 3 of this Article,
- 5) “an entity which transfers goods” means an entity which is the owner of the goods, their buyer, or possessor, or a person in other capacity sufficient under the legislation of the Republic of Kazakhstan to perform on his own behalf the acts which are stipulated in this Edict,
- 6) “non-tariff regulatory measures” mean measures applied by the Government of the Republic of Kazakhstan that include the state monopoly on import and/or export of certain goods, quantitative restrictions on exports and/or imports of goods;
- 7) “tax” means taxes the payment whereof is stipulated in tax legislation of the Republic of Kazakhstan and levying whereof is delegated to the customs bodies of the Republic of Kazakhstan,
- 8) “carrier” is a person which actually transfers goods or is responsible for the use of a transport vehicle,
- 9) “transfer through the customs border of the Republic of Kazakhstan” means the performance of acts associated with import to the customs territory of the Republic of Kazakhstan or export from that territory of goods and transport vehicles by any method including transfer by international post, or use of pipeline transport and electric transmission lines. The following shall be considered “transfer through the customs border of the Republic of Kazakhstan:”
  - when importing goods and transport vehicles to the customs territory of the Republic of Kazakhstan, including importation from the territory of a free customs zone and free warehouse to the remaining part of the customs territory of the Republic of Kazakhstan, it is the actual crossing of the customs border of the Republic of Kazakhstan; in any other cases it is performance of operations directly aimed at the implementation of the intention to export goods and transport vehicles beyond the boundaries of the customs territory of the Republic of Kazakhstan, or to the territory of free customs zones or to free warehouses, in particular it is submission of the customs declaration;
- 10) excluded
- 11) “a special auction” means a public sale of goods, transport vehicles or any other items- which were converted to the property of the state on the basis of a court decision or in cases of giving up goods in favor of the state;
- 12) “customs control ” means the set of measures undertaken by the customs bodies of the Republic of Kazakhstan for the purposes of ensuring compliance with the legislation of the Republic of Kazakhstan concerning the customs business and international treaties of the Republic of Kazakhstan, the supervision of the execution whereof is delegated to the customs bodies of the Republic of Kazakhstan,
- 13) “customs clearance” means performance of operations for the purposes of transfer of goods and transport vehicles under certain customs regimes and termination of that regime in accordance with requirements and provisions of this Edict, ; deleted
- 15) “customs regime” means a set of provisions established by this Edict which determine the status of goods and transport vehicles transferred through the customs border of the Republic of Kazakhstan for customs purposes;
- 16) deleted
- 17) “customs value of goods” means the value of goods conveyed through the customs border of the Republic of Kazakhstan determined in accordance with this Edict and used for- the following purposes:
  - taxation of goods with customs payments and taxes;
  - customs statistics;
  - application of any other measures of the state regulation of foreign economic policies of the Republic of Kazakhstan;
- 18) “goods” means any movable items of the material world including currency, currency assets, electric, heat and any other types of energy and transport vehicles, except for the transport vehicles indicated in paragraph 21 of this Article;
- 19) “Kazakhstani goods” means goods which originate in the Republic of Kazakhstan or goods released for free circulation in the territory of the Republic of Kazakhstan;
- 20) “foreign goods” means goods which are not indicated in paragraph 19 of this Article;
- 21) “a transport vehicle” means any vehicle used for international conveyance of passengers and goods including containers and any other transport equipment;
- 22) “customs escort ” means accompaniment of goods, transport vehicles and documents relating to them by the official persons of the customs bodies of the Republic of Kazakhstan;

23) “conditional release” means release of goods and transport vehicles subject to the obligation to comply with established restrictions, requirements, or terms;

24) “establishment of a warehouse” (of any type) means a type of activity under certain customs regimes, performance whereof does not require any separate formation of a new legal entity.

25) “official” means a special responsible person whose duties include ensuring implementation of the rules stipulated by the customs legislation of the Republic of Kazakhstan ;

## **Section II. TRANSFER OF GOODS AND TRANSPORT VEHICLES THROUGH THE CUSTOMS BORDER OF THE REPUBLIC OF KAZAKHSTAN**

### **Chapter 3. Fundamental Principles of Transfer of Goods and Transport Vehicles**

#### **Article 19. The Right to Import to the Republic of Kazakhstan and Export from the Republic of Kazakhstan Goods and Transport Vehicles**

Any persons on equal basis shall have the right to import to the Republic of Kazakhstan and export from the Republic of Kazakhstan goods and transport vehicles including cases where they carry out foreign economic operations following the procedure stipulated herein.

Nobody shall be deprived of the right or restricted in the right to import to the Republic of Kazakhstan and export from the Republic of Kazakhstan goods and transport vehicles, except for the cases, provided herein and in legislation of the Republic of Kazakhstan.

#### **Article 20. Prohibition of Importation to the Republic of Kazakhstan and Exportation from the Republic of Kazakhstan of Goods and Transport Vehicles**

Legislative acts of the Republic of Kazakhstan, acts of the President and Government of the Republic of Kazakhstan, international treaties of the Republic of Kazakhstan may prohibit importation to the Republic of Kazakhstan and exportation therefrom of certain goods and transport vehicles owing to the interests of the state security, moral and ethical reasons, protection of life and health of people, protection of the environment, animals and plants, objects of Art, historic and archeological heritage of the people of the Republic of Kazakhstan and foreign countries, protection of the ownership right, including ownership of intellectual property, protection of the interests of imported goods’ consumers, and based on any other critical interests of the Republic of Kazakhstan.

Goods and transport vehicles whose exportation or importation is prohibited shall be subject to immediate return either outside the Republic of Kazakhstan, or to the territory of the Republic of Kazakhstan, unless legislative acts of the Republic of Kazakhstan or international treaties of the Republic of Kazakhstan provide for confiscation of these goods and transport vehicles.

The entity which transfers the goods or the carrier shall return the goods and transport vehicles at its own expense. When immediate return is impossible or in the case of failure to return them, goods and transport vehicles shall be transferred for custody to temporary stores, whose owners are the customs bodies of the Republic of Kazakhstan. The entity which transfers the goods or the carrier shall pay storage costs.

The maximum period of storage in temporary stores for goods and transport vehicles, whose importation and exportation are prohibited, shall be three days. Upon expiry of the indicated storage period, such goods and transport vehicles must be declared for a different customs regime. In the case of a failure to declare goods and transport vehicles for the different customs regime, they shall be converted to the State Revenue in accordance with the procedure and conditions provided in the legislation of the Republic of Kazakhstan.

#### **Article 21. Restrictions on Importation to the Republic of Kazakhstan and Exportation from the Republic of Kazakhstan of Goods and Transport Vehicles**

Legislative acts of the Republic of Kazakhstan, the acts of the President and Government of the Republic of Kazakhstan, international treaties of the Republic of Kazakhstan may establish restrictions on importation to the Republic of Kazakhstan and exportation therefrom of goods and transport vehicles. When such restrictions have been established, the customs bodies of the Republic of Kazakhstan shall release the goods and transport vehicles to which these restrictions apply only on condition that requirements provided in legislation of the Republic of Kazakhstan have been complied with.

Acts, which establish restrictions indicated in the first part of this Article, shall be subject to publishing not less than thirty days prior to their enforcement.

Customs bodies of the Republic of Kazakhstan shall not reimburse any expenses incurred by an entity which transfers goods, or by a carrier as a result of restrictions.

#### **Article 22. Procedure for Transfer of Goods and Transport Vehicles Through the Customs Border of the Republic of Kazakhstan**

Transfer of goods and transport vehicles through the customs border of the Republic of Kazakhstan shall be carried out in accordance with their customs regime following the procedure stipulated herein.

##### **Article 22-1. Types of Customs Regime**

For the purpose of applying the customs legislation the following customs regimes shall be established:

- 1) release of goods in free circulation;
- 2) re-importation;
- 3) transit;
- 4) customs warehouse;
- 5) duty free shops;
- 6) processing on the customs territory;
- 7) processing under the customs control;

- 8) temporary importation (exportation);
- 9) free customs zone;
- 10) free warehouse;
- 11) processing outside the customs territory;
- 12) exportation;
- 13) re-exportation;
- 14) destruction;
- 15) rejection in favor of the state.

#### **Article 23. Selection and Alteration of the Customs Regime of Goods and Transport Vehicles**

Pursuant to this Edict, a person shall have the right at any time to select any customs regime or change it for a different one, irrespective of nature, quantity, country of origin, arrival or purpose of goods and transport vehicles, unless otherwise stipulated in this Edict and other acts of the Government of the Republic of Kazakhstan.

#### **Article 24. Customs Clearance and Customs Control**

In the cases which are stipulated in this Edict, goods and transport vehicles shall be subject to customs clearance and customs control.

#### **Article 25. Use and Disposal of Conditionally Released Goods and Transport Vehicles for Which Customs Relief is Granted with Respect to Customs Duties and Taxes**

Goods and transport vehicles granted customs duties and tax relief under condition of observance of statutory restrictions, requirements or conditions shall be conditionally released and may be used only for those purposes in connection wherewith such relief is granted. Use of the indicated goods and transport vehicles for any other purposes shall be allowed with the permission of the customs body of the Republic or Kazakhstan, provided that customs duties and taxes are paid and other requirements of this Edict are met.

Disposal of conditionally released goods and transport vehicles, for which relief is granted with respect to customs duties and taxes, shall be allowed subject to permission of the customs body of the Republic of Kazakhstan, following the procedure stipulated in part one of this Article.

The responsibility for compliance with the requirements set forth herein shall rest with the person, to whom conditionally released goods and transport vehicles are given for use and disposal in the process of their customs clearance. The declarant shall bear consolidated liability with the person, to whom such conditionally released goods and transport vehicles are given for use and disposal.

#### **Article 26. Use and Disposal of Goods and Transport Vehicles Transferred Through the Customs Border of the Republic or Kazakhstan**

The use and disposal of goods and transport vehicles transferred through the customs border of the Republic of Kazakhstan shall be carried out in accordance with their customs regimes and this Edict.

#### **Article 27. Use and Disposal of Conditionally Released Goods and Transport Vehicles for Which Customs Relief is Granted with Respect to Customs Duties and Taxes**

1. Conditionally released goods and transport vehicles, in respect of which tax and customs duty benefits are granted, may be used for purposes in connection with which such benefits are granted. Use of such goods and transport vehicles for other purposes shall be allowed only with the permission of the customs body of the Republic of Kazakhstan provided that appropriate customs and tax payments are made and other applicable requirements set forth in this Edict and other acts of the Republic of Kazakhstan are met.

2. Disposal of conditionally released goods and transport vehicles, for which relief is granted with respect to customs duties and taxes, shall be allowed subject to permission of the customs body of the Republic of Kazakhstan, following the procedure stipulated in part one of this Article.

### **Section III . CUSTOMS REGIMES OF GOODS**

#### **Chapter 4. Release of Goods For Free Circulation**

##### **Article 28. Purpose of the Regime of Release of Goods for Free Circulation**

Customs regime of goods released for free circulation is intended to allow imported goods to remain permanently or to be consumed within the customs territory of the Republic of Kazakhstan.

##### **Article 29. Requirements for Releasing of Goods for Free Circulation**

Release of goods for free circulation shall be performed on condition of payment of customs import duties and other payments and taxes stipulated in this Edict;

compliance with the measures of non-tariff regulation;

compliance with any other requirements provided in this Edict, other legislative acts of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan on foreign currency exchange;

completion of customs processing.

#### **Chapter 5. Re-importation of Goods**

##### **Article 30. Purpose of the Regime of Re-importation of Goods**

Re-importation of goods is the customs regime under which Kazakhstani goods, exported from the customs territory of the Republic of Kazakhstan in accordance with the customs regime of exportation, are imported back within periods, stipulated in Article 31 hereof, without levying customs duties and taxes and without application of measures of economic policy to these goods

#### **Article 31. Requirements to Re-importation of Goods**

To place goods under re-importation customs regime of reimport, the goods shall be:

goods which have been exported from the territory of the Republic of Kazakhstan according to the customs regime of exportation;

goods imported into the customs territory of the Republic of Kazakhstan three years after their exportation;

goods in the same state as at the time of exportation, except for changes resulted from natural wear or diminution in normal conditions of transportation and storage, cases of damage or other deterioration of goods caused by an accident or acts of force majeure, and also other operations with such goods to keep them undamaged, small repair, which do not increase the cost of goods as determined at the moment of exportation. Natural wear or diminution of goods under normal conditions of transportation and storage, shall be estimated according to the standards related to such goods. The fact of change as a result of accident or act of force major shall be proved by documents signed by consular bodies of the Republic of Kazakhstan abroad.

The date of exportation shall be the date of acceptance of cargo declaration.

#### **Article 32. Refund of Export Customs Duties and Other Amounts**

In re-importation of goods, the customs body of the Republic of Kazakhstan shall refund customs duties, paid earlier, to the person who reimported the goods within three years following the date of exportation of the goods.

In re-importation of goods, the person who transfers the goods shall repay the amounts received as payment or resulted from the other privileges granted in exportation of goods.

In addition to such amounts, interest shall be levied on them in accordance with the official refinancing rate, set by the National Bank of the Republic of Kazakhstan.

Amounts and interest thereon, stipulated in the second and third parts of this Article, shall be paid to the customs body of the Republic of Kazakhstan in accordance with the procedure set for the customs payments.

### **Chapter 6. Transit of Goods**

#### **Article 33. Purpose of the Customs Regime of Transit of Goods**

The customs regime of goods' transit is intended to allow the goods to be transferred under the customs control, through the customs territory of the Republic of Kazakhstan and through the territory of a foreign state without levying customs duties and taxes and without applying measures of economic policy.

#### **Article 34. Requirements to Transit of Goods**

Goods which are conveyed in transit through the customs territory of the Republic of Kazakhstan must:

remain in an unchanged condition, except for changes consequential to natural wear or loss under normal conditions of transportation and storage, and not used for business purposes;

be transported by the routes and directions of transit, if such are established by the Government of the Republic of Kazakhstan;

be delivered to the customs body of destination within deadlines established by the customs body of departure in accordance with usual deadlines for delivery on the basis of the capacity of the transport vehicle, the planned route, and any other conditions of transportation, but not longer than the maximum period determined on the basis of two thousand kilometers per one month.

Goods that are prohibited from import into the Republic of Kazakhstan or from export from the Republic of Kazakhstan shall not be allowed to be placed under transit.

#### **Article 35. Permission for Transit of Goods**

Transit of goods shall be carried out under permission of the customs body of the Republic of Kazakhstan.

Goods, in respect of which the legislation of the Republic of Kazakhstan provides for application of non-tariff regulatory measures and/or collection of customs duties and/or taxes for their release in free circulation within the customs territory of the Republic of Kazakhstan, shall be allowed for transit, provided that:

appropriately equipped transport vehicles are used. Requirements for equipping transport vehicle shall be established by the central customs bodies of the Republic of Kazakhstan;

a warranty of payment of customs duties and taxes in the form of a bank guarantee or deposition of the due amounts with the customs body of the Republic of Kazakhstan are secured;

customs escort of goods.

Each subsequent measure of the enumerated shall be applied if compliance with the transit requirements cannot be observed by implementing the preceding measure.

A carrier has a choice of using customs escort.

The customs bodies of the Republic of Kazakhstan shall not reimburse the expenses on transport vehicle equipment which a carrier incurs.

The Government of the Republic of Kazakhstan shall provide the list of goods which may be transitted only under condition of giving securities of payment of customs duties and taxes

#### **Article 36. Documents for Goods Subject to Submission to Destination Customs Body**

Documents for goods subject to submission to the destination customs body shall be delivered following the same procedure as the goods to which they relate.

#### **Article 37. Measures To Be Taken In Case of Accident or Force Majeure**

In case of an accident or force majeure, goods may be unloaded. In this case, the carrier shall be required to:

- take any measure necessary to ensure safety of goods and prevention from any unauthorized use thereof,
- promptly inform the nearest customs body of the Republic of Kazakhstan about circumstances of the case, location of the goods and transport vehicles,
- ensure conveyance of the goods to the nearest customs body of the Republic of Kazakhstan or conveyance of officials from the customs body of the Republic of Kazakhstan to location of the goods.

The customs bodies of the Republic of Kazakhstan shall not reimburse to the carrier expenses incurred as a result of taking measures stipulated in this Article.

#### **Article 38. Responsibility of the Carrier**

Transit of goods shall be responsibility of the carrier.

If goods are transferred without permission of the customs body of the Republic of Kazakhstan or in cases of loss of the goods, failure to notify about such loss or failure to deliver goods to the destination customs body, carrier shall pay customs duties and taxes which would have been payable, respectively, in case of release for free circulation or exportation, unless the goods were destroyed, irretrievably lost as a result of an accident or force majeure, or possession of the goods was lost as a result of actions by authorities or officials of the foreign state, which actions are illegal under legislation of the Republic of Kazakhstan, provided that relevant documents have been submitted.

#### **Chapter 7. Customs Warehouse**

##### **Article 39. Purpose of the Customs Warehouse Regime**

Regime of the customs warehouse is intended to permit storage of imported goods under customs control without levying of customs duties, taxes and without application of measures of economic policy for the period of storage and to permit storage under customs control goods to be exported without application of customs duties, measures of economic policy prior to their actual export.

##### **Article 40. Customs Warehouses and Their Types**

Any specifically identified and specially designed premises or location intended to store goods in accordance with the customs warehouse shall be deemed a customs warehouse.

Customs warehouse may be of open type, that is available for use by any persons, and of the closed type, that is intended to store goods of certain persons.

The customs warehouses of closed type may be established, if there are reasons to deem establishment of open-type warehouse inappropriate.

##### **Article 41. Owners of Customs Warehouses**

Customs bodies of the Republic of Kazakhstan or Kazakhstani persons may be owners of customs warehouses.

Customs warehouses which are under the authority of the customs bodies of the Republic of Kazakhstan shall be open-type warehouses.

##### **Article 42. Licenses to Establish a Customs Warehouse**

A customs warehouse may be established after obtaining the license from the central customs body of the Republic of Kazakhstan. Such a license shall not be required where the customs warehouse is established by the customs bodies of the Republic of Kazakhstan.

- Application and licensing procedure to establish a customs warehouse shall be determined by the central customs body of the Republic of Kazakhstan.

A levy shall be imposed for the issuance of a license to establish a customs warehouse in accordance with the procedure and in the amount determined by the tax legislation of the Republic of Kazakhstan.

A license to establish a customs warehouse may be revoked or its effect may be suspended by the central customs body of the Republic of Kazakhstan.

A license shall be revoked if:

it was issued on the basis of incomplete or unreliable information presented by the applicant, whereas the validity duration is terminated from the date of issue;

on the grounds stipulated in the legislation concerning licensing. Revocation shall be effective from the date of official notification to the licensee of revocation.

The duration of a license shall be suspended where the owner of a customs warehouse does not comply with the requirements of this Edict. Suspension shall be effective from the date of adoption of the decision to suspend.

When revoking or suspending the validity of a license, the levy for its issue shall not be subject to refund.

##### **Article 43. Requirements to Owners of Customs Warehouses**

The owner of a customs warehouse shall be obligated to:

- comply with the requirements established by the central customs body of the Republic of Kazakhstan in respect of premises or location intended for the establishment of a customs warehouse;
- to ensure that the stored goods are not taken out from the customs warehouse other than under customs control,



- not to hamper implementation of the customs control; to comply with the terms of license for establishment of the customs warehouse and to meet requirements of the customs bodies of the Republic of Kazakhstan, including making sure that officials of the customs bodies of the Republic of Kazakhstan have access to the goods which are stored in the customs warehouse, providing these officials free of charge with premises, equipment and means of communication at the customs warehouse for implementation of customs control and customs clearance;

- to keep accounts and provide reports on the goods stored and their turnover to the customs bodies of the Republic of Kazakhstan in accordance with the procedure established by the central customs body of the Republic of Kazakhstan.

Article 44. Responsibility for Payment of Customs Duties and Taxes With Respect to the Goods Cleared Through a Customs Warehouse

Responsibility for payment of customs duties and taxes with respect to the goods cleared through the customs warehouse shall rest with the declarant. The person placing the goods for storage in the warehouse shall bear consolidated liability with the declarant.

In the case where the requirements stipulated in Article 43 of this Edict are not observed, responsibility for payment of customs duties and taxes shall rest with the owner of the customs warehouse.

Article 45. Goods Subject to Storage in the Customs Warehouse

Any goods other than those, the list of which is identified by the central customs body of the Republic of Kazakhstan, can be placed to the customs warehouse.

Goods which may cause damage to the other goods or which require special conditions of storage must be placed to the customs warehouses designed in accordance with conditions of storage of such goods.

Article 46. The Period of Storage of Goods In the Customs Warehouse

Goods can be stored in a customs warehouse for three years,

except for those cases where such period is limited in respect of certain categories of goods and persons under a procedure established by the central customs body of the Republic of Kazakhstan.

Upon expiry of a set period of storage in the customs warehouse, the goods must be declared for a different customs regime or placed to a temporary storage owned by the customs body of the Republic of Kazakhstan.

If goods are moved from one warehouse to another under the same customs regime, the storage period shall start from the date of their initial placement into the customs warehouse.

Article 47. Operations Performed On the Goods Stored in Customs Warehouse

Following are the operations which may be performed on the goods placed to the customs warehouse:

- operations intended to ensure safety of these goods,

- operations intended to prepare the goods for sale and transportation; splitting of batches, formation of consignments, sorting out, packaging, re-packaging, marking, loading, unloading, re-loading and other similar operations.

The list and procedure for the performance of the operations listed in this Article shall be identified by the central customs body of the Republic of Kazakhstan.

Article 48. Exemption of Goods, Placed Under the Customs Warehouse Regime and Intended for Exportation in Accordance With the Customs Regime of Exportation, From Customs Duties or Refund of Amounts Paid

When customs warehouse regime is applied to the goods intended for exportation in accordance with the customs regime of exportation, such goods shall be exempt from customs duties, or the amounts paid shall be refunded, provided that such exemption or refund are stipulated for actual export of goods. Where goods are exempt from customs duties or paid amounts are refunded, the goods must be withdrawn not later than three months following the date of their placement under the customs warehouse regime.

Goods shall be actually exported outside the customs territory of the Republic of Kazakhstan or declared under a different customs regime no later than the established deadline.

Article 49. Special Features of Legal Regulation of Activities of the Customs Warehouses

The Government of the Republic of Kazakhstan may determine special features of activities of the customs warehouses which are not stipulated in this Edict.

Chapter 8. Duty Free Shop

Article 50. Purpose of the Duty Free Shop Regime

The customs regime of duty free shops is intended to allow for retail sales by natural persons of goods imported into the customs territory of the Republic of Kazakhstan under the customs control within the customs territory of the Republic of Kazakhstan without levying customs duties, taxes and without application of non-tariff regulatory measures provided that such goods are exported from the customs territory of the Republic of Kazakhstan.

Such sale (distribution) is effectuated under customs control in the customs territory of the Republic of Kazakhstan at airports, ports and border crossing passages open for international traffic.

Article 51. A License to Establish a Duty-Free Shop

A duty-free shop may be established by a Kazakhstani entity in the places which are determined by the customs body of the Republic of Kazakhstan after its owner's receipt of the license from the central customs body of the Republic of Kazakhstan.

The application review and licensing procedure to establish a duty free shop shall be established by the central customs body of the Republic of Kazakhstan.

For issuing licenses to establish a duty-free shop, levy shall be imposed in accordance with the procedure and in the amount to be determined by the tax legislation of the Republic of Kazakhstan.

Licenses to establish a duty-free trade shop may be revoked or its effect may be suspended by the central customs body of the Republic of Kazakhstan.

A license shall be revoked:

if it was issued on the basis of incomplete or unreliable information presented by the applicant, whereas such termination commences from the date of issue;

on the bases stipulated in the legislation on licensing. Revocation of a license shall be effective from the date of official notification to the licensee of such revocation.

The duration of a license shall be suspended where the owner of a duty free trade shop does not comply with the requirements of this Edict. The suspension shall be effective from the date of adoption of the decision to suspend.

In revocation or suspension of the license effect levy for its issue shall not be subject to refund.

#### Article 52. Customs Requirements to Duty Free Shop Owners

The owner of a duty free shop shall be required to:

- equip facilities (premises) of a duty free shop with appropriate amenities as established by the central customs body of the Republic of Kazakhstan;
- eliminate the possibility of receipts to duty free shop, sales or withdrawal of goods otherwise than under the customs control;
- comply with the terms of the license for establishment of the duty free shop;
- to keep accounts and provide reports on incoming and sold goods to the customs bodies of the Republic of Kazakhstan in accordance with the procedure determined by the central customs body of the Republic of Kazakhstan.

#### Article 53. Responsibility For Payment of Customs Duties and Taxes on Goods Sold Through Duty Free Shop

The responsibility for payment of customs duties and taxes shall rest with the owner of the duty free shop.

#### Chapter 9. Processing of Goods within the Customs Territory of the Republic of Kazakhstan

##### Article 54. Purpose of the Regime of Processing of Goods within the Customs Territory of the Republic of Kazakhstan

The customs regime of processing of goods within the customs territory is intended to allow for the use of foreign goods for processing within the customs territory of the Republic of Kazakhstan without applying measures of economic policy and with refund of import customs duties and taxes, provided that products of the processing are exported outside of the customs territory of the Republic of Kazakhstan.

##### Article 55. Operations on Processing of Goods

Operations on processing of goods shall include:

- 1) re-processing of goods, whereby foreign goods lose specific characteristics but the imported goods nevertheless may be identified in the products of re-processing, given that such identification is a binding condition of re-processing;
- 2) manufacture (re-processing) of other goods including installation, assembly and adapting, where the imported goods preserve their main characteristics;
- 3) repair of goods, including their restoration;
- 4) use of certain goods, facilitating production of re-processed products with their partial or total consumption in the course of re-processing.

This operation shall be effectuated along with either of the two set forth in sub-paragraphs 1, 2 and 3 of this article.

##### Article 56.

#### Requirements to Application of Re-Processing Regime of Goods In the Customs Territory

The customs re-processing regime for the goods in the customs territory of the Republic of Kazakhstan shall not be applied in the following cases:

goods are not allowed for re-processing regime according to the list issued by the Government of the Republic of Kazakhstan;

imported goods can not be identified in the products of process of their re-processing, except for the cases

where the production process is continuous or is based on a unique technology without which such goods cannot be re-processed in order to produce similar goods in the territory of the Republic of Kazakhstan. The list of such technological processes shall be established by the Ministry of Energy, Industry and Trade of the Republic of Kazakhstan upon agreement with the state authorized body;

the person who effectuates re-processing of such imported goods:

- 1) has not been complied with the procedure of re-processing of goods that have been earlier imported in breach of the established procedure;
- 2) has earlier violated (two or more times) the indicated procedure;
- 3) has committed violations of the customs rules with resultant indicators of contraband, which is proven pursuant to the procedure established by the existing legislation of the Republic of Kazakhstan.

For re-processing of goods in the customs territory, the following is required:

an obligation submitted by a Kazakhstani entity to fulfill processing conditions issued according to an order established by the central customs body of the Republic of Kazakhstan;

payment of import customs duties and taxes or ensuring payment in the way of guarantees issued by authorized banks or organizations which perform certain types of bank transactions, or depositing receivable at discretion of declarant;

fulfillment of other requirements provided in the this Edict of the Republic of Kazakhstan.

Kazakhstani goods may be used in re-processing of foreign goods. Use of Kazakhstani goods, in respect of which non-tariff regulatory measures and/or customs duties, shall be allowed with permission of the authorized state body.

Article 57. Period of Processing of Goods Within the Customs Territory

The term of processing of goods within the customs territory of the Republic of Kazakhstan shall be set up the declarant pursuant to the procedure established by the central customs body of the Republic of Kazakhstan.

The term shall not exceed two years from the date of conveying the goods across the customs border of the Republic of Kazakhstan.

The state authorized body shall establish terms of re-processing of certain goods, the list of which is to be determined by the Government of the Republic of Kazakhstan.

Article 58. Amount of Output of Products of Processing for Customs Purposes

Output - of processed product shall be

estimated by the declarant that imported the goods

for re- processing on the basis of technical documentation of the enterprise which processes the imported goods, and the processing conditions.

The state authorized body of the Republic of Kazakhstan shall establish mandatory output amount of goods resultant from re-processing of certain goods, the list of which is determined by the Government of the Republic of Kazakhstan.

Article 59. Refund of Import Customs Duties and Taxes

Paid customs duties and taxes or deposited amounts due shall be reimbursed or guarantees of authorized banks shall become void provided that the following is done:

the requirements envisaged herein are complied with;

export for goods or re-processed products not later than two years following the date of transfer of the goods through customs border of the Republic of Kazakhstan;

confirmation of the actual export of the imported goods or re-processed products outside the Republic of Kazakhstan. Interest shall not be accrued on the reimbursed amounts.

While releasing the imported goods or re-processed products for free circulation in the customs territory of the Republic of Kazakhstan, customs duties and taxes shall be paid, if not paid when the goods have been imported for re-processing. In addition, interests shall be accrued on the above amounts at the official refinancing rate of the National Bank of the Republic of Kazakhstan announced on the day of payment of customs duties and taxes for the period the goods have been rested under the customs re-processing regime including the date of payment of appropriate duties and taxes.

Article 60. Exemption of Foreign Goods And Products of Their Processing from Export Customs Duties And From Application of Measures of Economic Policy

Foreign goods and products of their processing shall be exempt from export customs duties. Measures of economic policy shall not apply to the said goods and products.

Chapter 10. Processing of Goods Under the Customs. Control

Article 61. Purpose of the Regime of Goods Processing Under the Customs Control

Processing of goods under the customs supervision is a customs regime under which foreign goods are used in accordance with the procedure, established herein, within the customs territory of the Republic of Kazakhstan without levying customs duties and taxes, and without application of measures of economic policy, for the purpose of their processing under the customs control until subsequent release for free circulation or placement of the products of processing under the other customs regime.

Article 62.

Requirements for

Application of the Customs Regime of Goods Re-Processing Under the Customs Control

Re-processing of goods under the customs control must not be used to avoid application of measures of non-tariff regulation and the rules of origin of goods.

The customs regime of goods re-processing under the customs control shall not be allowed if:

goods are not allowed to be placed under the re-processing regime because they are not on the list established by the Government of the Republic of Kazakhstan;

goods are declared for regime of re-processing by an entity that does not itself carry out re-processing”

re-processing period exceeds six months;

re-processing does not correspond to the technology used by the enterprise which is supposed to re-process;

the entity which carries out re-processing of goods:

1) cannot meet requirements of the customs bodies, including requirements on ensuring impossibility of withdrawal of goods and re-processed products in addition to the customs control, possibility of implementation of the customs control, ensuring access by the customs bodies to the goods, accounting of the goods and conducting operations with them, and also reporting;

2) has not completed the process of re-processing of goods that have been earlier imported with violations of the statutory procedure;

3) has violated the statutory procedure several times (two and more times);

4) has violated the customs rules and regulations by way of fraudulent operations, which is provided pursuant to the procedure established by the Legislation of the Republic of Kazakhstan.

For the goods to be re-processed one shall submit his/her commitments in respect of re-processing conditions formalized according to the procedure established by the central customs body of the Republic of Kazakhstan.

#### Article 63. Provisions Which Govern Processing of Goods Under the Customs Control

Processing of goods under the customs control shall be governed by the provisions of Articles 55 and 58 hereof.

#### Article 63-1. Application of Customs Duties and Taxes

Foreign goods and their re-processed products shall be exempted from the export customs duties. Measures of economic policy shall not be applied to the above goods and products.

While releasing the foreign goods or their re-processed products for free circulation in the customs territory of the Republic of Kazakhstan, customs duties and taxes with accrued penalties shall be paid in the amount of 1.5 times the official refinancing rate of the National Bank of the Republic of Kazakhstan announced on the day of payment of the amounts for the period the goods have been kept under the customs re-processing regime including the day of payment.

#### Chapter 11. Temporary Importation and Temporary Exportation of Goods

#### Article 64. Purpose of the Regime of Temporary Importation And Temporary Exportation of Goods

Customs regime of temporary importation and temporary exportation of goods is intended to allow the goods to be used both within the customs territory of the Republic of Kazakhstan or outside thereof with full or partial exemption from customs duties and taxes and without application of measures of economic policy.

#### Article 65. Requirements for Temporary Importation and Temporary Exportation of Goods

Goods temporarily imported and temporarily exported shall be subject to return in an unchanged state, except for changes resulted from natural wear or diminution in normal conditions of transportation, storage and utilization..

Categories of goods which may not be exported or imported temporarily shall be determined by the Government of the Republic of Kazakhstan.

Goods shall be temporarily imported and exported only if such goods are:

1) returned;

2) appropriately identified (marked);

3) are not used for business purposes. The requirement set forth by this paragraph shall not relate to goods imported or exported temporary with full exemption from customs duties and taxes, as well as to equipment.

Deleted.

#### Article 67. Periods of Temporary Exportation And Temporary Importation of Goods

Periods of temporary exportation and temporary importation of goods shall be set by the entity who temporarily exported or imported such goods and shall be approved by the customs body of the Republic of Kazakhstan based on the purpose and other circumstances of such exportation and importation, but not more than two years from the date of importation or exportation, respectively.

The central customs body of the Republic of Kazakhstan may set shorter or longer maximum periods for certain categories of goods.

Changes of the above periods shall be made by the customs bodies of the Republic of Kazakhstan in accordance with the procedure determined by the central customs body of the Republic of Kazakhstan.

No fee shall be charged for customs clearance of goods imported or exported temporarily when the duration of such import or export is extended.

#### Article 68. Exemption from Customs Duties And Taxes On Temporarily Imported or Temporarily Exported Goods

The Government of the Republic of Kazakhstan shall determine the list of temporarily imported or exported goods that are granted exemptions from taxes and customs duties.

Goods which are not on the list, shall be partially exempted from customs duties and taxes.

In this case, three percent of the amount, which would have been payable if the goods had been released for free circulation or exported, shall be paid for each complete and incomplete month.

The total amount of customs duties and taxes, levied in temporary importation or temporary exportation with partial exemption, shall not exceed the amount of customs duties and taxes, which would have been payable as of the time of importation or exportation, if the goods had been released for free circulation or exported.

In the event that said amounts become equal, the goods shall be deemed released for free circulation or exported, provided that measures of non-tariff regulation are not applied with respect to these goods.

#### Article 69. Operations on Goods Upon Expiry of Set Periods for Temporary Importation (Exportation)

Prior to expiry of set periods, unreturned temporarily imported (exported) goods must be declared for a different customs regime or placed to temporary stores, whose owners are the customs bodies of the Republic of Kazakhstan.

#### Article 70. A Failure to Return Temporarily Exported And Imported Goods

A failure to return the temporarily imported or temporarily exported goods within the established deadline shall be permitted only in those cases where the fact of destruction or irrevocable loss of the goods due to accident or acts of force majeure, shortage due to deterioration or diminution as a result of loss under normal conditions of transportation and storage, or conversion as a consequence of the unlawful acts of the bodies or officials of the state where the goods are located confirmed: by consular institutions of the Republic of Kazakhstan abroad for temporary exportation, and by competent bodies of the Republic of Kazakhstan defined by the Government of the Republic of Kazakhstan for temporary importation.

Sanctions for violation of the customs regulations in accordance with this Edict shall be applied to the person which temporarily exported or imported goods and failed to return them within the established deadline in line with the requirements provided in section one of the article.

#### Chapter 12. Free Customs Zone And Free Warehouse

##### Article 71. Purpose of the Customs Regimes of Free Customs Zones And Free Warehouses

The customs regimes of free customs zones and free warehouses shall mean the customs regimes under which foreign goods are placed and used within the relevant territorial borders or premises (locations) without levying of customs duties and taxes and without application of measures of non-tariff regulation. Kazakhstani goods shall be placed and used on the terms applicable to export in accordance with the customs regime of exportation following the procedure provided in this Edict.

##### Article 72. Creation of Free Customs Zone

Free customs zone, as a territory in which customs regime of the free customs zone is applied, shall be created by the decision of the Government of the Republic of Kazakhstan, which has been passed upon a joint proposal from the state authorized body of the Republic of Kazakhstan and local representative and executive bodies of the Republic of Kazakhstan, upon agreement with, the Ministry of Economy, Industry and Trade and the Ministry of Finance of the Republic of Kazakhstan.

The Government of the Republic of Kazakhstan shall be entitled to invalidate decision to create free customs zone, if its operation does not comply with the requirements of this Edict. In case of invalidation of the above decision, the free customs zone must be liquidated within six months.

The procedure for considering applications for establishment of free customs zones, passing and invalidation of decisions to create free customs zone shall be defined by the Government of the Republic of Kazakhstan.

##### Article 73. Establishment And Liquidation of a Free Warehouse

Free warehouses may be established after receipt of the license from the central customs body of the Republic of Kazakhstan.

The review of applications and licensing to establish a free warehouse shall be established by the central customs body of the Republic of Kazakhstan.

A levy shall be imposed for the issuance of a license to establish a free trade warehouse in accordance with the procedure and in the amounts determined by the tax legislation of the Republic of Kazakhstan.

A license to establish a free warehouse may be revoked or its effect may be suspended by the Central Customs Body of the Republic of Kazakhstan.

Licenses shall be revoked if issued on the basis of incomplete or unreliable information presented by the applicant and also on the bases stipulated in the legislative acts concerning licensing. The revocation shall be effective from the date of official notification to the license holder of revocation.

The effect of a license shall be suspended where the owner of a free warehouse does not comply with the requirements of this Edict or the license is no longer consistent with the economic policy of the Republic of Kazakhstan. The suspension shall be effective from the date of adopting the resolution to suspend.

Upon a suspension of the effect of a license, the foreign goods shall be placed in a warehouse with payment of customs duties and taxes and application of measures of economic policy, and Kazakhstani goods placed in a warehouse shall not be exempt from customs duties and taxes and customs duties taxes shall not be refunded.

The levy for the issuance of a license that has been revoked or suspended shall not be refunded.

When liquidating a free warehouse upon expiry of the effect of the license or at discretion of the owner and equally in the revocation or suspension of the effect of a license for the establishment of a free warehouse by the central customs body of the Republic of Kazakhstan, from the date of the adoption of such a decision the free warehouse shall become a warehouse for temporary storage.

In this case, goods in a warehouse for temporary storage shall be stored according to the procedure established in this Edict, and goods which are in the warehouse shall be subject to customs processing again from the date of adoption of the decision on liquidation of the warehouse or official notification to the license holder of revocation.

##### Article 73-1. Goods Subject to Placement Under the Free Customs Zone Regime

Goods that are destined for re-processing or equipment shall be allowed to be placed under the free customs zone regime.

The Government of the Republic of Kazakhstan shall determine a list of goods and equipment that are placed under the free customs zone regime.

##### Article 74. Operations Involving Goods placed under the customs regimes of free customs zones and free warehouses

The following operations involving goods shall be allowed in free customs zones and free warehouses:

to ensure the safety of such goods;

to prepare goods for sale and transporting: splitting up into smaller shipments, sorting, packing, re-packing, marking, loading, unloading, re-loading and other suchlike operations;

to reprocess.

The list of allowed operations shall be determined by the central customs body of the Republic of Kazakhstan.

For the purposes of ensuring compliance with the legislation of the Republic of Kazakhstan and performing the customs supervision, the Government of the Republic of Kazakhstan shall have the right to establish certain prohibitions and restrictions with regard to operations involving goods in free customs zones and at free warehouses, based on the nature of the goods, and to establish requirements for construction of buildings, structures and installations in free customs zones.

The customs bodies of the Republic of Kazakhstan may prohibit certain entities from the performance of operations involving goods in free customs zones and free warehouses, or deny such entities the access to the territory of free customs zones and free warehouses, where those entities do not comply with the requirements of legislative acts of the Republic of Kazakhstan or acts of the Government of the Republic of Kazakhstan.

The central customs body of the Republic of Kazakhstan shall have a right to restrict or prohibit import or placement of certain categories of goods at free warehouses.

#### Article 75. Periods for Which Goods Remain in Free Customs Zones and Free Warehouses

Goods placed into free customs zones and free warehouses, may remain in free customs zones and free warehouses without limitation of time periods.

#### Article 76. Measures Intended to Ensure Compliance With Customs Legislation of the Republic of Kazakhstan In Free Customs Zones And Free Warehouses

The customs bodies of the Republic of Kazakhstan shall enforce control over goods kept in free customs zones or at free warehouses.

The customs clearance of goods imported in free customs zones and placed at free warehouses as well as exported from such territories shall be effectuated pursuant to the procedure determined by the central customs body of the Republic of Kazakhstan.

#### Article 77. Accounting For the Goods Located In Free Customs Zones And Free Warehouses

Persons which carry out other commercial activities in free customs zones, as well as owners of free warehouses, shall keep accounts of imported, withdrawn, stored, manufactured, processed, purchased and sold goods, and provide the customs bodies of the Republic of Kazakhstan with reports on these goods in accordance with the procedure determined by the central customs body of the Republic of Kazakhstan. Any modifications that take place with respect to the goods within the territory of free customs zones and free warehouses must be reflected in the accounting documents.

#### Article 78. Additional Requirements for Free Warehouses And Their Owners

Only Kazakhstani persons may be owners of free warehouses.

The owner of a warehouse shall be required:

to comply with the requirements applied to premises or locations intended for the establishment of free warehouse set forth by the central customs body of the Republic of Kazakhstan.

- to ensure that the goods stored in the warehouse can not be withdrawn otherwise than under customs control,
- not to hamper implementation of the customs control;

- to comply with terms of the license for establishment of the free warehouse and meet requirements of the customs bodies of the Republic of Kazakhstan, including making sure that officials of the customs bodies of the Republic of Kazakhstan have access to the goods which are stored in the free warehouse, providing these officials free of charge with premises, equipment and means of communication at the free warehouse for implementation of customs control and customs clearance;

#### Article 79. Levying of Customs Duties, Taxes And Application of Sanctions of Non-tariff Regulation

When importing foreign goods to the territory of free customs zones or when foreign and Kazakhstani goods are placed at free warehouses, customs duties and taxes shall not be levied and measures of non-tariff regulation shall not apply.

When importing foreign goods from the territory of free customs zones and free warehouses to the remaining part of the customs territory of the Republic of Kazakhstan, customs duties and taxes shall be levied and non-tariff regulatory measures shall apply depending upon conditions of declared customs regime.

When importing Kazakhstani goods to free customs zones from other parts of the customs territory of the Republic of Kazakhstan and exporting them from the territory of free customs zones to other parts of the customs territory of the Republic of Kazakhstan, customs duties and taxes shall not be levied and measures of non-tariff regulation shall not be applied.

When exporting goods from free customs zones and free warehouses outside the Republic of Kazakhstan, customs duties and taxes shall not be levied and measures of non-tariff regulation shall not be applied to goods:

- of foreign origin;
- produced in the territory of free customs zones and at free warehouses;
- reprocessed within the territory of free customs zones and at free warehouses.

The origin of goods from the territory of free customs zones and free warehouses shall be confirmed by the certificate of origin.

Where certificate is not available, goods shall be regarded as:

for the purposes of levying export customs duties and application of measures of non-tariff regulation as Kazakhstani goods when exported outside the Republic of Kazakhstan;

for the purposes of levying import customs duties and application of measures of non-tariff regulation as foreign goods when imported to other parts of the customs territory of the Republic of Kazakhstan.

#### Article 80. Exemption of Goods Destined for Export Pursuant to Export Customs Regime from Customs Duties or Refund of Paid Amounts

When importing goods destined for export outside of the Republic of Kazakhstan pursuant to the export customs regime into free customs zones or their placement at free warehouses, such goods shall be exempt from customs duties or all paid amounts shall be refunded, if such an exemption or refund is provided in actual export of goods.

The actual export of such goods must be effectuated no later than six months from the date the paid customs duties are refunded or the exemption therefrom is granted.

Goods shall be actually exported from the customs territory of the Republic of Kazakhstan or filed for a different customs regime no later than the established deadline.

#### Article 81. Responsibility For Payment of Customs Duties And Taxes

Responsibility for payment of customs duties and taxes shall rest with the person, which imported goods to the territory of the free customs zone or placed them to the free warehouse.

#### Article 82. Regulatory Specifics of Operations of Free Warehouses

The Government of the Republic of Kazakhstan shall determine regulatory specifics of the operations of free warehouses that are not envisaged in Chapter 12 of this Edict.

#### Chapter 13. Processing of Goods Outside of the Customs Territory

##### Article 83. Purpose of the Regime of Processing of Goods Outside of the Customs Territory

The customs regime of processing of goods outside of the customs territory is intended to export and use Kazakhstani goods outside of the customs territory of the Republic of Kazakhstan for the purposes of their processing and subsequent release of the products of processing for free circulation within the customs territory of the Republic of Kazakhstan with complete or partial exemption from customs duties, and complete exemption from taxes and without applying **sanctions of economic policy**.

##### Article 84. Operations Associated With Processing of Goods Outside of the Customs Territory

In processing of goods outside of the customs territory, operations, stipulated in the first part of Article 55 hereof, may be performed.

The Government of the Republic of Kazakhstan may set forth restrictions in respect of certain operations related to reprocessing of goods outside of the customs territory of the Republic of Kazakhstan.

##### Article 85.

##### Requirement for Application of Customs Regime of Re-Processing of Goods Outside of the Customs Territory

The customs regime of processing of goods outside of the customs territory may not be used in the following cases:

for goods that were previously released in free circulation exempt from customs duties or taxes in compliance with restrictions, requirements and conditions - before the expiration of the duration of such restrictions;

if export of goods provides the basis to claim:

1) the return of import customs duties or taxes,

2) receipt of export payments

if goods are exported for re-processing under purchase and sale contract;

if it is impossible to determine whether the re-processed goods are produced from the exported goods, except in cases of repair of goods, where replacement of the exported goods is allowed

if such reprocessing of goods causes a serious injury to the processing industries of the Republic of Kazakhstan. This provision shall apply only to cases determined by the Government of the Republic of Kazakhstan;

if the person who effectuates (places his/her goods under the customs regime of reprocessing outside the customs territory of the Republic of Kazakhstan) such reprocessing of goods:

1) has not completed such processing of earlier imported and/or exported goods in breach of the statutory procedure for such regime;

2) has earlier committed violations (two or more times) of this statutory procedure;

3) has violated the relative customs rules pointing to a commercial fraud (contraband), which is proved pursuant to the procedure envisaged in the Legislation of the Republic of Kazakhstan.

For re-processing of goods outside the customs territory, the following is required:

the submission by a Kazakhstani entity obligations on re-processing conditions issued according to the procedure established by the central customs body of the Republic of Kazakhstan-;

the declarant may pay export customs duties or ensure payment in the way of guarantees issued by authorized banks or in the way of depositing the due amount with the customs body of the Republic of Kazakhstan;

compliance with other requirements set forth in this Edict.

Deleted

##### Article 87. Period of Processing of Goods Outside of the Customs Territory

The central customs body of the Republic of Kazakhstan shall establish the term of reprocessing of goods outside of the customs territory of the Republic of Kazakhstan.

This term may not exceed two years from the date the goods in question are carried through the customs territory of the Republic of Kazakhstan.

The state authorized body shall determine the term of reprocessing of certain goods that are included on the list compiled by the Government of the Republic of Kazakhstan.

#### Article 88. Output of Re-processed products For Customs Purposes

The output of re-processed products shall be defined by the declarant.

The state authorized body shall determine the required quantity of the output of reprocessed goods resulting from operations associated with reprocessing of the goods in question in respect of certain goods as listed by the Government of the Republic of Kazakhstan.

#### Article 89. Reimbursement of Export Customs Duties

The refund of paid export customs duties or deposited receivable with the customs body of the Republic of Kazakhstan shall be effected or the guarantees of authorized banks terminates , when products of processing are released for free circulation within the customs territory of the Republic of Kazakhstan, under the condition of compliance with the provisions of this Edict. No interests shall accrue on the refunded amounts.

If re-processed products are not returned to the customs territory of the Republic of Kazakhstan, the customs duties shall be paid, if such have not been paid upon exportation of such goods for re-processing according to the procedure established by the central customs body of the Republic of Kazakhstan. In addition, interests accrued on the said amount at the official refinancing rate of the National Bank on the date of payment of the export customs duties shall be paid for the period the goods are under the customs re-processing regime, including the date of payment.

#### Article 90. Exemption of Products of Processing From Import Customs Duties

Full or partial exemption of products of processing from import customs duties shall be granted in the event such products are declared for free circulation by the person, which obtained permission for processing of goods outside of the customs territory, or by its customs agent.

Full exemption from import customs duties shall be granted, if the customs body of the Republic of Kazakhstan ascertains that purpose of processing is to repair exported goods free of charge by virtue of provisions of legislation or agreement, unless the deficiency was accounted for in the initial release for free circulation.

Partial exemption from import customs duties shall be granted in case of chargeable repair of exported goods and when the other processing operations are being carried out. The amount of the customs duty shall be determined based on the rates applicable to products of processing, multiplied by the cost of repair or processing.

With respect to the imported products of processing, full exemption from taxes shall be granted in the case stipulated in the first part of this Article.

#### Article 91. Substitution of Products of Processing With Foreign Goods

Substitution of products of processing with foreign goods shall not be allowed except for the cases when re-processing aims at repairing goods . The procedure for replacing re-processed products in the course of goods' repair shall be provided by the central customs body of the Republic of Kazakhstan.

#### Article 92. Failure to Return Goods Exported For Processing or of Products of Reprocessing Because of Their Destruction, Loss, Shortfall, or Unlawful Acts of Bodies or Officials of a Foreign State

Failure to return exported goods for re-processing within established deadlines shall be possible only in the case if consular institutions of the Republic of Kazakhstan abroad confirm the fact of destruction or irretrievable loss of the goods or products of processing due to an accident or act of force-majeure, or shortage from natural deterioration or diminution as a result of normal conditions of transportation and storage, or conversion as a result of acts of bodies or officials of a foreign state which, in accordance with the Republic of Kazakhstan are recognized unlawful., and also in the case if the customs regime of goods' re-processing outside the customs territory is changed into the export regime.

#### Article 93. Customs Regime Alterations Specifics for Reprocessing of Goods Outside of the Customs Territory

When changing the customs regime of reprocessing of goods outside of the customs territory for the export regime, the customs duties and taxes, as well as measures of non-tariff regulation shall apply to products of reprocessing or to goods, if such goods are not reprocessed. The terms and procedure of customs clearance of such changes shall be determined by the central customs body of the Republic of Kazakhstan.

#### Chapter 14. Exportation of Goods.

##### Article 94. Purpose of the Regime of Exportation of Goods

The customs regime of exportation of goods is intended to allow for the possibility of exporting goods outside of the customs territory of the Republic of Kazakhstan so that they can be permanently located or consumed outside of this territory.

##### Article 95. Requirements for Exportation of Goods

Exportation of goods shall be carried out under the condition of payment of export customs duties and other customs payments, compliance with measures of non-tariff regulation and compliance with the other requirements stipulated herein and in the legislation of the Republic of Kazakhstan.

##### Article 96. Release For Exportation

Goods released for exportation shall be actually withdrawn outside the borders of the customs territory of the Republic of Kazakhstan. In which case they shall be in the same state as they were as of the date of acceptance of the customs declaration, except for changes due to natural wear or diminution in normal conditions of transportation and storage.

The declarant shall be responsible for the actual exportation of goods released for exportation outside the customs territory of the Republic of Kazakhstan.



## Chapter 15. Re-Exportation of Goods

### Article 97. Purpose of the Regime of Re- Exportation of Goods

The customs regime of re-exportation of goods is intended to allow foreign goods to be re-exported from the customs territory of the Republic of Kazakhstan without levying of or with refund of import customs duties, taxes and without application of sanctions of economic policy in accordance with the provisions of this Edict and legislation of the Republic of Kazakhstan.

### Article 98. Terms of Re-Exportation of Goods

In importation to the customs territory of the Republic of Kazakhstan, import customs duties and taxes shall not be levied, and measures of non-tariff regulation shall not apply, provided that the goods are declared to the customs body of the Republic of Kazakhstan as destined directly and solely for re-export.

Actual re-exportation of such goods must be carried out not later than two months following the date of acceptance of the customs declaration.

Customs duties and taxes and penalties in the amount of 1.5 times the official refinancing rate of the National Bank of the Republic of Kazakhstan established on the day of payment shall be paid for the period the goods are under re-exportation regime including the day of payment in the event when actual re-exportation of goods has not been carried out within the established deadlines or when the goods are released for free circulation in the customs territory of the Republic of Kazakhstan.

Import customs duties and taxes paid according to part one of this Article, except for those paid when the goods are released for free circulation in the customs territory shall be reimbursed after confirmation of the actual exportation of the goods outside the territory of the Republic of Kazakhstan in the following cases:

- when exported, re-exported goods are in the same state as they were at the time of importation, except for changes due to natural wear or diminution in normal conditions of transportation and storage;
- re-exportation of goods occurs within two years following the date of importation;
- re-exported goods have not been used to gain profits.

In exportation of re-exported goods, export customs duties shall not be levied and sanctions of non-tariff regulation, effective as of the time of exportation, shall not apply.

### Article 99. Authorization For Re-Export of Goods

Re-export of goods shall be allowed in the cases which are determined by the legislation of the Republic of Kazakhstan or international treaties of the Republic of Kazakhstan and be carried out according to the procedure established by the central customs body of the Republic of Kazakhstan

Re-exportation of excisable goods shall be carried out if payment of import customs duties and taxes is ensured by guarantees of authorized banks or by deposited payment receivable to the customs body of the Republic of Kazakhstan or customs escort.

The ensured payment of import customs duties and taxes shall be reimbursed after the actual exportation of goods outside the territory of the Republic of Kazakhstan is confirmed.

## Chapter 16. Destruction of Goods;

### Article 100. Purpose of the Regime of Destruction of Goods

The customs regime of destruction of goods means that the goods shall be destroyed under customs supervision, including putting the goods into a condition not suitable for any use, without levying of customs duties, taxes and without applying of measures of non-tariff regulation.

The following goods shall not be destroyed:

goods which can be used as articles or materials, except certain goods pursuant to the decision of the Government of the Republic of Kazakhstan;

goods in the artistic, historical and archaeological domain of the Republic of Kazakhstan and foreign states;

types of extinct animals and plants, their parts and derivatives, except cases when such destruction is required in order to prevent epidemics and epizootics;

goods and transport vehicles accepted by the customs bodies as pledge, - until the termination of such pledge relations;

goods and transport vehicles withdrawn in cases of contraband and other customs frauds in the customs area, violations of customs rules or other crimes and frauds of law;

arrested goods and transport vehicles;

goods and transport vehicles which are to be confiscated according to a decision the court.

Goods may be destroyed if resolution on the possibility of such destruction issued by the authorized body determined by the Government of the Republic of Kazakhstan is available.

### Article 101. Costs for Destruction of Goods

Destruction of goods must not entail any costs for the customs bodies of the Republic of Kazakhstan.

### Article 102. Waste Which Appear As a Result of Destruction of Goods

Waste which appear as a result of destruction of goods, where possible to use it further, must be either declared by the person, which declared the regime of destruction, for the relevant customs regime as foreign goods, which are under customs control, or used within the territory of the Republic of Kazakhstan as Kazakhstani goods in the cases stipulated in the acts of the Central customs body of the Republic of Kazakhstan.

#### Chapter 17. Rejection of Goods In Favor of the State

##### Article 103. Purpose of the Regime of Goods Rejection In Favor of the State

Rejection of goods in favor of the State is the customs regime under which a person rejects the goods in favor of the State without levying of customs duties, taxes and without application of **sanctions of economic policy**.

##### Article 104. Permission For Rejection of Goods

Rejection of goods in favor of the State in accordance with the provisions hereof shall be allowed with the permission of the customs body of the Republic of Kazakhstan, issued in accordance with the procedure, determined by the central customs body of the Republic of Kazakhstan.

##### Article 105. Costs With Respect to Rejection of Goods

Rejection of goods in favor of the State in accordance with the provisions of this Chapter must not entail any costs for the customs bodies of the Republic or Kazakhstan.

#### Section IV. SPECIAL AND ADDITIONAL PROVISIONS

##### Chapter 18. Transfer of Transport Vehicles And Certain Kinds of Goods Through the Customs Border of the Republic of Kazakhstan

##### Article 106. Transfer of Transport Vehicles

Transfer of transport vehicles through the customs border of the Republic of Kazakhstan shall be carried out in accordance with the customs regimes applicable to transport vehicles.

Transport vehicles which cross the customs border of Republic of Kazakhstan and transport vehicles which are transferred through the customs border of the Republic of Kazakhstan as goods, shall stop in the places identified by the Customs Bodies of the Republic of Kazakhstan. If this requirement is not complied with, the Customs Bodies of the Republic of Kazakhstan shall have the right to exercise coercive stoppage of transport vehicles.

Duration of parking of transport vehicles, mentioned in the second part of this Article, shall be determined by the customs body of the Republic of Kazakhstan in cooperation with the carrier within the limits of time, required for implementation of the customs control and customs clearance.

Departure of transport vehicles, mentioned in the second part of this Article, from the places of parking shall be carried out with the permission of the customs body of the Republic of Kazakhstan.

Carrier shall agree upon the time and place of crossing the customs border of the Republic of Kazakhstan by transport vehicles with the relevant customs body of the Republic of Kazakhstan.

##### Article 107. Transfer of Currency of the Republic of Kazakhstan, Securities in the Currency of the Republic of Kazakhstan, Foreign Currency and Other Currency Assets

Transfer through the customs border of the Republic of Kazakhstan of currency of the Republic of Kazakhstan, securities in the currency of the Republic of Kazakhstan, foreign currency and other currency assets, shall be carried out in accordance with the currency legislation of the Republic of Kazakhstan.

##### Article 108. Transfer of Goods by Physical Persons

Goods within limits established by the Government of the Republic of Kazakhstan may be transferred by physical persons through the customs borders of the Republic of Kazakhstan in a preferential privileged procedure which is to be determined by the Government of the Republic of Kazakhstan.

The preferential procedure determined by the Government of the Republic of Kazakhstan may include full or partial exemption from customs duties; full or partial exemption from taxes; establishment of uniform rates of customs duties and non-application of measures of non-tariff regulation.

Physical persons who are not registered as individual entrepreneurs according to the legislation of the Republic of Kazakhstan may not import to the customs territory of the Republic of Kazakhstan or export from such customs territory goods exceeding the limits established in part one of the present Article under the regime of re-importation, customs warehouse, duty-free trade shop, re-processing in the customs territory, re-processing under the customs control, free customs zone, free warehouse, re-processing outside the customs territory, re-exportation, destruction.

#### Section V. CUSTOMS PAYMENTS

##### Chapter 19. Fundamental Provisions

##### Article 109. Customs Payments And Taxes

When transferring goods through the customs borders of the Republic of Kazakhstan and in any other cases which are established by this Edict, the following customs payments shall be made:

- 1) customs duty;
- 2)
- 3)
- excluded
- excluded
- 6) levy for licensing by the customs body of the Republic of Kazakhstan;
- 7) levy for issuing of qualification certificate of customs processing;

- 8) customs levy for customs processing;
- 9) customs levy for storage of goods;
- customs levy for customs' accompanying of goods;
- 11)

- 12) excluded
- 13) excluded

The application of VAT and excises to goods imported to the customs territory of the Republic of Kazakhstan shall be performed by the customs bodies in accordance with the tax legislation of the Republic of Kazakhstan.

The customs bodies of the Republic of Kazakhstan shall levy antidumping, safeguard and countervailing duties according to the procedure and terms determined by the special legislation of the Republic of Kazakhstan.

#### Article 110. Customs Duties

Goods transferred through the customs border of the Republic of Kazakhstan shall be subject to customs duties in accordance with the Customs Tariff of the Republic of Kazakhstan.

Customs Tariff of the Republic of Kazakhstan is a code of rates of customs duties applicable to the goods imported to the customs territory of the Republic of Kazakhstan and exported from this territory, which rates are systematized and grouped in accordance with the Goods Nomenclature of the Republic of Kazakhstan for foreign economic activities. The Goods Nomenclature of the Republic of Kazakhstan for foreign economic activities is based on the Harmonized System of Codification and Description of Goods, which is maintained by the World Customs Organization for the use by the member states of this international organization.

Rates of customs duties shall be uniform and not subject to change with respect to persons who transfer goods through the customs border of the Republic of Kazakhstan, types of transactions and other considerations, except for the cases stipulated in Articles 149 and 150 of this Edict.

With respect to the goods which originate from the countries trading and political relations wherewith do not envisage the Most Favored Nation regime, or whose country of origin is not identified, the rates of import customs duties determined under present Edict shall be doubled, except for the cases where Republic of Kazakhstan grants tariff relief (preferences) under relevant provisions of present Edict.

Rates of the customs duties on imported and exported goods shall be determined by the Government of the Republic of Kazakhstan and become effective 30 days after their official publication except for the cases when the changes cause reduction in rates.

#### Article 111.

Deleted.

#### Article 112. Types of Rates of Customs Payments

The rates of customs payments shall fall into the following types:

- ad valorem payments calculated as percentage of the customs value of goods;
- specific payments calculated in the fixed amount per unit of goods,
- combined payments which combine both above-mentioned types of customs payments.

Deleted

Delete Articles from 113 to 117 inclusively.

Deleted

#### Article 118. Customs Levies For Customs Processing

Customs levies shall be imposed in accordance with the procedure and in amounts to be determined by the Government of the Republic of Kazakhstan for customs processing of goods, including transport vehicles which are transferred through the customs boundary of the Republic of Kazakhstan as goods, and goods which are transferred in accordance with Article 108 of this Edict in unaccompanied baggage, international mail, and cargo.

The Government of the Republic of Kazakhstan shall establish the amount of customs levies to be collected for customs clearance of goods and transport vehicles that are conveyed as goods outside the areas designated therefor and outside of the regular office hours of the customs bodies of the Republic of Kazakhstan.

#### Article 119. Customs Fees For Storage of Goods

Customs fees shall be charged in the amounts determined by the Government of the Republic of Kazakhstan for storage of goods in customs warehouses and temporary stores, whose owners are the customs bodies of the Republic of Kazakhstan.

Fees in the amounts determined by the Committee on Regulation of Natural Monopolies and Protection of Competition of the Republic of Kazakhstan shall be levied for storage of goods in customs warehouses and temporary storage warehouses which are owned by Kazakhstani entities.

#### Article 120. Customs Fees For Customs Escort of Goods

Customs fees shall be charged in the amounts determined by the Government of the Republic of Kazakhstan for customs escort of goods.

#### Chapter 20. Calculation And Payment of Customs Payments

##### Article 121. The Basis For the Calculation of the Customs Payments

The basis for calculation of customs payments, except for the customs payments for which specific rates are used in accordance with

Article 112 of this Edict, shall be the customs value of goods and transport vehicles which are transferred as goods.

##### Article 122. The System For Determining the Customs Value

The customs value of goods which are exported beyond the boundaries of the customs territory of the Republic of Kazakhstan shall be determined on the basis of the price of goods indicated in the invoice, and the following actual expenditures if they are not included in the invoice:

1) expenditures relating to the delivery of goods to the airport, port or any other place of exportation of goods from the customs territory of the Republic of Kazakhstan; cost of transportation;

expenditures associated with loading, unloading, re-loading, and handling of goods; amount of insurance,

2) expenditures borne by the seller;

commission and brokerage fees;

cost of containers or other durable tare, if, according to the Commodity Nomenclature, they are classified as a single whole with goods being valued;

cost of packing, including cost of packaging materials and labor associated with packing.

The customs value of the goods which are imported into the customs territory of the Republic of Kazakhstan shall be based on the general principles of customs valuation under the general principles of the General Agreement on Tariffs and Trade (GATT).

The procedure for application of the system for customs valuation of goods which are imported to the customs territory of the Republic of Kazakhstan shall be established by the

##### Central Customs Body

of the Republic of Kazakhstan on the basis of provisions of this Edict.

##### Article 123. Declaration of the Customs Value of Goods

The customs value shall be declared (stated) by a declarant to the customs body of the Republic of Kazakhstan when transferring goods through the customs boundary of the Republic of Kazakhstan.

The procedure and conditions for declaring the customs value of goods which are transferred through the customs boundary as well as the pro-forma of the declaration shall be established by the central customs body of the Republic of Kazakhstan in accordance with this Edict and legislation of the Republic of Kazakhstan.

The customs value of goods imported to the customs territory of the Republic of Kazakhstan shall be determined by the declarant in accordance with the methods of determining the customs value, which are established in this Edict.

The supervision of the accuracy of determining the customs value shall be carried out by the customs body of the Republic of Kazakhstan which carries out the processing of goods including with the use of independent experts opinion on the consistence of the price of goods with their quality and quantity.

##### Article 124. Treatment of Information Concerning Customs Value of Goods As Confidential

Information furnished by declarant in declaring the customs value of goods which qualifies as constituting commercial secret or which is confidential shall be used by the customs body solely for customs purposes; it may not be transferred to third parties, including the other government authorities, without special permission of the declarant, except for the cases stipulated in this Edict and legislation of the Republic of Kazakhstan.

##### Article 125. The Rights And Obligations of a Declarant in Respect of Customs Value

A declarant shall have the following rights:

to prove the reliability of information submitted to establish the customs value, where the customs body has doubts about its reliability;

when a necessity arises to verify a customs value declared to receive the declared goods on condition of providing a payment of customs duties and taxes in accordance with the customs value of the goods as determined by the customs body of the Republic of Kazakhstan;

in the case of a disagreement with the decision of the customs body of the Republic of Kazakhstan in relation to determining the customs value of goods, to challenge that decision in accordance with the procedure established by section XV of this Edict.

A declarant shall be obliged as follows:

to declare the customs value and to present information relating to its determination, based on reliable, quantifiable and documentary confirmed information;

where it is necessary to confirm the declared customs value in accordance with the requirements of the customs body of the Republic of Kazakhstan, to present to the latter the information which is required for such confirmation;

to make any additional expenditures which arise in relation to verification of the customs value declared by the declarant or presenting to the customs body of the Republic of Kazakhstan any additional information. In that respect, the extension of the period of customs processing of goods caused by conducting a customs valuation may not be used by a declarant to obtain actual deferment of payment of customs duties and taxes.

#### Article 126. The Rights And Obligations of the Customs Body in Determining the Customs Value

The customs body of the Republic of Kazakhstan which carries out customs processing of goods shall have the following rights:

To make decisions concerning the correctness of the customs value of goods as stated by the declarant;

Where information to confirm the accuracy of determining the customs value stated by a declarant does not exist, or where there are reasons to believe that information presented by a declarant is not reliable or sufficient, to assess independently the customs value of declared goods by consecutive application of the methods for determining the customs value that are established in this Edict on the basis of the information which is available to it (including price information relating to identical or similar goods) with adjustments made in accordance with this Edict.

The customs body of the Republic of Kazakhstan pursuant to the written request of a declarant shall be obliged to present a written explanation of the reasons for which the customs value stated by the declarant may not be accepted by the customs body as the basis for assessment of customs duties and taxes, and how the customs body of the Republic of Kazakhstan has determined the customs value of the imported goods.

#### Article 127. The Methods For Determining the Customs Value

Customs value of goods imported to the customs territory of the Republic of Kazakhstan shall be determined by applying the following methods:

the transaction value of imported goods;

the transaction value of identical goods;

the transaction value of similar goods;

the deductive method;

the computed method;

the provisional method.

The method of determining the customs value of goods by using the transaction value of imported goods shall be the principal method.

In the case where the principal method cannot be used, each of the listed methods shall be applied consecutively. In that respect, each subsequent method shall apply where 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.

Article 128. The Method of Determining the Customs Value on the Basis of the Transaction Value of Imported Goods

The customs value of goods imported to the customs territory of the Republic of Kazakhstan shall be the price actually paid or payable when sold for export to the Republic of Kazakhstan.

When determining the transaction value of goods, only the following expenditures shall be added to the price actually paid or payable for the goods, if they have not already been included:

1) expenditures associated with delivery of goods to the airport, port or other place of import of goods to the customs territory of the Republic of Kazakhstan:

cost of transport of the goods;

costs associated with loading, unloading, reloading and temporary storage of the goods;

cost of insurance;

@ The costs indicated in this paragraph may be excluded from the transaction value, provided that such costs are incurred after the importation of goods into the customs territory of the Republic of Kazakhstan and the amount subject to exclusion is documented.

2) expenditures incurred by the buyer:

commission and brokerage fees, except buying commissions;

cost of containers or any other durable tare, provided that they are classified with the goods under valuation under the Commodity Nomenclature for Foreign Economic Activity;

cost of packing including the costs of packing materials and labor associated with packing;

3) the appropriate part of the value of the following goods and services which were directly or indirectly supplied to the seller by the buyer free of charge or at a reduced cost, for the use in relation to manufacture or export sale of the goods under valuation:

raw materials, materials, components, semi-products and any other components which are a constituent part of the goods under valuation;

tools, dies, moulds and other similar items used in the production of the goods under valuation;

materials consumed in the manufacture of the goods under valuation (lubricants, fuel and any other);

engineering, development, artwork, design work, and plans and sketches made outside the territory of the Republic of Kazakhstan and which are directly required for the manufacture of the goods under valuation;

4) licensing fees or other payments for the use of items of intellectual property which the buyer must pay directly or indirectly as a condition for sale of the goods under valuation;

5) the size of the share in direct or indirect income of the seller from any subsequent resales, transfer or use of the goods under valuation.

When importing different types of goods as a single delivery, expenditures to be incorporated into the customs value of each type of imported good and calculated for the whole delivery of goods shall be proportional to the value which is taken as the basis for calculating corresponding expenditures.

No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

Method associated with transaction value of imported goods shall be used for determining the customs value of goods where:

1) there are restrictions in respect of the buyer's disposition or use of the goods under value, except the following:

restrictions established by legislation of the Republic of Kazakhstan;

restriction of the geographic region in which the goods may be re-sold;

restrictions which do not substantially affect the value of the goods;

2) the sale or the price is subject to observance of conditions for which a value is not possible to calculate;

3) information used by the declarant in declaration of the customs value is not documentarily confirmed or is not quantitatively determinable and reliable;

4) participants of the transaction are related entities

and the transaction value is not acceptable as a basis for customs value according to the requirements of the present Article. In that respect, related entities shall be understood to be entities which fall under any of the following categories:

one of the participants of the transaction or official or director to one of the participants is at the same time a official or director to another transaction participant;

Participants of the transaction are co-owners of an enterprise;

Participants of the transaction are connected by labor relations;

Any person directly or indirectly owns or control 5 or more per cent of:

Voting outstanding shares, or

Shares in the chartered capital of both of the transaction participants;

both participants of the transaction are under direct or indirect control by a third entity;

participants of the transaction together directly or indirectly control a third entity;

one of the participants of the transaction is under direct or indirect control of the other participant of the transaction;

Participants of the transaction or their official persons are close relatives.

The fact that the transaction participants are related shall not be a sufficient ground to consider a transaction value as unacceptable. In this case the circumstances accompanying the transaction shall be analyzed, and the transaction value shall be recognized as acceptable for valuation, provided the relationship does not affect the price.

If the Customs body has grounds to consider that the relationship of the participants does affect the price of the goods, then the declarant shall be provided with notification (in writing, if so requested by the importer).

In this case the declarant shall be given an opportunity to submit additional evidence of the fact that the relationship of the transaction participants does not affect the price of good.

On the initiative of the declarant the transaction value can be used as a basis, provided the declarant demonstrates that the transaction value closely approximates one of the following values occurring approximately at the same time:

- a) transaction value in sales of identical or similar goods between unrelated parties for export to Kazakhstan;
- b) customs value of identical or similar goods determined by the deductive method;
- c) customs value of identical or similar goods determined by the computed method;

When the declarant demonstrates the price for comparison, an appropriate adjustment shall be made with consideration of differences in

commercial level,

quantity

elements (expenditures) listed in part 2 of this Article,

as well as other expenses of a seller incurred in a transaction between unrelated parties, if such expenses are not borne by the seller.

Value of identical or similar goods used for comparison shall not be used instead of a transaction value.

Article 129. The Method of Determining the Customs Value on the Basis of Transaction Value Involving Identical Goods

When using the valuation method which is based on the price of a transaction involving identical goods as a basis for determining a customs value of goods, the price of the transaction involving identical goods shall be adopted, subject to compliance with the provisions indicated in this Article.

In that respect, identical goods shall be understood to be goods which are identical to the goods under valuation in every respect including the following features:

physical features;

quality and reputation in the market;

the country of origin;

When using the customs valuation method on the basis of this Article:

1) goods shall not be considered to be identical with those being valued if they were not produced in the same country as 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 where there are no identical goods produced by the same producer of goods being valued;

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

a) were provided 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 Kazakhstan

b) the cost of which is not included to the customs value of goods being valued on the basis of section 5, paragraph 3, part 2 of Article 128, as they were implemented in the Republic of Kazakhstan

Insignificant differences in appearance shall not be a basis to refuse to recognize the goods as identical, provided in general such goods meet the requirements of this Article.

The value of a transaction involving identical goods shall be adopted as the basis for determining the customs value, provided those goods are:

1) sold for export to the territory of the Republic of Kazakhstan;

2) exported not earlier than ninety days prior or not later than 90 days after exportation of the goods under valuation;

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

Where no such sale is found, sales of identical goods imported in other quantity or at other commercial levels shall be used, and their value shall be adjusted accordingly in consideration of such differences.

If the value of expenses specified in clause 1, part 2 Article 128 of the present Decree for

and identical goods significantly differs from the value of such expenses for goods being valued due to the difference in distance and types of transport vehicles, The customs value which is determined on the basis of the price of a transaction involving identical goods must be adjusted accordingly.

Adjustments specified in this Article must be carried out by the declarant on the basis of reliable and documentarily supported information.

If more than one transaction value of 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 130. Transaction Value of Similar Goods

When using the transaction value of similar goods as the basis for determining the customs value of goods, the transaction value of goods, both similar and being valued, shall be adopted subject to provisions indicated in this Article.

In that respect, similar goods shall be understood goods which, although not identical in every respect, have similar features and consist of similar components, which allows them to fulfill the same functions as the goods being valued and to be commercially interchangeable.

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

quality, availability of a certain trade mark and reputation in the market.

The country of origin;

The provision of the fourth through seventh parts of Article 129 of this Edict shall apply when using the method of determining the customs value on the basis of the transaction value of similar goods.

When using the present methods of customs valuation:

- 1) goods shall not be deemed to be similar to those being valued, if they are not manufactured in the same country as the goods being valued;
- 2) goods which are manufactured by a manufacturer other than the manufacturer of the goods being valued, shall be considered only in the case where there are not 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 drawings
  - a) were provided 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 Kazakhstan
  - b) the cost of which is not included in the customs value of goods being valued on the basis of section 5, paragraph 3, part 2 of Article 128, as they were implemented in the Republic of Kazakhstan

#### Article 131. The Deductive Method

Determining customs value by the method of valuation based on the deductive method, shall be carried out in case where the goods being valued, identical or similar goods are to be sold without any changes of their initial condition.

When using the deductive method as a basis for determining the customs value of goods, the unit price at which identical, similar goods and goods being valued are sold in the condition as imported in the Republic of Kazakhstan in the largest consignments to a party which is not related to the seller.

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 the earliest date after importation of the goods being valued but not later than 90 days.

The following shall be deducted from the unit price of goods:

- 1) commission fees usually paid or agreed to be paid or additions usually made for profit and general expenses in connection with the sale of imported goods of the same class or kind in the Republic of Kazakhstan;
- 2) amount of import duties, taxes, levies and any other payments which are subject to payment in the Republic of Kazakhstan in relation to import or sale of the goods;
- 3) usual costs paid in the Republic of Kazakhstan for transportation, insurance, loading and unloading operations.

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 include the notion of identical or similar goods.

If there are no sales of the goods under valuation or identical or similar goods in the condition as imported, upon the request of the declarant the unit price of goods which underwent reprocessing may be used with

deduction of added value and in compliance with the provisions of the second and the fourth parts of this Article.

#### Article 132. The Method of Determining the Customs Value on the Basis of Adding Costs

When using the method of valuation by adding costs as the basis for determining the customs value of goods, one shall use the price or goods calculated by way of adding as follows:

- 1) cost/value of materials and expenditures incurred by the manufacturer in relation to manufacture or the goods under valuation,
- 2) Amounts of profit and general expenses equal to the amount reflected when selling goods of the same class or type as goods being valued, produced in the exporting country when exported to the Republic of Kazakhstan.

- 3) cost of expenses listed in clause 1 of part 2, Article 128.

#### Article 133. The Provisional method of Determining the Customs Value



The customs value on the basis of the provisional method shall be determined by using the methods described in Articles 128-132 of this Edict

according to the procedure determined by the central customs body of the Republic of Kazakhstan and in compliance with international principles of customs evaluation of goods..

When using the provisional method, in order to determine customs value, the price information available at the Republic of Kazakhstan shall be used.

The following may not be used as the basis for determining customs value of goods by the provisional method:

- 1) the price of the goods in the domestic market of the country of exportation;
- 2) the price of the goods which are supplied from the country of its export to third countries;
- 3) the price of the goods in the domestic market of the Republic of Kazakhstan in relation to goods of Kazakstani origin;
- 4) arbitrarily established or not reliably unsupported values of goods.
- 5) value of identical and similar goods, determined by cost of production other than as computed method with the use of expenses not provided by Article 132 of the present Edict;
- 6) minimum customs value.

When determining the customs value by the provisional method the system providing the application of the higher alternative values may not be used as a basis.

#### Article 134. Payers of Customs Payments And Taxes

Customs payments shall be paid directly by a declarant or any other person in accordance with this Edict.

#### Article 135. The Deadlines For Payment of Customs Payments and Taxes

Customs payments and taxes shall be paid on or prior to the day of acceptance of the customs declaration.

When goods are transferred through the customs boundary of the Republic of Kazakhstan in accordance with Article 108 of this Edict, customs payments and taxes shall be paid simultaneously with the acceptance of the customs declaration by the customs body.

Where a customs declaration is not submitted within the established deadlines, there the periods of the payment of customs payments and taxes shall be measured from the date of expiry or the period for submission of the customs declaration.

#### Article 136. The Procedure For Payment of Customs Payments And Taxes

Customs payments and taxes shall be collected into the state budget pursuant to the procedure determined by the state authorized body on customs matters in conjunction with the Ministry of Finance of the Republic of Kazakhstan.

#### Article 137. Deferral And Installment Payment of Customs Duties And Taxes

The customs bodies of the Republic of Kazakhstan shall allow deferred payment or payment by installments of customs duties on imported raw materials and materials destined for industrial processing in accordance with the procedure determined by the state authorized body on customs matters of the Republic of Kazakhstan.

Neither deferral, nor installment payments of customs duties shall exceed three months following the date of acceptance of the customs declaration.

When a customs body grants deferral or allows installment payment of customs duties, interests shall be levied in accordance with the official refinancing rate set by the National Bank of the Republic of Kazakhstan on the day of payment.

Such payment shall be secured in accordance with the procedure stipulated in Article 138 of this Edict.

Deferral and installment of payment of taxes shall be granted in accordance with the tax legislation of the Republic of Kazakhstan.

#### Article 138. Securing Payment of Customs Duties And Taxes

Payment of customs duties and taxes may be secured by pledge of goods and transport vehicles, guarantee of the authorized bank or by depositing the due amounts on the bank account of the customs body of the Republic of Kazakhstan.

In collateral, the pledged goods and transport vehicles shall remain with the pledger, unless otherwise decided by the customs body of the Republic of Kazakhstan.

The pledger shall not have the right to dispose of pledged items without the consent of the customs body the Republic of Kazakhstan.

Registration of collateral and collecting of a default using pledged items shall be carried out in accordance with the collateral legislation of the Republic of Kazakhstan.

The procedure to use guarantees of the authorized bank shall be established by the central customs body of the Republic of Kazakhstan.

In case of non-compliance with the terms of such guarantee, the customs body shall have the right not to accept guarantees issued by such banks as a security of payment of customs duties and taxes.

Amounts of customs duties and taxes, which would have been payable if the goods had been released for free circulation or exported in accordance with the customs regime of exportation, shall be deposited. No interests shall accrue on deposited amounts for the period of custody.

The procedures for depositing due amounts and their refund shall be determined by the state authorized body in agreement with the Ministry of Finance of the Republic of Kazakhstan.

#### Article 139. Currency in Which Customs Duties And Taxes Are Paid

Customs duties and taxes shall be paid both in the currency of the Republic of Kazakhstan and in foreign currencies, whose exchange rates are quoted by the National Bank of the Republic of Kazakhstan. Except for the cases where such payment may be made only in a foreign currency. Translation of a foreign currency into the currency of the Republic of Kazakhstan shall be carried out in accordance with the exchange rate of the National Bank of the Republic of Kazakhstan which is effective as of the date of acceptance of the customs declaration.

#### Article 140. Collection of Customs Payments And Measures of Responsibility

Outstanding customs payments shall be collected by the customs body of the Republic of Kazakhstan from the accounts of the payers irrespective of the time where the fact of default of payment is determined, in the amount of the default due of customs payments and late payment charge.

The late payment charge shall be levied at a rate of 1.5 times official refinancing rate of the National Bank established on the day of payment of arrears or collection of customs duties for each day of the delay for each day of the delay, including the day of payment or collection of such customs payments, except for the cases where the delay in payment of the arrears is due to the fault of official bodies of the Customs Bodies of the Republic of Kazakhstan.

Such arrears on customs payments, accrued late payment charge and penalties shall be paid according to the priorities established for tax arrears payment in the tax legislation of the Republic of Kazakhstan.

If a payer has no monetary resources, the collection shall be imposed in accordance with the legislation of the Republic of Kazakhstan against the property of the taxpayer upon his consent.

The consent in respect to this part means the buyer's non-appeal against the decision of the customs body on imposing collection upon his property within 5 banking days from the date of notification on such decision according to the procedure established by Articles 388-395 of this Edict.

In the case of evasion from payment of customs payments, a decision that is mandatory for all banks and organizations performing certain operations (transactions) to suspend expenditure transactions from the accounts of the payer until the moment of actual payment is made shall be made. The responsibility in accordance with Article 296 of this Edict shall be envisaged for a failure to implement such a decision.

In case of the absence of monetary funds on the buyer's account to assure payment of due customs duties and penalties, a decision to limit disposal of the payer's property shall be made.

The recovery of outstanding customs payments and penalties from the payer's accounts, the adoption of a decision to suspend any expenditures from the payer's accounts as well as the adoption of a decision to limit the payer's disposal of his/her property (assets) shall be effectuated pursuant to the procedure established by the Government of the Republic of Kazakhstan.

Neither deferrals nor installment plans shall be granted to persons which evade payment of customs payments and taxes.

#### Chapter 21. Identification of the Country of Origin of Goods

##### Article 141. Identifying the Country of Origin of Goods

The country of origin of goods shall be identified for the purpose of implementing tariff and non-tariff measures of regulating import of goods to the customs territory of the Republic of Kazakhstan and export of goods from that territory. The procedure for identifying the country of origin of goods shall be established by the central customs body of the Republic of Kazakhstan on the basis of provisions of this Edict.

The country of origin of goods shall be deemed to be the country in which the goods are wholly manufactured or subjected to processing sufficient to comply with the criteria established by this Edict.

In that respect, the country of origin of goods may be understood to be a group of countries, a customs unions of countries, a region or part of a country, if there is a need to make such distinctions for the purposes of identifying the origin of goods.

The following goods shall be deemed to be entirely manufactured in a given country:

- 1) useful minerals extracted in its territory or in its territorial waters or on its continent shelf from the sea bottom subsurface, provided the country has exclusive rights to develop that subsurface,
- 2) vegetable produce grown or collected in its territory,
- 3) live animals born and grown in it,
- 4) production obtained in that country from animal breeding in it,
- 5) products of hunting, fishing and sea-trade produced in it,
- 6) production of sea trade, obtained or manufactured in the world ocean by vessels of that country or vessels leased (chartered) by it,
- 7) secondary raw materials and waste which are a result of production or any other operations which are performed in that country, as well as used articles collected in the country suitable only for recovery of raw material;
- 8) production obtained in cosmos in space-crafts which belong to that country or leased by it,
- 9) goods manufactured in that country exclusively out of production indicated in sub-paragraphs from 1 to 8 of this Article.

##### Article 142. Criteria of Sufficient Processing of Goods

If two or more countries are involved in the production of goods, the origin of the goods shall be identified in accordance with the criteria of sufficient processing.

Criteria of sufficient processing of goods in the given country shall be:

1) change of the commodity position (classification code) of goods in the Nomenclature at the level of any of the first four digits, which occurred as a result of processing of the goods,

2) performance of industrial or technological operations sufficient or insufficient for considering the goods originating from that country where these operations took place; in this respect, the following shall not be deemed complying with the criterion of sufficient processing:

operations relating to ensuring safety of goods during storage or transportation,

operations associated with preparation of goods for sale and transportation (breaking up of consignments, formation of shipments, sorting out, re-packing),

simple assembly operations,

mixing of goods (components) without attachment to resulting products of features which substantially differentiate them from original constituents,

3) rule of ad valorem share means change of value of the goods where the percentage of the value reaches the fixed share of the price of supplied goods.

In case where origin of goods is not stipulated specifically with respect to specific goods or countries, the general rule shall apply under which the goods shall be deemed to have undergone sufficient processing, if position of the goods in Nomenclature has changed at the level of any of the first four digits.

#### Article 143. Identification of the Country of Origin of the Goods Supplied In Consignments

Disassembled or unassembled Goods, supplied in several shipments, if due to production or transportation requirements their shipment in one single batch is impossible, and in cases where shipment of goods is broken up into several batches mistakenly, must at the discretion of the declarant be regarded as the uniform goods for the purposes of identifying the country of its origin. Prerequisite for the application of this rule shall be:

- preliminary notification to the customs body of the republic of Kazakhstan on breaking up of unassembled or disassembled goods into several shipments with indication of the reasons for such break-up, detailed specifications on each shipment with indication of codes of the goods under the Nomenclature, value and country of origin of the goods which constitute each shipment;

- documentary evidence of the mistaken break-up of the shipment into several parts,

- delivery of all shipments from one country by one supplier,

- importation of all shipments through the same customs house (customs office),

- delivery of all batches of the goods within the period which does not exceed six months following the date of acceptance of the customs declaration or expiry of the period of its lodgment with respect to the first batch.

#### Article 144. Confirmation of Origin of Goods

The documentary confirmation of origin of goods shall be the certificate of origin or any other documents presented in the procedure set by the central customs body of the Republic of Kazakhstan.

When exporting goods from the customs territory of the Republic of Kazakhstan, the certificate of origin of the goods, issued by the authorized body in those cases where it is confirmed in the relevant contracts, or is stipulated in international obligations of the Republic of Kazakhstan,

The certificate of origin of goods shall be presented when importing goods to the customs territory of the Republic of Kazakhstan only in the following cases:

1) when granting preferences on customs tariff with regard to goods transferred through the customs border of the Republic of Kazakhstan

2) in cases where the customs body of the Republic of Kazakhstan has valid reasons to believe that goods originate in countries, the importation from which is regulated by restrictive quantitative measures (quotas) and other measures of foreign economic activity,

3) where it is stipulated in the international treaties to which the Republic of Kazakhstan is a party, and also by the legislation of the Republic of Kazakhstan in the area of the protection of the natural environment, public health, protection of the rights of Kazakhstani consumers, public order, national security and any other vitally significant interests of the Republic of Kazakhstan.

In other cases, a documentary confirmation of origin of goods shall not be required.

#### Article 145. Certificate of Origin of Goods

Certificates on origin of goods must unequivocally attest that the indicated goods originate from a certain country and it must contain the following:

1) the written application of the consignor that the goods comply with the relevant criteria of origin;

2) a written assurance of the authorized body of the country of export, which issued the certificate that the information presented in the certificate is true.

A certificate of origin of goods shall be presented together with the customs declaration and the other documents which are presented in the course of the customs processing. When a certificate is lost, its officially notarized copy by the body which issued the certificate shall be acceptable.

In the event that doubts arise in respect of the authenticity of a certificate or of the information contained therein including information concerning the country of origin of goods, the customs body of the Republic of Kazakhstan may appeal to the bodies

which issued the certificate or to the authorized bodies of the country which is indicated as the country of origin of the goods, with the request to communicate additional or specifying information

Goods shall not be deemed to originate from a certain country until a duly formulated certificate of origin or requested information is presented.

#### Article 146. Bases For Denial of the Admission of Goods Due to the Origin of Goods

The customs body of the Republic of Kazakhstan may deny admission of the goods through the customs border of the Republic of Kazakhstan only if there are sufficient reasons to believe the goods originating from the country whose goods are not subject to such admission in accordance with the international treaties to which the Republic of Kazakhstan is a party, or with the legislation of the Republic of Kazakhstan.

The above reasons shall be given to the declarant in the written form.

Non-submission of a certificate appropriately processed or data on the origin of goods shall not be the basis for not releasing the goods through the customs border of the Republic of Kazakhstan.

#### Article 147. Additional Provisions Relating to Identifying the Country of Origin of Goods

A preferential regime may apply (be re-established) to goods, provided appropriate certificate is obtained concerning their origin not later than one year following the date of performing their customs processing.

When identifying the country of origin of goods, the origin of the energy, machines, equipment and tools which are used for their manufacture shall not be considered.

The country of origin of the following shall be deemed the same as the country of origin of admitted goods:

spare parts and tools intended to be used with imported goods, provided they are imported and sold together with the goods and are for the purpose and in appropriate quantity for equipping such goods;

packaging materials and containers that the goods are packed in, if they are classified under the same commodity position as the goods.

Special considerations in identifying the country of origin of goods which are imported to the customs territory of the Republic of Kazakhstan from third countries, and also those imported from the territory of free customs zones and free warehouses which are located on the territory of the Republic of Kazakhstan shall, be established by the central customs body of the Republic of Kazakhstan.

### Chapter 22. Tariff Relief and Tariff Preferences

#### Article 148. Relief On Customs Payments

Relief on customs payment with respect to goods shall be granted in accordance with the procedure for the introduction of amendments and additions to this Edict, and they may not be for individual goods, except for the cases stipulated in Articles 149 and 150 of this Edict.

Granting of relief on customs payments by other legislative acts of the Republic of Kazakhstan shall be prohibited.

In this sense, relief on customs payments shall mean the relief with respect to goods, transferred through the customs border of the Republic of Kazakhstan, in the form of exemption from customs payments and reduction of customs duties rates.

#### Article 149. Exemption From Imposition of Customs Payments

The following shall be exempt from imposition of customs duties:

1) items of material and technical supplies and inventories, fuel, foodstuffs and any other items which are required for maintenance en route, in the places of transit stops, or items purchased abroad due to liquidation of accidents (break-down) of transport vehicles which perform regular international conveyance of cargo, baggage and passengers in accordance with the procedure established by the Government of the Republic of Kazakhstan;

2) items of material and technical supplies and inventories, fuel, food and any other assets which are exported outside the territory of the Republic of Kazakhstan to provide for production activities or Kazakhstani or leased (chartered) vessels chartered by Kazakhstani enterprises and organizations, which engage in sea trade within the limits established by the Government of the Republic of Kazakhstan and also production or their trade which is imported to the territory of the Republic or Kazakhstan,

3) national currency and also securities in accordance with the legislation of the Republic of Kazakhstan;

4) deleted

5) goods except for the excisable which are imported into the customs territory of the Republic of Kazakhstan or exported from that territory as humanitarian aid in accordance with the procedure determined by the Government of the Republic of Kazakhstan;

6) goods except for the excisable which are imported into the customs territory of the Republic of Kazakhstan or exported from that territory as free-of-charge aid or for charity purposes including rendering of technical assistance under agreements with governments, states, and international organizations;

7) goods which are exempt from the customs duties in accordance with the legislation on foreign investments of the Republic of Kazakhstan,

8) deleted;

9) goods which are imported for own needs by the National Bank of the Republic of Kazakhstan;

10) goods which are transferred through the customs boundary of the Republic of Kazakhstan within the framework of the customs regimes which envisage exemption from imposition of customs duties;

11) goods which are transferred through the customs territory of the Republic of Kazakhstan by physical persons, within regulations of duty-free conveyance determined by the Government of the Republic of Kazakhstan;

12) goods purchased with the funds of the state budget for the own needs of state bodies and also goods purchased under foreign credit lines;

13) deleted;

14) Lottery of foreign states imported for distribution in the territory of the Republic of Kazakhstan.

15) Goods imported to the customs territory of the Republic of Kazakhstan for the own needs of subsurface users (without further sale) under the contracts of performing oil operations signed between the Government of the Republic of Kazakhstan or the Authorized Body as determined by the Government of the Republic of Kazakhstan and domestic or foreign subsurface users;

16) Goods imported for the official use by foreign diplomatic and the like representatives and also for the personal use by diplomatic, administrative and technical staff of the representatives including members of their families staying with them and exempted according to international treaties of the Republic of Kazakhstan.

Import of equipment, raw materials and materials (except for alcohol, alcohol and tobacco products, as well as import of goods intended for distribution without processing) required for the implementation of an investment project can be exempt from customs duties, in part or in full, according to the contract between the Agency of the Republic of Kazakhstan on Investments and the investor.

Goods listed in points 1, 3, 5, 6, 9 and 12 of this article shall exempt from the customs processing fee.

#### Article 150. Tariff Preferences

In implementing of trading and political relations of the Republic of Kazakhstan with foreign states, preferences may be allowed with regard to the rates of the Customs tariff of the Republic of Kazakhstan in the form of exemption from duties, reduction of duty rates, or determination of tariff quotas on preferential import (export) with respect to the following goods:

- goods which originate from the states that form with the Republic of Kazakhstan a customs union or a free trade zone or from the states that are in preparation for creation of such a union (zone);

- goods originating from developing states which enjoy the national system of preferences, that is subject to revision by the Government of the Republic of Kazakhstan not less than once within five years;

- goods which circulate in the frontier trade.

Tariff preferences shall be granted solely by a decision of the Government of the Republic of Kazakhstan

#### Article 151. Refund of Paid Customs Duties and Taxes Paid In Excess

If the amount of paid customs payments and taxes exceeds the accrued amount, the customs body of the Republic of Kazakhstan shall do the following:

- 1) With the consent of a payer it shall account the exceeding amount (balance) towards future obligatory payments;

- 2) Upon written application of a payer it shall reimburse the difference within 20 days from the day the application has been submitted.

The paid taxes shall be refunded pursuant to the tax legislation of the Republic of Kazakhstan.

The customs duties and taxes paid according to the requirements of the customs regimes envisaged by this Edict shall be refunded on later than the following banking day after the customs body of the Republic of Kazakhstan receives a written application from the buyer and copies of the documents, in accordance with which the amounts of the aforementioned payments are accrued and deposited.

No interests shall be paid on the refunded customs payments and taxes.

The central customs body of the Republic of Kazakhstan in agreement with the state authorized body and the Ministry of Finance of the Republic of Kazakhstan shall determine the procedure to refund paid customs payments and taxes deposited as a guarantee of payments of taxes.

#### Article 152. Control Over Payment of Customs Payments and Taxes

Control over accuracy of calculation and timely fashion of payment to the Budget of customs payments and taxes, levying whereof is the responsibility of the Customs Bodies, shall be carried out by the Customs Bodies of the Republic of Kazakhstan.

### Section VI. CUSTOMS CLEARANCE

#### Chapter 23. General Provisions

#### Article 153. Procedure For Performance of Customs Clearance

The customs clearance shall be carried out in accordance with the procedure determined by this Edict, acts of the Government of the Republic of Kazakhstan and acts of the central customs body of the Republic of Kazakhstan.

#### Article 154. Place And Time For Performance of Customs Clearance

Customs clearance shall be carried out in the places and zones of activity during official hours of the customs body of the Republic of Kazakhstan, which are determined in accordance with the procedure to be defined by the central customs body of the Republic of Kazakhstan.

With the consent of the customs body of the Republic of Kazakhstan, at the request of the involved person and at its expense, the customs clearance may be carried out in any other places and outside of official hours of the customs body of the Republic of Kazakhstan.

Central customs body of the Republic of Kazakhstan shall have the right to state that customs clearance of certain categories of goods and transport vehicles can be carried out only at certain customs bodies of the Republic of Kazakhstan.

#### Article 155. Presence of Authorized Persons And Their Representatives at Customs Clearance

Persons, who have authority with respect to goods and transport vehicles, and their representatives shall have the right to be present at the customs clearance.

At the request of the customs body of the Republic of Kazakhstan, persons mentioned in the first part of this Article and their representatives shall be required to be present at the customs clearance and provide assistance to officials of the Customs Bodies of the Republic of Kazakhstan in its performance.

#### Article 156. Language In Which Customs Clearance Shall Be Carried Out

Customs clearance, including filling out of documents for customs purposes, shall be carried out in the Kazakh or Russian language.

#### Article 157. Customs Clearance And Control by Other Government Authorities

In cases stipulated in legislation of the Republic of Kazakhstan, customs clearance may be completed only after performance of the veterinary, phytopatological, ecological and other types of state control with respect to goods and transport vehicles, transferred through the customs border of the Republic of Kazakhstan.

#### Article 158. Use And Disposal of Goods And Transport Vehicles With Respect Whereto Customs Clearance Is Not Completed

Nobody shall have the right to use and dispose of the goods and transport vehicles with respect whereto customs clearance has not been completed, except for the cases stipulated by present Edict and the acts of the central customs body of the Republic of Kazakhstan. The central customs body of the Republic of Kazakhstan shall have the right to set conditions and impose restrictions on the use and disposal of goods and transport vehicles with respect whereto customs clearance is not completed.

#### Article 159. Commencement of Customs Processing

The customs processing shall commence from the moment of the concerned customs officer of the customs body of the Republic of Kazakhstan states his/her readiness to begin the process of concrete goods and transport vehicles, provided that the preliminary operation procedure is completed as provided in this Edict.

#### Article 160. Simplified Procedure For Customs Clearance

In cases of urgent supplies (goods required in cases of God, accidents, catastrophes, live animals, perishable goods, radioactive materials, messages and materials for the purposes of the mass media), the customs clearance shall be carried out following the simplified procedure.

The simplified procedure for customs clearance of urgent supplies and cases of its application shall be identified by the central customs body of the Republic of Kazakhstan.

#### Article 161. Cargo And Other Operations With Respect to Goods and Transport Vehicles Required For Customs Clearance

At the request of the customs body of the Republic of Kazakhstan, the person, which transfers goods, carrier, owner of warehouse and other person, which has the authority with respect to goods and transport vehicles, shall be required to perform transportation, weighing or other measurement of quantity, loading, unloading, reloading, improvement of packaging, unpacking, packing, or re-packaging of goods and transport vehicles, which are subject to customs clearance, and also opening of premises, containers or other places where such goods and transport vehicles may be located.

In other cases, where the customs clearance with respect to given goods and transport vehicles is not completed, the operations, indicated in the first part of this Article, may be carried out only with the permission of the customs body of the Republic of Kazakhstan.

Cargo and other operations with respect to goods and transport vehicles must not entail any additional costs by the customs body of the Republic of Kazakhstan.

#### Article 162. Testing And Sampling of Goods For the Purposes of Customs Clearance

For the purposes of customs clearance, the Customs Bodies of the Republic of Kazakhstan shall have the right to take samples and make tests of goods and perform their examination (expert examination), including those, performed jointly with the customs laboratories.

With the permission of the customs body of the Republic of Kazakhstan, tests and samples of goods under customs control may be taken by persons which have the authority with respect to goods, their representatives and other state control bodies for the purposes of exercising this control.

Tests and samples shall be taken in minimum amounts, sufficient to ensure the possibility of examination of these samples and tests.

With respect to testing and sampling of goods which are under customs control, statement shall be prepared in accordance with the form determined by the central customs body of the Republic of Kazakhstan.

Persons, which have authorities with respect to goods, and their representatives shall have the right to be present at sampling and testing of the goods by officials of the Customs Bodies of the Republic of Kazakhstan and other state control bodies. Officials of the Customs Bodies of the Republic of Kazakhstan shall be present at testing and sampling of goods by the other state control bodies and by persons, which have authority with respect to the goods, and by their representatives. Said persons and their representatives shall be required to provide assistance to the officials of the Customs Bodies of the Republic of Kazakhstan when they take tests and samples of goods, including performance at their own expense cargo and other operations, required to take samples and tests.

In absence of the persons, having authority with respect to the goods, and their representatives, tests and samples of goods may be taken by the Customs Bodies of the Republic of Kazakhstan provided that such persons have not shown up upon expiry of ten days

following submission of goods and in circumstances which brook no delay. In cases of such testing and sampling of the goods, witnesses shall be present.

Persons, who have the authority with respect to goods, and their representatives shall have the right to review results of performed examination of samples and test of their goods. The Customs Bodies of the Republic of Kazakhstan must be notified of the results of performed examination of samples and tests of goods, taken by the other state control bodies.

The Customs Bodies of the Republic of Kazakhstan shall not reimburse any expenses incurred by the person as a result of taking samples and tests of goods. Expenses, associated with examination of tests and samples of goods, incurred by the customs bodies of the Republic of Kazakhstan and customs laboratories, shall not be reimbursed by the person, except for the cases where such examination is performed on the initiative of said person.

The procedure for taking tests and samples of goods, period and procedure of their examination and disposal thereof shall be determined by the central customs body of the Republic of Kazakhstan.

#### Chapter 24. Preliminary Operations

##### Article 163. Principal Purpose of Preliminary Operations

Any actions which relate to the customs business, preceding the principal customs clearance and placement of goods and transport vehicles under certain customs regime, shall be referred to as the preliminary operations.

Preliminary operations are intended to facilitate and accelerate performance of principal customs clearance of goods and transport vehicles and their placement under certain customs regime.

In preliminary operations, the Customs Bodies of the Republic of Kazakhstan shall perform identification of goods and transport vehicles for customs purposes and preliminary customs documentation, aimed at prevention of importation to the Republic of Kazakhstan and exportation from the Republic of Kazakhstan of goods and transport vehicles, which are prohibited from such importation.

Article 164. Notification to the Customs Bodies of the Republic of Kazakhstan On Transfer Through the Customs Border of the Republic of Kazakhstan or On the Intention to Export Goods and Transport Vehicles Outside of the Customs Territory of the Republic of Kazakhstan

In importation of goods and transport vehicles to the customs territory of the Republic of Kazakhstan, and in importation of goods and transport vehicles from the territory of free customs zones and free warehouses to the remaining customs territory of the Republic of Kazakhstan, the carrier shall notify the customs body of the Republic of Kazakhstan of transfer through the customs border of the Republic of Kazakhstan.

In exportation of goods and transport vehicles outside of customs territory of the Republic of Kazakhstan, the person which transfers goods and transport vehicles shall notify the Customs Bodies of the Republic of Kazakhstan on its intention to export these goods and transport vehicles.

The customs body of the Republic of Kazakhstan shall register such notification and identify time and place at which the goods and transport vehicles must arrive to go through further customs clearance.

When the person, which transfers goods, does not provide said notification, such obligation shall be assigned to the carrier.

The provisions of this Article shall not apply to marine and river vessels and aircraft, which cross the customs territory of the Republic of Kazakhstan without landing at the port or airport, located within the territory of the Republic of Kazakhstan.

##### Article 165. Delivery of Goods, Transport Vehicles and Documents Relating Thereto

Upon submitting of the notification indicated in Article 164 of this Edict, the carrier shall be obliged to deliver the goods, transport vehicles and documents relating thereto without any changes in their packaging and conditions except for the changes consequential to the natural wear or loss under normal conditions of transportation and storage without using for business purposes and in accordance with the established routes to the place indicated by the customs body of the Republic of Kazakhstan pursuant to the procedure established by the state authorized body on customs matters and stay there after arrival. The place of delivery on importation of goods into the customs territory of the Republic of Kazakhstan shall be a warehouse for temporary storage determined pursuant to this Edict.

Deliveries of goods, transport vehicles and documents relating thereto must be carried out within deadlines established by the customs body of the Republic of Kazakhstan in accordance with the usual periods of delivery on the basis of capacities of the transport vehicle, the determined route and any other conditions of transportation but not longer than the maximum term to be determined on the basis of two thousand kilometers per one month.

In the event that the customs body of the Republic of Kazakhstan has reasons to believe that the carrier or the carrier's transport vehicle may not guarantee compliance with the provisions of this Edict, the customs body of the Republic of Kazakhstan shall have the right to determine that conveyance of goods and documents relating thereto may be carried out only under the condition of due equipment of the transport vehicle, customs convoy, in accordance with the procedure defined by this Edict and acts of the central customs body of the Republic of Kazakhstan.

Expenditures incurred by the carrier in relation to due equipment of the transport vehicle shall not be reimbursed by the customs bodies of the Republic of Kazakhstan.

In cases where the indicated vehicles may not be used, the conveyance of goods and documents therewith shall be allowed subject to security of payment of customs duties and taxes, including amounts due placed on the deposit determined by the customs body of the Republic of Kazakhstan.

##### Article 166. Measures Taken due to an Accident or Act of Force Majeure

If in the delivery of goods, transport vehicles and documents relating thereto, a carrier fails to fulfill the obligations stipulated in Article 165 of this Edict due to an accident or acts of force-majeure, the carrier shall be obliged to adopt every measure to ensure the safety and prevent any unauthorized use of goods and transport vehicles, and immediately report to the nearest customs body of the Republic of Kazakhstan the circumstances of the case, and the place or location of the goods and transport vehicles.

The customs body of the Republic of Kazakhstan shall determine the measures that must be adopted in that case to ensure the customs supervision. The customs body of the Republic of Kazakhstan shall not reimburse a carrier for any costs incurred in relation to adopting measures stipulated in this Article.

The provisions of this Article shall apply also in the cases where marine, river and aircraft indicated in the third part of Article 164 of this Edict make a forced stop or landing in the territory of the Republic of Kazakhstan.

#### Article 167. Presentation of Goods and Transport Vehicles in the Place of Delivery

Goods and transport shall be presented in the place of delivery and documents relating thereto shall be handed to the customs body of the Republic of Kazakhstan. Such presentation shall take the form of notification on arrival of goods and transport vehicles not later than 24 hours following their arrival.

With the permission of a customs body of the Republic of Kazakhstan, after presentation of the goods, persons, which have authority with respect to the goods, and their representatives may take samples of the goods for the purposes of customs clearance.

Abandonment of transport vehicle and goods without supervision, change of the parking place, unloading and re-loading of goods, change of initial location of the goods, disembarkment of the passengers, unpacking, packing and re-packing of goods, modification, removal or destruction of identification signs, shall be allowed only with the permission of the customs body of the Republic of Kazakhstan.

Violation of the provisions of third part of this Article shall not entail the responsibility for the carrier only in the event he proves that there was a real threat to the health and lives of passengers and the crew of the transport vehicle, threat of destruction, irretrievable loss or substantial damage to goods and transport vehicle. The carrier shall promptly notify the customs body of the Republic of Kazakhstan on circumstances which caused violation of mentioned provisions.

The customs body of the Republic of Kazakhstan shall have the right to require at any time immediate performance of actions stipulated in the third part of this Article or their performance within the period determined by this body.

The Customs Bodies of the Republic of Kazakhstan shall not reimburse any additional expenses incurred by the carrier as a consequence of actions or circumstances stipulated by the provisions of this Article.

#### Article 168. Brief Declaration

Prior to placement of goods and transport vehicles under certain customs regime, the Brief Declaration may be applied.

The pro-forma for Brief Declaration and list of data to be included therein shall be prescribed by the central customs body of the Republic of Kazakhstan.

With the permission of the customs body of the Republic of Kazakhstan, transportation, commercial and the other documents may be used as the Brief Declaration including those prepared in foreign languages which are known by the officials of the customs body of the Republic of Kazakhstan, provided those documents contain information which conforms with the brief declaration.

Brief declaration shall be lodged by the carrier simultaneously with submission of goods and transport vehicles or, with the permission of the customs body of the Republic of Kazakhstan, not later than the next business day after submission of goods and transport vehicles.

The brief declaration shall not be lodged, if the goods have been placed under certain customs regime within prescribed period of time.

In absence of the representative, specifically authorized by the carrier to lodge the brief declaration, the commander, captain, driver or the other physical person, who is in control of the transport vehicle, shall be deemed such representative for the customs purposes.

#### Article 169. Responsibility Before the Customs Bodies of the Republic of Kazakhstan in Preliminary Operations

Prior to placement of the goods and transport vehicles under certain customs regime, full responsibility for these goods and transport vehicles before the Customs Bodies of Republic of Kazakhstan, including payment of customs duties and taxes, shall rest with the carrier, except for the case provided in part two of Article 164 of this Edict, i.e. placing goods in a warehouse for temporary storage and also other cases stipulated in this Edict.

#### Chapter 25. TEMPORARY STORAGE

##### Article 170. Temporary Storage

Goods and transport vehicles shall be temporarily stored under customs control from the moment of their presentation to the customs body of the Republic of Kazakhstan or before their release to the concerned person for disposal pursuant to the chosen customs regime.

##### Article 171. Temporary Storage Facilities

Temporary storage of goods and transport vehicles shall be carried out in specially designated and designed premises, in open-air areas, transport vehicles or other places (temporary storage facilities, customs warehouses, free warehouses) in areas under customs control. Subject to the destination of goods and the period for their customs clearance, the state authorized body on customs matters shall establish a procedure to select places and establish a procedure to temporarily store goods and transport vehicles.

Temporary stores - warehouses of special destination for temporary storage of goods and vehicles may be established by the customs bodies of the Republic of Kazakhstan or Kazakhstani persons.

The Central Customs Body of the Republic of Kazakhstan may set binding requirements with respect to layouts, design, equipment and location of temporary storage warehouses.

##### Article 172. Licenses to Establish a Warehouses for Temporary Storage



Warehouses for temporary storage may be established upon receipt of a license from the customs bodies of the Republic of Kazakhstan. The indicated license shall not be required where a warehouse for temporary storage is established by a customs body of the Republic of Kazakhstan.

The Central Customs Body of the Republic of Kazakhstan shall establish a procedure to review applications and to issue licenses to establish a warehouse for temporary storage.

A levy for the issuance of a license to establish a temporary warehouse shall be imposed in the procedure and in amounts established in the tax legislation of the Republic of Kazakhstan.

A license to establish a temporary warehouse may be revoked or its duration may be suspended by the customs body of the Republic of Kazakhstan.

A license shall be revoked;

if it is issued on the basis of incomplete or unreliable information presented by the applicant from the date the license is granted; on the bases stipulated in the legislative acts concerning licensing with revocation taking effect from the date of official notification of the licensee on revocation.

The duration of the license shall be suspended where the owner of a warehouses does not comply with the requirements of this Edict.

Suspension shall take effect from the date of adoption of the decision to suspend. When revoking or suspending the duration of a license, the levy for its issue shall not be subject to refund.

#### Article 173. Types of Temporary Stores

Temporary stores may be of open type, that is available for use by any persons, and of closed type, that is meant for storage of goods of certain persons.

Temporary stores, established by the Customs Bodies of the Republic of Kazakhstan, shall be open-type ones.

Temporary stores of closed type may be established only if there are sufficient reasons to consider establishment of the open-type store appropriate.

#### Article 174. Goods Which May Be Placed To Temporary Store

Any goods may be placed in the temporary store. Goods, which may bring damage to the other goods or require special storage conditions, must be placed into stores specially designed for that purpose.

#### Article 175. Documents Required for Placement of Goods and Transport Vehicles in Temporary Store

When goods and transport vehicles are placed into temporary store, documents, sufficient for the identification of goods and transport vehicles, must be provided to the Customs Bodies of the Republic of Kazakhstan.

#### Article 176. Obligations of Owner of Temporary Storage Warehouse

The owner of a temporary storage warehouse shall be obligated:

- to equip the storage in due fashion, as required to ensure the customs control, and to install certified equipment to weigh goods placed for temporary storage;
- to ensure that goods and transport vehicles in temporary storage could not be withdrawn otherwise than under the customs control,
- not to hamper implementation of the customs control,
- to keep accounts and provide customs body of the Republic of Kazakhstan with the reports on the received, stored and released goods from the warehouse for temporary storage and transport vehicles, in accordance with the procedure determined by the central customs body of the Republic of Kazakhstan,
- to prevent from accessibility by third parties to stored goods and transport vehicles,
- where necessary, to equip the store with two locks, one of which would be under the control of the customs body of the Republic of Kazakhstan,
- to comply with terms of the license for the establishment of temporary store and meet the requirements of the Customs Bodies of the Republic of Kazakhstan, including making sure that officials of the customs bodies of the Republic of Kazakhstan have access to the stored goods and transport vehicles at any time at their request, providing these officials free of charge with premises, equipment and means of communication at the temporary store for performance of customs control and customs clearance.

#### Article 176-1. Requirements to Other Temporary Storage Premises

The requirements to other premises of temporary storage shall be established by the central customs body of the Republic of Kazakhstan.

If the temporary storage premises in question is part of the customs or free warehouse, the part (section) of such a warehouse used for temporary storing of goods and transport vehicles must be isolated and, in cases determined by the central customs body of the Republic of Kazakhstan, shall have separate drive-in ways.

#### Article 177. Additional Rights of Customs Bodies of the Republic of Kazakhstan With Respect to Temporary Storage Warehouses

The central customs body of the Republic of Kazakhstan in agreement with the state authorized body on customs matters shall identify the list of goods which may be stored only in temporary storage warehouses, whose owners are the Customs Bodies of the Republic of Kazakhstan.

#### Article 178. Responsibility for Payment of Customs Duties and Taxes With Respect to the Goods Stored in Temporary Store

Except for the case, stipulated in the second part of this Article, responsibility before the Customs Bodies of the Republic of Kazakhstan for payment of customs duties and taxes with respect to the goods and transport vehicles, stored in the temporary store, shall rest with the owner of such store.

When customs body of the Republic of Kazakhstan is the owner of temporary store, the responsibility for payment of customs duties and taxes shall rest with the person, which placed the goods and transport vehicles into the temporary store; in absence of such person - this responsibility shall rest with the person, which is the owner or possessor of the goods and transport vehicles.

#### Article 179. Temporary Storage Duration

The duration of temporary storage shall be determined by the customs body of the Republic of Kazakhstan given the time required to lodge the customs declaration, nature of the goods and transport vehicle involved. A set period may be extended by the Customs Bodies of the Republic of Kazakhstan due to non-submission of the required customs declaration or lack of the documents required for customs clearance.

The total period of storage of goods and transport vehicles in temporary store shall not exceed two months; and in cases, stipulated in other Articles hereof, it shall not exceed the period determined therein.

The duration of temporary storage of goods and transport vehicles at a customs or free warehouse shall be determined pursuant to the second part of this Article.

#### Article 180. Operations with the Goods In Temporary Storage

The owner of a temporary storage or any other person authorized appropriately in respect of goods and their representatives may inspect and measure goods placed at such a warehouse and, with the permission of the customs body, take samples of such goods for testing.

Goods kept in a temporary storage may undergo operations, required to ensure their safety in an unchanged state, including repairs of damaged packaging.

### Chapter 26. CUSTOMS AGENT

#### Article 181. Customs Agent (Intermediary)

Any legal entity, created in accordance with the legislation of the Republic of Kazakhstan and located in the Republic of Kazakhstan, which has obtained the license issued by the central customs body of the Republic of Kazakhstan for performance of activities as the customs agent and which, among its personnel, has specialist in customs clearance, who, in turn, obtained the qualification certificate from the central customs body of the Republic of Kazakhstan, may be the customs agent.

Customs agent shall perform his activities in accordance with present Edict and Regulations approved by the Government of the Republic of Kazakhstan.

Relationship between customs agent and the represented person shall be based on the agreement.

#### Article 182. Licenses for the Right to Carry Out Activities As Customs Broker

A legal entity may begin activities as a customs broker after receiving the license from the central customs body of the Republic of Kazakhstan for the right to carry out such activities. The following shall be necessary in order to obtain the license:

- 1) to have among the staff a specialist on customs processing who has obtained the qualification certificate,
- 2) to conclude the insurance agreement on its activities. The insurance amount may not be less than ten thousand times monthly calculated index
- 3) to have material and technical support which is sufficient for carrying out activities of a customs broker,
- 4) to create conditions to provide for accounting and reporting which precisely and fully reflect transactions involving goods which are subject to customs supervision.

The consideration of applications and issuing of licenses for the right to carry out activities as customs broker shall be carried out according to the procedure approved by the Government of the Republic of Kazakhstan.

Licenses may be revoked or their effect may be suspended on the bases stipulated in the legislative acts on licensing. Licenses may also be revoked in the following cases:

- 1) where it was issued on the basis of incomplete or false information submitted by the applicant,
- 2) a failure to execute the duties of the customs broker,
- 3) commission of violations stipulated in this Edict;
- 4) inflicting of unlawful material damage to the represented entity, including by way of illegal use of information which constitutes a commercial secret or confidential information, as established by court of law,
- 5) recognition of a customs broker bankrupt,
- 6) using service of a specialist who has not any, or who has been deprived of the qualification certificate, a specialist whose qualification certificate has been revoked, or a specialist whose qualification certificate is suspended,
- 7) violation of the tax legislation of the Republic of Kazakhstan.

Revocation shall be effective from the date of official notification of the license-holder on revocation, except when the revoked license has been issued on the basis of incomplete or inauthentic information provided by the applicant. Revocation of such a license shall take effect from the date of its issuance.

A repeated application to be awarded the license may be considered upon expiry of two years from the date of passing the decision to revoke, provided the reasons which served as the basis for its revocation are eliminated.

Suspension shall be effective from the date of passing the decision to suspend. Suspension of the effect of a license shall be carried out by the customs body of the Republic of Kazakhstan for a term up to three months.

The decision to revoke or suspend the effect of a license may be challenged in accordance with the provisions of Articles 388-395 of this Edict.

#### Article 183. Rights and Obligations of Customs Agent

Customs broker shall have the right to conduct, in his own name, transactions related to the customs clearance and perform the other intermediary functions at the expense and at the request of represented person in the area of customs business in accordance with Regulations Concerning the Customs agent.

In performance of the customs control and customs clearance, customs agent shall fulfill all obligations and take responsibility, as if he independently transferred goods through the customs border of the Republic of Kazakhstan.

#### Article 184. Register of Customs Agents

The central customs body of the Republic of Kazakhstan shall keep the register of customs agents and ensure its periodic publishing.

#### Article 185. Specialists in Customs Processing

The right to carry out transactions of customs processing on behalf of the customs broker shall be vested with the specialist who has the Qualification Certificate from the central customs body of the Republic of Kazakhstan.

The specialist on customs clearance shall be the person who is responsible for fulfillment of duties of customs clearance of goods

When committing acts associated with customs processing on behalf of a customs broker by the specialist indicated in the first part of this Article, it shall be deemed that this specialist is authorized thereto by the customs broker, unless the customs broker proves the contrary.

A customs broker may not restrict the obligations of the specialists on customs processing in respect of the Customs Bodies of the Republic of Kazakhstan.

The procedure for considering application and issuing of Qualification Certificates, including the establishment of the term of its validity and also the requirements in respect of the specialists on customs processing, shall be determined by the central customs body of the Republic of Kazakhstan.

The Central Customs body shall maintain a register of specialists of customs clearance.

The Qualification Certificate of a specialist on customs processing may be revoked by the central customs body of the Republic of Kazakhstan when:

- 1) the certificate is issued on the basis of incomplete or false information submitted by the applicant, which was decisive for the adoption of the decision to issue the Certificate;
- 2) the specialist failed to execute his obligations to the Customs Bodies of the Republic of Kazakhstan,
- 3) the specialist violated or failed to comply with the requirements of the Customs Legislation;
- 4) the specialist is recognized guilty in commission of a crime stipulated in the criminal legislation of the Republic of Kazakhstan, and also in the case of commission of violations stipulated in this Edict,
- 5) the specialist unlawfully inflicted material damage to the represented person, including by way of illegal use of information which constitutes a commercial secret or confidential information,
- 6) in performing the customs processing violated the legislation of the Republic of Kazakhstan concerning customs payments and taxes.

The revocation shall be effective from the date of official notification of the Qualification Certificate holder of revocation, except in case of a revoked qualification certificate that has been issued on the basis of incomplete or inauthentic information as presented by the applicant. The revocation of such a certificate shall take effect from the date of its issuance.

A second application for the Qualification Certificate shall be considered upon the expiry of six months from the date of its revocation, provided the causes which served as the basis therefor are eliminated.

The effect of a Qualification Certificate of a customs processing specialist may be suspended where the Certificate is issued to the applicant in violation of the procedure for issuing.

The suspension shall be effective from the date of adoption of the decision to suspend.

In the event that a customs broker is recognized bankrupt, the Qualification Certificates of the specialists who work for it shall be subject to re-registration in accordance with the procedure to be defined by the central customs body of the Republic of Kazakhstan.

Suspension of a Qualification Certificate may be carried out by the Customs Bodies of the Republic of Kazakhstan for a term under two months.

In the case of a significant change in legal regulation of the customs business, a customs processing specialist must within one month confirm the conformity of his knowledge with now requirements to such specialists. In the case of failure to comply with that condition, the customs body of the Republic of Kazakhstan shall suspend the validity of the Qualification Certificate until such confirmation (takes place), but no longer than two months, and in the case of a failure of the specialists to confirm the conformity of his knowledge within the period of suspension of the Qualification Certificate, the central customs body of the Republic of Kazakhstan shall revoke that Certificate. The decision that legal regulation of the customs business changed significantly shall be adopted by the central customs body of the Republic of Kazakhstan.

The decision to revoke, recognize as invalid or to suspend the effect of the Qualification Certificate may be challenged in accordance with Articles 388-395 of this Edict.

#### Article 186. Fees for Issuance of the License and Qualification Certificate

Fees shall be charged in accordance with the procedure and in the amounts, determined by the tax legislation of the Republic of Kazakhstan, for issuance of the license for performing customs agent's activities and Qualification Certificate of the specialist in customs clearance.

No license or certificate fees shall be returned, if the license for performing customs agent's activities is revoked or suspended, and if Qualification Certificate of the specialist in customs clearance is revoked or suspended.

#### Article 187. Treatment by Customs Agent and Its Employees to Information Received from Represented Entity

The information, received by customs agent and its employees from the represented entity for the customs purposes, may be used solely for these purposes.

Any unlawful damage to the rights and interests of the represented entity, which are protected by the law, shall not be allowed.

The information which constitutes commercial, banking or any other secret protected by the law, and confidential information of the represented entity may not be disclosed, used by the customs agent and its employees for their own purposes, transferred to third parties and government authorities (except for the Customs Bodies of the Republic of Kazakhstan), except for the cases clearly identified in the legislative acts of the Republic of Kazakhstan.

### Chapter 27. THE CUSTOMS CARRIER

#### Article 188. Customs Carrier

Legal entity, created in accordance with the legislation of the Republic of Kazakhstan, which has obtained the license issued by the central customs body of the Republic of Kazakhstan for acting as Customs Carrier, may be customs carrier.

Customs carrier shall perform its activities in accordance with present Edict and the legislation of the Republic of Kazakhstan.

Relationship between customs carrier and the parties involved shall be built on a contractual basis.

#### Article 189. Licenses to Carry Out Activities as Customs Carrier

The following shall be required in order to obtain a license which grants the right to carry out activities as Customs Carrier:

1) to have transport vehicles, equipment in its ownership, under the economic jurisdiction, trusted management or leased for at least three years and which meet the requirements defined by the Customs Bodies aimed at ensuring the compliance with the customs legislation,

2) deleted;

3) to comply with any other requirements established by the legislation of the Republic of Kazakhstan.

The application review and licensing procedures for customs carriers shall be established by the Central Customs Body of the Republic of Kazakhstan.

Licenses to carry out activities as Customs Carrier may be revoked or its effect may be suspended by the Customs Bodies on the bases stipulated in the legislation concerning licensing. A license may also be revoked in the following cases:

1) where it is issued on the basis of incomplete or false information submitted by the applicant,

2) several failures to execute the duties of the Customs Carrier, including unfounded refusal to convey goods and documents relating thereto, using of transport vehicles which are not equipped properly and establishing of the payments for conveyance which are not adequate to the average value of the services rendered,

3) commission of violations in the area of the customs business,

4) inflicting unlawful material damage to the consignor of goods and documents relating thereto, including by way of illegal use of information which constitutes a commercial secret or confidential information, as established by the court of law,

5) recognition of the Customs Carrier bankrupt. The decision to revoke shall be effective from the date of official notification of the license holder of revocation, except in case of revocation of a license that is issued on the basis of incomplete or inauthentic information provided by the applicant. Revocation of such a license shall take effect from the date of its issuance.

A second application for a license may be considered upon the expiry of one year from the date of passing the decision to revoke the license, provided the causes which served as the basis for its revocation are eliminated.

The effect of a license may be suspended for a term for up to three months on the basis stipulated in the legislative acts on licensing.

Suspension shall be effective from the date of adopting the decision to suspend.

For issuing of licenses to carry out activities as Customs Carrier, levies shall be collected in accordance with the procedure and in the amounts defined by the tax legislation of the Republic of Kazakhstan.

When revoking or suspending the effect of a license levies for the issue of the license shall not be refunded.

#### Article 190. Registration of Customs Carriers and Availability of Information On Them

The customs body of the Republic of Kazakhstan shall register customs carriers which intend to perform such operations in the zone of activity of the customs body.

Registration shall be carried out upon the application of the Customs Carrier.

The customs body shall make the list of registered Customs Carriers publicly available.

#### Article 191. Treatment by Customs Carrier and Its Employees of Information Received from the Consignor of Goods and Documents With Respect Thereto

Information, received from the consignor of goods and documents with respect thereto, which constitute commercial, banking or any other secret, protected by the law, as well as confidential information, must not be disclosed, used by the Customs Carrier and its employees for their own purposes, transferred to third parties and government authorities (except for the Customs Bodies), except for the cases stipulated in the legislation of the Republic of Kazakhstan.

## Chapter 28. DECLARING

### Article 192. Declaring of Goods and Transport Vehicles

Goods and transport vehicles, transferred through the customs border of the Republic of Kazakhstan, goods and transport vehicles, whose customs regime changes, and other goods and transport vehicles in cases, identified in the customs legislation of the Republic of Kazakhstan shall be subject to declaring to the customs body of the Republic of Kazakhstan.

In this case, goods and vehicle conveyed as a single consignment shall be declared by one customs declaration. At the discretion of the declarant, a consignment of goods and transport vehicles may be declared by several customs declarations.

### Article 193. Form of Declaring

Declaring shall be carried out by declaration in accordance with the set pro-forma (in writing, verbally, by electronic or any other data transmission) of precise information on goods and transport vehicles, their customs regime and other information required for the customs purposes.

The pro-forma and procedure for declaring and the list of information required for customs purposes shall be defined by the central customs body of the Republic of Kazakhstan.

### Article 194. Place of Declaring

Goods shall be declared to that customs body of the Republic of Kazakhstan at which the customs clearance of the goods is performed.

Transport vehicles which convey goods shall be declared simultaneously with the goods except for the cases stipulated in the third part of this Article.

Marine, river vessels and aircraft shall be declared at the port or airport of arrival within the customs territory of the Republic of Kazakhstan, or at the port or airport of departure from the customs territory of the Republic of Kazakhstan.

Cargo-free transport vehicles and transport vehicles which convey passengers shall be declared when they cross the customs border of the Republic of Kazakhstan.

### Article 195. Period of Lodgment of the Customs Declaration

The deadline for submitting a customs declaration shall not exceed 15 days following the date of presentation of goods and transport vehicles to the customs body of the Republic of Kazakhstan.

When physical persons transfer goods in accordance with Article 108 of this Edict, the Customs Declaration shall be lodged simultaneously with submission of the goods.

Cargo-free transport vehicles which cross the customs border of the Republic of Kazakhstan, as well as transport vehicles which convey passengers, shall be declared at the time they cross the customs border of the Republic of Kazakhstan.

With the permission of the customs body of the Republic of Kazakhstan, the period mentioned in this Article may be extended in accordance with the procedure defined by the central customs body of the Republic of Kazakhstan.

### Article 196. Declarant

Only a Kazakhstani person may be the declarant, except for the cases of transfer of goods by physical persons in accordance with Article 108 of this Edict and in other cases defined by the central customs body of the Republic of Kazakhstan.

### Article 197. Rights and Obligations of Declarant

The declarant, in addition to the other rights stipulated in this Edict, with the permission of the customs body of the Republic of Kazakhstan, shall have the right to inspect and measure goods and transport vehicles, take samples and tests of goods under the customs control prior to the lodgment of the Customs Declaration. No separate customs declaration shall be lodged with respect to samples and tested goods, provided that they are covered by the Customs Declaration, lodged with respect to the goods in question.

Regardless of the fact whether the declarant is the entity conveying the goods and transport vehicles, their carrier or the entity declaring the goods and transport vehicles under the agreement with the entity conveying them, the declarant shall fulfill all the duties and bear all responsibilities stipulated by this Edict, including

- in declaring goods and transport vehicles, declarant shall be obligated:
- to declare goods and transport vehicles in accordance with present Edict,
- to submit the declared goods and transport vehicles at the request of the customs body of the Republic of Kazakhstan,
- to provide the customs body of the Republic of Kazakhstan with the documents and additional information, required for the customs purposes,
- to pay customs payments and taxes,
- to provide assistance to the Customs Bodies of the Republic of Kazakhstan in the performance of customs clearance, including performance of the required cargo operations and other operations.

### Article 198. Documents and Additional Information Required for Customs Purposes

The lodgment of the Customs Declaration must be followed by the submission to the customs body of the Republic of Kazakhstan of the documents required for customs purposes, a list of which shall be determined by the central customs body of the Republic of Kazakhstan in accordance with the requirements of the customs regimes established by this Edict.

The customs body of the Republic of Kazakhstan shall have the right to require any additional information in order to verify the information, included in the Customs Declaration and documents submitted for customs purposes.

The customs body of the Republic of Kazakhstan shall have the right to determine the period for submission of missing documents and information

With the permission of the customs body of the Republic of Kazakhstan, the documents may be provided in foreign languages, known by the officials of the customs body of the Republic of Kazakhstan.

The date of submission to the customs body of the Republic of Kazakhstan of the customs declaration of documents required for customs purposes shall be attested by the stamp of the official of the customs body of the Republic of Kazakhstan in the check-list of submitted documents, formalized pursuant to the procedure determined by the Central Customs Body of the Republic of Kazakhstan. The check-list shall acquire legal force after its authentication and shall be returned thereupon to the declarant.

If there are comments in respect of the submitted documents and/or the need to provide additional documents, the check-list to be returned to the declarant shall be appropriately marked and authenticated by an official of the customs body of the Republic of Kazakhstan.

#### Article 199. Acceptance of the Customs Declaration .

A lodged customs declaration shall be subject to acceptance by the customs body of the Republic of Kazakhstan. Acceptance of the customs declaration shall be registered in accordance with the procedure defined by the central customs body of the Republic of Kazakhstan.

Upon acceptance by the Customs body, such declaration shall become a legally effective document as of the moment of its registration.

The customs body of the Republic of Kazakhstan shall not have the right to refuse to accept the Customs Declaration.

The liability and responsibility for release of goods and transport vehicles under customs declarations completed in breach of the procedure established by the central customs body of the Republic of Kazakhstan shall rest with the official (officer) of the customs body of the Republic of Kazakhstan.

#### Article 200. Modification and Additions to the Customs Declaration

Declarant may modify or make additions to the information, included in the Customs Declaration, and the lodged Customs Declaration may be withdrawn. Such modification, additions or withdrawal may occur only prior to verification of the Customs Declaration, inspection of goods and transport vehicles, time when the customs body of the Republic of Kazakhstan ascertains that provided information is inauthentic.

Modification or additions to the Customs Declaration may not extend or restrict the sphere of its effect.

The officials of the Customs Bodies of the Republic of Kazakhstan shall not have the right to fill in the Customs Declaration, make modifications or additions to the information, included therein, either on their own initiative, or at the request or on behalf of the person, except for introduction to Customs Declaration of the information, which is within the competence of the Customs Bodies of the Republic of Kazakhstan, changes and additions to codified information, used for machine processing, provided that such information is included in the declaration in the unmodified form.

Official of the customs body of the Republic of Kazakhstan shall be responsible for the release of goods and transport vehicles under the customs declarations filled in with violation of the procedure established by the central customs body of the Republic of Kazakhstan.

#### Article 201. Temporary or Incomplete Declaration

Where declarant due to special reasons is unable to lodge complete Customs Declaration, the customs body of the Republic of Kazakhstan in accordance with the procedure defined by the central customs body of the Republic of Kazakhstan may allow lodgment of temporary or incomplete Customs Declaration, provided that temporary or the incomplete Customs Declaration contains principal information required for the customs purposes and that missing information will be provided within the period determined by the customs body of the Republic of Kazakhstan.

#### Article 202. Periodic and Preliminary Customs Declaring

In case of a regular transfer of the same goods and transport vehicles by the same person, the customs body of the Republic of Kazakhstan may allow lodgment of one Customs Declaration for all goods and transport vehicles that are transferred through the customs border of the Republic of Kazakhstan for a certain period of time.

The procedure of preliminary declaration of goods shall be used, if a declarant applies to the customs body of the Republic of Kazakhstan not earlier than 10 days before the arrival of goods.

The Procedures for Periodic and preliminary Customs Declaring of Goods shall be defined by the central customs body of the Republic of Kazakhstan.

### Section VII. CUSTOMS CONTROL

#### Chapter 29. General Provisions

#### Article 203. Performance of the Customs Control and Its Forms

The customs control shall be performed by the officials of the customs bodies of the Republic of Kazakhstan in the form of verification of documents and information, required for customs purposes, customs inspection of goods and transport vehicles, personal inspection as an exceptional form of customs control, accounting for goods and transport vehicles, verbal inquiries to physical persons and officials, audit of accounting and reporting systems, inspection of the territory and premises of temporary stores, customs warehouses, free warehouses, facilities of free customs zones, duty free shops and other places, where goods and transport vehicles, subject to customs control, may be located or where the activity, control whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan, is carried out; and in the other forms, provided for in present Edict and legislation of the Republic of Kazakhstan concerning the customs business.

Performance of the customs control may involve technical means, which are safe for the life and health of people, animals and plants and which bring no harm to persons, goods and transport vehicles.

The rules of performance of the customs control shall be defined by the central customs body of the Republic of Kazakhstan in coordination with the state authorized body on customs matters.

#### Article 204. Zones of the Customs Control

For the purposes of performing the customs control in the places of customs clearance, at the location of the Customs Bodies of the Republic of Kazakhstan and in the other places, determined by the central customs body of the Republic of Kazakhstan, the zones of customs control shall be created. The procedure for creation and designation of the customs control zones shall be defined by the central customs body of the Republic of Kazakhstan. Performance of production and other commercial activities, transfer of goods, transport vehicles and persons, including officials of the other government authorities, through and within the borders of such zones shall be allowed only with the permission of the Customs Body of the Republic of Kazakhstan and under its control, except for the cases stipulated in the legislative acts of the Republic of Kazakhstan. In said cases, access to the zones of customs control shall be permitted with prior notification to the customs body of the Republic of Kazakhstan.

#### Article 205. Documents and Information Required for the Customs Control

Persons, which transfer goods and transport vehicles through the customs border of the Republic of Kazakhstan or perform the activity, control whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan, shall be required to provide these bodies with the documents and information required for the customs control. Procedure for their submission shall be defined by the central customs body of the Republic of Kazakhstan.

To perform customs control, the Customs Bodies of the Republic of Kazakhstan shall have the right to obtain from banks and organizations, performing certain types of banking transactions, information and reference documents concerning transactions and accounts of persons, which transfer goods and transport vehicles through the customs border of the Republic of Kazakhstan, customs agents or other persons, which perform the activities, control whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan.

At the request of the Customs Bodies of the Republic of Kazakhstan or on their own initiative, law-enforcement bodies of the Republic of Kazakhstan, tax authorities and other monitoring bodies of the Republic of Kazakhstan shall inform customs bodies about available information required for the customs control.

Documents required for the customs control shall be stored for not less than five years.

#### Article 206. Involvement of Specialists and Experts to Receive Assistance in Performance of the Customs Control

The Customs Bodies of the Republic of Kazakhstan shall have the right to involve in accordance with the legislation of the Republic of Kazakhstan specialists from law-enforcement and monitoring bodies, any state-owned and non-governmental legal entities, as well as experts to receive assistance in performance of the customs control.

Average monthly remuneration at the places of employment shall be retained by specialists and experts who work for state bodies and state-owned legal entities. Customs Bodies of the Republic of Kazakhstan shall bear, in accordance with the procedure defined by the Government of the Republic of Kazakhstan, costs associated with involvement of specialists and experts, including travel and office expenses, per diems and compensations, where such involvement is beyond work duties of specialists and experts working for state bodies and state-owned legal entities except for the cases established by this Edict.

Request from the customs body of the Republic of Kazakhstan for the specialist or expert for providing assistance in performance of the customs control shall be binding for the state body or state-owned legal entity where that specialist or expert works.

#### Article 207. Access of the Officials from Customs Bodies of the Republic of Kazakhstan to Territories and Premises for Performing Customs Control

For the purposes of performance of the customs control and upon production of their credentials and while being on duty, the officials of the Customs Bodies of the Republic of Kazakhstan shall have the right to access territories and premises of any persons, where goods and transport vehicles subject to such control, documents required for the customs control may be located, or the activity, control whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan, is performed, except for the cases stipulated in the legislative acts of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan.

#### Article 208. Identification of Goods, Transport Vehicles, Premises And Other Locations

Transport vehicles, premises, containers and other places locations, where goods and transport vehicles subject to such control are or may be located, places of performance of the activity, control whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan, and goods and transport vehicles under customs control, may be identified by the Customs Bodies of the Republic of Kazakhstan.

Identification shall be carried out by placing seals, stamps, digital, alphabetic and other marks, identification signs, sampling and testing, description of goods, preparation of drawings, production of scale images, photographs, illustrations, using goods accompanying documents and the other documentation, and by other methods.

The identification means may be modified, removed or destroyed only by the Customs Bodies of the Republic of Kazakhstan or with their permission, except for the cases where there is a real threat of destruction, irretrievable loss or material damage of the goods and transport vehicles. Modification, removal or destruction of identification means shall be immediately notified to the customs body of the Republic of Kazakhstan, and evidence of existence of the above threat shall be furnished to the customs body of the Republic of Kazakhstan.

#### Article 209. Audits of Financial and Foreign Economic Activities for Customs Purposes

To ensure the compliance with the legislation of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan, control over implementation whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan, the Customhouses and the upper Customs Bodies of the Republic of Kazakhstan shall have the right to designate or perform within the bounds of their authority audits of financial and foreign economic activities of the persons, which transfer goods and transport vehicles through the customs border of the Republic of Kazakhstan, customs agents or other persons, which perform activities, control whereof is the responsibility of the Customs Bodies of the Republic of Kazakhstan, provided that there are reasons to believe that said legislation and treaties are not complied with or complied with not to the full extent.

In performance of audits of financial and foreign economic activities, the officials of the Customs Bodies of the Republic of Kazakhstan shall have the right to require free of charge submission of and review any documentation (including banking) and the

information which pertains to performance of foreign economic activities, that relate to the customs business and functions of the Customs Bodies of the Republic of Kazakhstan, receive references, written and verbal explanations from the officials and other employees, seal premises, withdraw, under the statement prepared in accordance with the pro-forma which is set by the central customs body of the Republic of Kazakhstan, the documents if they are to be audited elsewhere.

Withdrawn documents must be returned within the period determined in the legislation of the Republic of Kazakhstan.

Where necessary, the officials of the Customs Bodies of the Republic of Kazakhstan may designate place and time of the review of the documents and information.

Actions of the officials of the Customs Bodies of the Republic of Kazakhstan in performing audits must not cause unlawful damage to the person whose financial and foreign economic activities are audited. Audit results shall be immediately communicated to this person.

Any information obtained as a result of audit shall be confidential and it shall be subject to provisions of Article 16 of present Edict.

#### Article 210. Selectivity of the Customs Control

In performance of the customs control, the Customs Bodies of the Republic of Kazakhstan shall use those forms of control, which are sufficient to ensure the compliance with the legislation of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan, control over implementation of which is the responsibility of the Customs Bodies of the Republic of Kazakhstan.

Non-application of the other forms of the customs control or relief therefrom shall not mean that the persons are relieved from the obligation to comply with the provisions of present Edict, the legislation of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan.

Where necessary, the Customs Bodies of the Republic of Kazakhstan may use any forms of the customs control mentioned in present Edict, except for the cases described in Article 211.

#### Article 211. Relief from Certain Forms of Customs Control

Customs inspection shall not be performed with respect to personal baggage of the President of the Republic of Kazakhstan, State Secretary of the Republic of Kazakhstan, Prime-Minister of the Republic of Kazakhstan, Chairmen of the of the Chambers of Parliament of the Republic of Kazakhstan and members of their families, who travel with them.

Personal baggage of the Deputies of the Senate and Majilis of the Republic of Kazakhstan, members of the Government of the Republic of Kazakhstan, Attorney General of the Republic of Kazakhstan, Chairman of the Constitutional - Council of the Republic of Kazakhstan, Chairman of Supreme Court of the Republic of Kazakhstan, Chairman of the Higher Arbitrage Court of the Republic of Kazakhstan, Chairman of the National Bank of the Republic of Kazakhstan shall be relieved from customs inspection, if said persons cross the customs border of the Republic of Kazakhstan in connection with performance of their deputy's or work duties respectively.

Foreign naval ships (vessels), combat and military transportation aircraft and military vehicles that proceed under their own power shall be relieved from the customs inspection, unless otherwise stipulated in the legislative acts of the Republic of Kazakhstan.

#### Article 212. Personal Inspection

Personal inspection as a form of customs control shall be performed upon the decision of the Head of the central customs body, customs department, customhouse of the Republic of Kazakhstan or the person acting for the latter, provided there are reasons to believe that the physical person, crossing the customs border of the Republic of Kazakhstan or which is at the customs control zone or transit zone of an international airport, hides on himself and does not extradite the goods constituting violation of the legislation of the Republic of Kazakhstan or international treaties of the Republic of Kazakhstan, control over implementation whereof is the responsibility delegated of the Customs Bodies of the Republic of Kazakhstan.

Decision to perform personal inspection shall be documented in writing in accordance with the procedure determined by the central customs body of the Republic of Kazakhstan.

Prior to personal inspection, the official of the customs body of the Republic of Kazakhstan shall be required to submit decision of the Head of the customs body of the Republic of Kazakhstan or official acting for the latter, concerning performance of personal inspection, to the physical person, inform the physical person with his rights and obligations in connection with such inspection and propose to voluntarily extradite hidden goods.

Physical person with respect to whom personal inspection is performed shall have the rights:

- to familiarize himself with the procedure for performance of personal inspection and decision to perform personal inspection, prior to the performance of personal inspection,
- to voluntarily extradite the goods hidden by him which constitute violation of the legislation of the Republic of Kazakhstan or international treaties of the Republic of Kazakhstan,
- to make a statement, subject to obligatory incorporation into the protocol concerning the procedure of performance of the personal inspection, to the officials of the Customs Bodies of the Republic of Kazakhstan, performing personal inspection,
- to review the results of personal inspection and the procedural documents,
- to appeal against actions of the officials of the customs body of the Republic of Kazakhstan, who perform personal inspection, in accordance with Section XV of present Edict,
- to use lawyer's services.

Photocopy of the protocol concerning performance of personal inspection and statement of confiscation of the goods shall be provided to the physical person, with respect to which personal inspection was performed.

Personal inspection shall be performed by the officials of the customs body of the Republic of Kazakhstan of the same sex as are the inspected persons, in the presence of two witnesses of the same sex, in isolated premises meeting sanitary and hygienic requirements. Access to these premises by any other physical persons and possibility of observation by such persons of the performance of personal inspection shall not be allowed. Inspection of organs of the inspected persons must be performed only by



medical specialist. With respect to personal inspection, protocol shall be prepared in accordance with the pro-forma designed by the central customs body of the Republic of Kazakhstan. Protocol shall be signed by the official of the customs body of the Republic of Kazakhstan who performed personal inspection, physical person with respect to which the inspection performed, witnesses, and, in case of inspection by medical specialist, by this specialist. The physical person with respect to which the inspection was performed shall have the right to make a statement in this protocol.

Chapter 30. Additional Provisions Relating to Customs Control of the Goods and Transport Vehicles Transferred Through the Customs Border of the Republic of Kazakhstan

Article 213. Goods and Transport Vehicles Subject to Customs Control

Any goods and transport vehicles, transferred through the customs border of the Republic of Kazakhstan, shall be subject to the Customs Control except for the cases stipulated in Article 211 of present Edict,.

The customs bodies of the Republic of Kazakhstan shall have the right to coercively stop transport vehicles, coercively return marine and river vessels and aircraft which departed from the customs territory of the Republic of Kazakhstan without permission of the customs body of the Republic of Kazakhstan, except for foreign vessels and aircraft and vessels and aircraft, located on the territory of the other states.

Article 214. Duration of the Customs Control

Goods and transport vehicles shall be under the customs control from its beginning until its completion, in accordance with the customs regime.

In importation, the customs control shall start at the time, goods and transport vehicles cross the customs border of the Republic of Kazakhstan, and it shall be completed, when the goods and transport vehicles are released for free circulation within the territory of the Republic of Kazakhstan or when they are returned through the customs border of the Republic of Kazakhstan.

In exportation, the customs control shall start as of the time of acceptance of the Customs Declaration.

The customs control of goods and transport vehicles exported outside of the customs territory of the Republic of Kazakhstan, shall be completed at the item they cross the customs border of the Republic of Kazakhstan.

Article 215. Customs Control After the Release of Goods and Transport Vehicles

Irrespective of the release of goods and transport vehicles, except for the release for free circulation (but not for conditional release) the customs control of these goods and transport vehicles may be performed at any time, if there are sufficient reasons to believe that there are violations of the legislation of the Republic of Kazakhstan or international treaties of the Republic of Kazakhstan, control over implementation of which is the responsibility of the Customs Bodies of the Republic of Kazakhstan.

In the above case, the Customs Bodies of the Republic of Kazakhstan shall have the right to verify availability of goods and transport vehicles, repeat their customs inspection, re- verify the information included in the Customs Declaration, verify commercial documents and other information which pertains to foreign economic and subsequent commercial transactions with respect to these goods. Verification may be performed at the premises of the declarant or any other person directly or indirectly related to these transactions or possessing the required documentation. If violations are discovered, the persons shall take the responsibility in accordance with the provisions of present Edict.

Article 216. Period of Verification of the Customs Declaration and Documents and Inspection of Goods and Transport Vehicles

Verification of the Customs Declaration and documents and inspection of goods and transport vehicles shall be performed by the customs body of the Republic of Kazakhstan not later than by the end of the day following the acceptance of the Customs Declaration and submission of all the documents and information required for the customs purposes;

The above period may be extended to ten days and in relation to urgent consignments to three days following the day of acceptance of customs declaration only with the written permission of head of the customs body of the Republic of Kazakhstan.

Article 217. Presence of the Declarant and Other Persons Authorized With Respect to Goods and Transport Vehicles and Their Representatives During Performance of Inspection of Goods and Transport Vehicles

Declarant and other persons authorized with respect to goods and transport vehicles and their representatives shall have the right to be present during the inspection of goods and transport vehicles on their own initiative.

At the request of the officials of the customs body of the Republic of Kazakhstan, said persons shall be obligated to attend such inspection and provide the required assistance to the officials of the customs body of the Republic of Kazakhstan. In absence of the representative, specifically authorized by the Carrier, physical person, who is in control of the transport vehicle, shall be deemed such representative for the customs purposes.

The customs body of the Republic of Kazakhstan shall have the right to perform inspection of goods and transport vehicles in the absence of the Declarant and other persons, authorized with respect to the goods and transport vehicles, their representatives in the following cases:

- when said persons have not shown up upon expiry of ten days following the submission of goods and transport vehicles,
- when there is threat to national security, life and health of people, animals and plants, environment, safety of art, historic and archaeological wealth of nations of the Republic of Kazakhstan and in the other circumstances, which brook no delay,
- when goods are sent in international postal traffic,
- when goods and transport vehicles are left within the customs territory of the Republic of Kazakhstan violating the customs regime.

Inspection of goods and transport vehicles in the above cases shall be performed in the presence of witnesses and documented in the form of statement of customs inspection in accordance with the pro-forma approved by the central customs body of the Republic of Kazakhstan.

#### Article 218. Taking Stock of Goods and Transport Vehicles Under the Customs Control

The Customs bodies of the Republic of Kazakhstan shall have the right at any time to take stock of goods and transport vehicles under the customs control, and goods with respect to which no customs payments and taxes were paid or no relief was granted with respect to the customs payments and taxes.

#### Article 218-1 Restrictions on Import to and Export from Republic of Kazakhstan of Goods Incorporating Certain Objects of Intellectual Property

Importation into the territory of the Republic of Kazakhstan and exportation from the territory of the Republic of Kazakhstan of goods, incorporating objects of intellectual property included on the list of goods with objects of intellectual property of the central customs body of the Republic of Kazakhstan shall be effectuated in accordance with the legislation of the Republic of Kazakhstan or international treaties ratified by the Republic of Kazakhstan pursuant to the procedure established herein and other legislative acts on objects of intellectual property of the Republic of Kazakhstan.

#### Article 218-2 Application for Registration of Goods, Containing Objects of Intellectual Property

The central customs body of the Republic of Kazakhstan shall include in its register goods, containing objects of intellectual property, upon application of the right-holder. The application, application review and registration procedures shall be determined by the central customs body of the Republic of Kazakhstan in coordination with the state authorized body on customs matters that is vested with the authority to protect objects of intellectual and industrial property.

The central customs body of the Republic of Kazakhstan shall maintain a register of goods, containing objects of intellectual property and shall ensure its periodic publication.

Goods, containing objects of intellectual property, may be excluded from the register:

- 1) upon a written application of the right-holder;
- 2) upon the decision of the central customs body of the Republic of Kazakhstan in case of the right-holder's incompliance with the requirements set forth in Articles 218-1 - 218-5 of this Edict;
- 3) in case of submission of inauthentic information on goods to include into the registers of goods, containing objects of intellectual property;
- 4) in case of failure to notify about the changes in the information presented on the application;
- 5) when the duration of the right in objects of intellectual property terminates.

The central customs body of the Republic of Kazakhstan shall notify the right-holder without delay on the exclusion of goods, containing objects of intellectual property.

The right-holder shall be obligated to notify the central customs body of the Republic of Kazakhstan on the termination of his/her rights in an concerned object of intellectual property.

#### Article 218-3 Suspension of Release of Goods, Containing Objects of Intellectual Property

The customs body of the Republic of Kazakhstan shall suspend the release of goods, containing objects of intellectual property that are included into the register of the central customs body of the Republic of Kazakhstan, if the customs body of the Republic of Kazakhstan discovers such goods to be counterfeit.

No later than the workday following the day when a decision to suspend the release of goods, containing objects of intellectual property, the customs body of the Republic of Kazakhstan shall appropriately notify the right-holder and declarant on such a suspension and the reasons therefor as well as inform the declarant about the name and address of the right-holder and the name and address of the declarant to the right-holder.

In case of suspension of the release of goods, containing objects of intellectual property, the right-holder shall be required to deposit within three days after his/her notification of the suspension a guarantee in the amount sufficient to compensate for the costs incurred by the owner of a temporary storage warehouse, by the declarant and other persons affected by such a suspension. The aforementioned amount shall be determined by the customs body of the Republic of Kazakhstan pursuant to the procedure set forth in the Legislation of the Republic of Kazakhstan.

#### Article 218-4 Terms of Suspension of Customs Clearance to Protect Rights in Intellectual Property

The customs bodies of the Republic of Kazakhstan shall have a right to suspend the release of goods, containing objects of intellectual property for a period of up to 10 workdays.

This period may be extended by the customs bodies of the Republic of Kazakhstan for another 10 workdays pursuant to the procedure set forth in the Legislation of the Republic of Kazakhstan or international treaties of the Republic of Kazakhstan.

Upon the expiration of the aforementioned term, the customs bodies of the Republic of Kazakhstan shall lift all limitation on the release of goods provided any other requirements are met and a notification has been sent to the right-holder, if the applicant does not provide an evidence to prove the commencement of legal proceedings in respect of infringement upon his/her right in intellectual property in connection with importation or exportation of detained goods.

If legal proceedings are instituted in respect of the suspension of release of goods, containing objects of intellectual property, the customs bodies of the Republic of Kazakhstan shall not be allowed to release such goods till the end of such proceedings, if the court deems otherwise.

#### Article 218-5. Terms to Release Goods, Containing Objects of Intellectual Property

The release of goods, containing objects of intellectual property, upon the termination of the time limits set forth in Article 218-4 of this Edict, shall be effectuated, provided the court determines that the rights in intellectual property of the right-holder are not infringed upon or the declarant deposits an amount adequate to protect the interests of the right-holder. The amount of such a deposit shall be determined pursuant to the procedure established in the Legislation of the Republic of Kazakhstan.

#### Article 218-6. Loss Indemnification to Person, Conveying Goods and Right-Holder

Comment [LD1]: -218-2,3,4 - done

If the court deems that goods that are transferred through the customs border of the Republic of Kazakhstan do not infringe upon the intellectual property rights of the right-holder, the losses incurred by the person who transfers such goods as a result of suspension of release of such goods shall be subject to compensation by the applicant pursuant to the procedure established by the Legislation of the Republic of Kazakhstan.

The customs body of the Republic of Kazakhstan shall compensate for losses incurred by the right-holder because it failed to apply measures provided for in Articles 218-2 - 218-5 of this Edict or incurred by the person who transfers such goods as a result of suspension of their release in breach of the requirements established by this Edict and other legal acts of general application of the Republic of Kazakhstan.

#### Article 219. Customs Bodies of the Republic of Kazakhstan as Currency Control Bodies

The Customs Bodies of the Republic of Kazakhstan shall be the bodies of currency control in the Republic of Kazakhstan.

The central customs body of the Republic of Kazakhstan shall define responsibilities and authority of other customs bodies in the performance of currency control to the extent of the authority of the Customs Bodies of the Republic of Kazakhstan in the area of currency supervision.

#### Article 220. Competence of the Customs Bodies of the Republic of Kazakhstan In the Area of Currency Control

The Customs Bodies of the Republic of Kazakhstan shall perform currency control of transfer of currency assets by persons through the customs border of the Republic of Kazakhstan, except for the perimeters of free customs zones and free warehouses, and control over currency transactions which involve transfer of goods and transport vehicles through said border.

#### Article 221. Performance of Currency Control By the Customs Bodies of the Republic of Kazakhstan

The currency control performed by the Customs Bodies of the Republic of Kazakhstan shall be constituent of the customs control.

The Customs Bodies of the Republic of Kazakhstan shall perform the currency control in accordance with the currency legislation of the Republic of Kazakhstan and Provisions of present Edict.

#### Article 222. Responsibility for Violations Discovered In Performance of the Currency Control By the Customs Bodies of the Republic of Kazakhstan

In the event that customs bodies of the Republic of Kazakhstan in the course of performance of currency control discover violations of the currency legislation of the Republic of Kazakhstan, that constitute or relate to violations of customs rules or violations which encroach upon normal activities of customs bodies of the Republic of Kazakhstan, the persons shall take responsibility in accordance with this Edict.

In the other cases of violations of the currency legislation of Republic of Kazakhstan which are revealed by customs bodies of the Republic of Kazakhstan penalties shall be used in accordance with the currency and other legislation of the Republic of Kazakhstan

### Section IX. CUSTOMS RELIEF FOR CERTAIN CATEGORIES OF FOREIGN PERSONS

#### Chapter 32. Customs Relief for Representations of Foreign States and Their Employees

##### Article 223. Customs Relief for Diplomatic Representations of Foreign States

Diplomatic representations of foreign states within the territory of the Republic of Kazakhstan, provided that they comply with the set procedure for transfer through the customs border of the Republic of Kazakhstan, may import to the territory of the Republic of Kazakhstan and export from the Republic of Kazakhstan goods intended for the official uses by representations with exemption from customs payments, except for the fees for storage, customs clearance of goods outside of the designated areas or outside of the regular office hours of the customs bodies of the Republic of Kazakhstan as determined by the legislation of the Republic of Kazakhstan.

##### Article 224. Customs Relief for the Head of Diplomatic Representation of Foreign State and Members of Diplomatic Personnel of Representation

Head of Diplomatic representation of foreign state and members of the diplomatic personnel of representation, as well as their family members, residing with them, may import to the Republic of Kazakhstan the goods intended for their personal uses, including goods for initial household settlement, and export from the Republic of Kazakhstan goods intended for their personal uses, complying with set procedure for transfer of goods through customs border of the Republic of Kazakhstan, subject to exemption from customs payments, except for the fees for storage, if such fees are provided for by the legislation of the Republic of Kazakhstan.

Personal baggage of the Head of diplomatic representation of foreign state, members of diplomatic personnel of representation, family members, residing with them, shall be relieved from inspection, unless there are substantial reasons to believe that it contains goods, not intended for personal uses, or the goods, whose importation or exportation is prohibited by the legislation of the Republic of Kazakhstan, international treaties of the Republic of Kazakhstan, or is regulated by the quarantine and other special rules. Such inspection must be performed only in the presence of the diplomatic agent or authorized representatives of the latter.

##### Article 225. Customs Relief for Administrative and Technical Personnel of Diplomatic Representations of Foreign States

Administrative and technical personnel members of diplomatic representations of foreign states and their family members, residing with them, provided that these employees and their family members are not permanent residents of the Republic of Kazakhstan, may import to the Republic of Kazakhstan the goods, intended for initial household settlement, subject to exemption from customs payments except for the fees for storage, if such fees are stipulated in the legislation of the Republic of Kazakhstan.

##### Article 226. Extension of Customs Relief, Granted to Diplomatic Personnel Of Representations of Foreign States, to the Administrative, Technical and Service Personnel

Subject to special agreement of the Republic of Kazakhstan with foreign state, the customs relief granted by present Edict to members of the diplomatic personnel of representation of the foreign state may be extended to members of the administrative, technical and service personnel of this representation and to their family members who do not permanently reside in the Republic of Kazakhstan, based on the reciprocity principle with respect to each individual state.

##### Article 227. Granting Customs Relief to the Consular Representations of Foreign States and Their Personnel Members

Customs relief, envisaged by present Edict for diplomatic representations of foreign states or relevant personnel of diplomatic representations, shall be granted to consular representations of foreign states, consular officials including Head of the Consular Representation and consular employees, their family members.

Subject to special agreement of the Republic of Kazakhstan with foreign state, the customs relief, granted by present Edict to members of the relevant diplomatic personnel of representation of the foreign state, may be extended to servicing personnel members of consular representation and their family members who do not permanently reside in the Republic of Kazakhstan, based on the reciprocity principle with respect to each individual state.

Article 228. Transfer of Diplomatic Mail and Consular Valise of Foreign States Through the Customs Border of the Republic of Kazakhstan

Diplomatic mail and consular valise of foreign states, transferred through the customs border of the Republic of Kazakhstan, shall not be subject to opening or detention. When there are reasons to believe that the consular valise contains items, not mentioned in the third part of this Article, the customs body of the Republic of Kazakhstan shall have the right to require that the valise be open by the authorized persons of the represented state in the presence or the officials of the customs body of the Republic of Kazakhstan. In case of the refusal to open consular valise, the latter shall be returned to the place of shipment.

All items which constitute the diplomatic mail or consular valise must have visible external signs which indicate their nature.

The diplomatic mail may contain only diplomatic documents and goods intended for official use, and the consular valise may contain only official correspondence and documents or goods intended solely for the official use.

Chapter 33. Customs Relief to Other Foreign Persons

Chapter 33. Foreign Person Customs Relief

Article 229. Customs Relief to Foreign Diplomatic and Consular Couriers

Foreign diplomatic and consular couriers may import to the Republic of Kazakhstan and export from the Republic of Kazakhstan the goods intended for their personal use with relief on the reciprocity basis from the customs inspection, exemption from customs payments, except for payments for storage, customs clearance of goods outside of the customs designated areas and regular office hours of the customs bodies of the Republic of Kazakhstan.

Article 230. Customs Relief to Representatives and Members of Delegations of Foreign States

Customs relief, provided herein for members of diplomatic personnel of representations, shall be granted to representatives of foreign states, members of Parliamentary and Governmental delegations and, on the basis of reciprocity, to members of delegations of foreign states who come to the Republic of Kazakhstan to participate in international negotiations, international conferences and meetings or with other official tasks. Same relief shall be granted to family members who accompany these persons.

Article 231. Customs Relief to Members of Diplomatic Personnel, Consular Officials, Representatives of Foreign States and Members of Delegations Who Transit Through the Customs Territory of the Republic of Kazakhstan

Customs relief, provided herein for members of diplomatic personnel of representations, shall be granted to members of diplomatic personnel and consular officials of representations of foreign states, family members of such persons and persons, mentioned in Article 230 hereof, who transit for the same purposes through the customs territory of the Republic of Kazakhstan.

Article 232. Customs Relief to International Inter-Governmental Organizations, Representations of Foreign States Within Those and Their Personnel

Customs relief for international inter-governmental organizations, representations of foreign states within those and personnel of these organizations and representations and family members of the personnel, shall be defined in the relevant international treaties ratified by the Republic of Kazakhstan.

Section X. MAINTENANCE OF CUSTOMS STATISTICS AND COMMODITY NOMENCLATURE OF FOREIGN ECONOMIC ACTIVITIES

Chapter 34. Maintenance of Customs Statistics

Article 233. Customs Statistics for Foreign Trade

For the purposes of providing the highest bodies of the State power with information concerning status of foreign trade of the Republic of Kazakhstan, control of the receipts of customs payment and taxes to the State Budget, currency control, analyses of status and development of foreign trade of the Republic of Kazakhstan, country's trade and payment balances and its economy in general, the Customs Bodies of the Republic of Kazakhstan shall collect and process information concerning transfer of goods through the customs border of the Republic of Kazakhstan, provide and publish the customs statistics.

The customs statistics on foreign trade of the Republic of Kazakhstan shall be maintained in accordance with the provisions of present Edict and legislation of the Republic of Kazakhstan.

For the purposes of maintenance of the customs statistics, the methodology shall be used which ensures international comparability of information and its comparability with that of the state-maintained statistics applied in the Republic of Kazakhstan.

Article 234. Special Customs Statistics

In order to ensure implementation of other tasks assigned to the customs bodies of the Republic of Kazakhstan, these bodies shall maintain special customs statistics in accordance with the procedure determined by the central Customs body of the Republic of Kazakhstan.

Article 235. Documents and Information Used for Statistical Purposes

Documents and information for the statistical purposes shall be produced in accordance with the provisions of the present Edict concerning procedure for customs clearance and customs control.

Information submitted for the statistical purposes shall be confidential and subject to the provisions of Article 16 of the present Edict.

Article 236. Responsibility for Violations Relating to Maintenance of the Customs Statistics

Persons shall bear responsibility in accordance with present this Edict for violations, relating to the maintenance of customs statistics which simultaneously constitute violations of the customs rules or violations that encroach on the normal activities of the Customs Bodies of the Republic of Kazakhstan.

Chapter 35. Maintenance of the Commodity Nomenclature for Foreign Economic Activities

Article 237. Maintenance of the Commodity Nomenclature for Foreign Economic Activities

The central customs body of the Republic of Kazakhstan shall perform maintenance of the Commodity Nomenclature for the Foreign Economic Activities, that is it shall:

- ensure keeping track of amendments and additions to the international basis for Commodity Nomenclature for Foreign Economic Activities, international and other decisions concerning interpretation of that basis,
- bring the Commodity Nomenclature for foreign economic activities into conformity with its international basis,
- ensure publishing of the Commodity Nomenclature for foreign economic activities,
- develop and approve explanatory notes and other decisions concerning interpretation of the Commodity Nomenclature for foreign economic activities and ensure their publishing;
- perform other functions required for the maintenance of Commodity Nomenclature for Foreign Economic Activities.

Article 238. Classification of Goods

The Customs Bodies of the Republic of Kazakhstan shall classify goods, that is they shall attribute specific goods to the positions indicated in the Commodity Nomenclature for Foreign Economic Activities.

Goods classification decisions of the Customs Bodies of the Republic of Kazakhstan shall be binding.

Article 239. Additional Authority of the Central Customs Body of the Republic of Kazakhstan In the Area of Commodity Nomenclature for Foreign Economic Activities

The central customs body of the Republic of Kazakhstan shall:

represent the Kazakhstani party in the international organizations which engage in customs issues with regard to development, modification, additions, interpretation and application of the international basis of the Commodity Nomenclature for Foreign Economic Activities,

participate in the preparation of proposals concerning development, modification and additions to the Commodity Nomenclature for Foreign Economic Activities.

Section XI. CRIMES IN THE AREA OF THE CUSTOMS BUSINESS. INQUIRY AND OPERATIVE AND INVESTIGATIVE ACTIVITIES OF THE CUSTOMS BODIES OF THE REPUBLIC OF KAZAKSTAN

Chapter 36. Crime In the Sphere of the Customs Business

The Customs Bodies of the Republic of Kazakhstan as Bodies of Inquiry

Article 240. Smuggle and Other Crimes in the Sphere of the Customs Business

Smuggle and other crimes in the sphere of the customs business, the inquiry on which is conferred to the authority of the Customs Bodies, shall be punishable in accordance with the criminal legislation of the Republic of Kazakhstan.

Article 241. Customs Bodies of the Republic of Kazakhstan as Inquiry Bodies

The Customs Bodies of the Republic of Kazakhstan shall be the inquiry bodies in cases of smuggle, non-return to the territory of the Republic of Kazakhstan of objects of art, historic and archaeological heritage of the Republic of Kazakhstan and foreign countries, evasion from payment of customs payments, illegal transactions with currency assets, illegal transactions involving foreign currency and payment instruments and other crimes, related to the customs business, in accordance with the criminal legislation of the Republic of Kazakhstan.

Article 242. Performance of Inquiry By the Customs Bodies of the Republic of Kazakhstan

When there are indications of crime, performance of inquiry on which is within the authority of the customs bodies of the Republic of Kazakhstan, the customs body of the Republic of Kazakhstan, guided by the provisions of the criminal procedural legislation of the Republic of Kazakhstan, shall institute criminal case and perform immediate investigative acts intended to identify and record the traces of the crime and to identify the persons who committed this crime.

Chapter 37. Operative and Investigative Activities of the Customs bodies of the Republic of Kazakhstan

Article 243. The Customs Bodies of the Republic of Kazakhstan As Bodies Which Perform Operative and Investigative Activities

The Customs Bodies of the Republic of Kazakhstan shall perform operative and investigative activities for the purposes of identifying the persons who prepare for, commit or have committed illegal acts, which qualify as crime in accordance with legislation of the Republic of Kazakhstan, the performance of inquiry on which is conferred to the authority of the Customs Bodies of the Republic of Kazakhstan, for the purposes of ensuring the security of the Customs Bodies and also at the request from international customs organizations, customs and other authorized bodies of foreign states in accordance with international treaties (agreements) on customs issues.

Article 244. Performance of the Operative and Investigative Activities by the Customs Bodies of the Republic of Kazakhstan

The Customs Bodies shall perform operative and investigative activities in accordance with Law of the Republic of Kazakhstan “On Operative and Investigative Activities in the Republic of Kazakhstan”

Article 245. Operative and Investigative Efforts Which Ensure the Safety of the Customs Bodies of the Republic of Kazakhstan

The operative and investigative efforts which ensure safety of the Customs Bodies of the Republic of Kazakhstan themselves, shall be performed in accordance with the procedure stipulated in legislation of the Republic of Kazakhstan.

#### Chapter 38. Controlled Supplies

##### Article 246. Use of the Method of “Controlled Supplies” With Respect to Narcotic Substances, Psychotropic Substances and Other Items

To head off international illegal trafficking of narcotic substances, psychotropic substances and other items, and to identify the persons who participate in such trafficking, the Customs Bodies and other authorized bodies of the Republic of Kazakhstan shall use the method of “controlled supplies”, that is allow importation to Republic of Kazakhstan and exportation from the Republic of Kazakhstan or transit through its territory of narcotic or psychotropic substances under their control, in each individual case subject to the agreements with customs bodies and other authorized bodies of foreign states or based on the international treaties of the Republic of Kazakhstan.

The method of the “controlled supplies” may be used with respect to the other items which are tools or means of committing of crimes, or items obtained as a result of crime or items, illegal actions with which qualify as smuggle.

In the event that the decision has been made to use the method of “controlled supply”, if the country of destination of narcotic substances, psychotropic substances and other items is the foreign state, the criminal case shall not be instituted in the Republic of Kazakhstan.

The decision to apply method of “controlled supply” shall be made by the central customs body or the Republic of Kazakhstan in cooperation with the Committee for National Security of the Republic of Kazakhstan.

The customs body of the Republic of Kazakhstan shall immediately notify Attorney General of the Republic of Kazakhstan on the decision made.

##### Article 247. Disposal of Cash Funds and Property Confiscated When Using Method of “Controlled Supply”

Cash funds confiscated by the courts of the Republic of Kazakhstan and foreign states in relation to the cases of crimes, identification and stoppage of which involved method of “controlled supplies”, and cash funds gained from sales of the goods confiscated therein, shall be distributed between the states, the customs and other authorized bodies of which participated in the use of such method, in accordance with specific joint treaties between such bodies.

#### Section XII. VIOLATIONS OF THE CUSTOMS RULES AND RESPONSIBILITY FOR THESE VIOLATIONS. PROCEDURES FOR CASES OF VIOLATIONS OF THE CUSTOMS RULES AND THEIR PROCESSING

##### Chapter 39. General Provisions

Article 248. Violation of the Customs Rules Violation of the customs rules shall be constituted by illegal act or non-action of the person, encroaching on the procedure for transfer, including application of customs regimens, customs control and customs clearance of goods and transport vehicles, which are transferred through the customs border of the Republic of Kazakhstan, determined herein and in legislation of the Republic of Kazakhstan concerning the Customs Business and international treaties of the Republic of Kazakhstan, control of implementation of which is the responsibility of the customs body of the Republic of Kazakhstan, as well as for the imposition and payment of customs payments and taxes, granting and use of customs relief, for which responsibility is provided for by the present Edict.

##### Article 249. The Responsibility of Persons Committed Violations of the Customs Rules

In this Section “entities” shall be understood to mean the persons defined in Article 18 of this Edict and also the official persons.

The persons who committed violations of the customs rules shall be subject to responsibility in accordance with this Edict

Physical persons shall be subject to responsibility for violation of the customs rules if at the moment of commission of violation they reached the age of sixteen years.

Official persons shall be subject to responsibility for violation of customs rules where their service duties at the moment of commission by them of the violation included the ensuring of execution of the requirements established by this Edict, the legislation of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan, the supervision of the execution whereof is delegated to the Customs Bodies of the Republic of Kazakhstan.

Physical persons and official persons shall be subject for violation of customs rules if they commit an illegal act or failed to act, deliberately or by carelessness.

Legal entities and individual entrepreneurs shall bear responsibility for violation of the customs rules, except for the cases where violation took place as a result of acts of force majeure.

Holding responsible of a legal entity or an individual entrepreneur shall not release their official persons and any other employees from the responsibility for commission by them or violations of the customs rules.

Bringing to criminal responsibility for commission of crime, performance of inquiry on which is conferred to the authority of the Customs Bodies of the Republic of Kazakhstan, of official persons or any other employees, shall not exempt the legal entity or the individual entrepreneur from the responsibility for violation of the customs rules.

Application of persuasion measures for violation of customs rules shall not release the persons who are held responsible from the obligation to pay customs payments, taxes and from execution or other requirements stipulated in this Edict.

Liability shall emerge for violation of the customs rules, unless those violations by their nature entail criminal responsibility in accordance with legislation of the Republic of Kazakhstan.

##### Article 250. Responsibility of Military Servicemen and Other Persons Who are Covered by Disciplinary Charters, for Violations of Customs Rules

Military servicemen and reservists of the Armed Forces of the Republic of Kazakhstan drafted for training, frontier guards, internal troops and other military formations, stipulated in legislative acts of the Republic of Kazakhstan, rank and file personnel and officers of the bodies or Internal Affairs of the Republic of Kazakhstan, bodies of the National Security of the Republic of Kazakhstan, shall be held responsible for violation of customs rules on the general basis, if these violations are not connected with performance of military duty, or unless otherwise stipulated in the legislation of the Republic of Kazakhstan.

Military units and other military formations of the Republic of Kazakhstan and of interstate unions, in which the Republic of Kazakhstan participates, the bodies of Internal Affairs of the Republic of Kazakhstan and the Bodies of the National Security of the Republic of Kazakhstan, which have status of legal entity, shall be held responsible for violations of customs rules on the general basis in accordance with the procedure, stipulated in present Edict, unless these violations are connected with implementation of inter-government treaties, or unless otherwise stipulated in legislation of the Republic of Kazakhstan.

#### Article 251. Responsibility of Foreign Persons

Foreign persons shall be held responsible for violations of customs rules on the same basis as Kazakhstani persons.

#### Article 252. Exemption From Liability for Violation of Customs Rules

In the case where a committed violation of customs rules is insignificant, the Head of the customs body of the Republic of Kazakhstan in accordance with the legislation of the Republic of Kazakhstan may release the violator from responsibility and limit it by oral or written reprimand.

#### Article 253. The Period upon Expiry of Which Person Shall be Deemed Not Penalized for Violation of Customs Rules

If the person, penalized for violation of customs rules, has not committed the other violation of customs rules within one year following the date of expiry of the penalty, then this person shall be deemed not penalized.

#### Article 254. Types of Penalties Imposed for Violation of Customs Rules

The following types of penalty shall be imposed for committing violations of customs rules:

- 1) warning,
- 2) fine;
- 3) revocation and suspension of the license or qualification certificate issued by the customs body of the Republic of Kazakhstan for the right to perform certain types of activities stipulated in present Edict.
- 4) confiscation, in accordance with the procedure determined in the legislation of the Republic of Kazakhstan, of goods and transport vehicles which constitute items of violation of the customs rules, goods and transport vehicles on purpose equipped with hiding places, used for transfer through the Customs border of the Republic or Kazakhstan of concealed goods, which constitute items of violation of the customs rules;
- 5) collection, in accordance with the court procedure, of value of goods and transport vehicles which constitute items of the violation of customs rules, goods and transport vehicles on purpose equipped with hiding places, used for transfer through the Customs border of the Republic or Kazakhstan of concealed goods, which constitute items of violation of the customs rules;
- 6) confiscation in accordance with the procedure, determined in the legislation of the Republic of Kazakhstan, of transport vehicles which carried goods that constitute items of violation of the customs rules.

#### Article 255. Revocation and Suspension of the Licenses or Qualification Certificates

Revocation and suspension of the license or qualification certificate shall apply as a type of penalty to owners of customs warehouses, duty free shops, free warehouses, temporary stores and to customs carries, customs agents or specialists in customs clearance, for violation by said persons of the customs rules, provided that these violations have been committed in connection with performance by the said persons of activities, stipulated in the license or qualification certificate.

#### Article 256. Collection of the Value of Goods and Transport Vehicles

Collection in a judicial procedure of the value of goods and transport vehicles which, are direct items of violation of customs rules, of goods and transport vehicles which have specifically manufactured secret-hiding places used for transfer through the customs boundary of the Republic of Kazakhstan with the concealment of items which are direct items of violation of customs rules, shall consist in compulsory confiscation of amounts of money equivalent to free (market) price of those goods and transport vehicles on the date of revealing of the violation and it shall be used as a principal or additional punishment.

#### Article 257. Fine

When imposing a punishment in the form of fine which is established in relation to the amount of the monthly calculated index, such amount shall mean the monthly calculated index established by law on the date of commission of the violation and if such date it is impossible to identify, on the day of detection of the violation.

When punishment is imposed in the form of a fine calculated on the basis of value of goods and transport vehicles, the value of those items shall be understood to be their free (market) value on the date of revealing the violation.

#### Article 258. Period of Imposition of Penalties for Violation of the Customs Rules

Penalties, stipulated in paragraphs 1, 2, 3 of Article 254 of present Edict, may be imposed on physical persons or officials not later than 2 months following the date of detection of the violation of customs rules, and on legal entities they may be imposed not later than six months from the date of detection of the violation.

Penalties, stipulated in paragraphs 4, 5 and 6 of Article 254 of present Edict, shall be imposed regardless of the time of committing or detection of these violations, and irrespective of whether they are principal or complementary penalties.

It cases of denial to institute or of closure of the criminal case, but where there are indications of violation of the customs rules, period of imposition of the penalty shall commence on the date when the customs bodies received the decision to deny institution or to close the criminal case.

Duration of the period of imposition of penalty for violation of the customs rules shall be interrupted, if, prior of expiry of the periods prescribed in the first and second parts of this Article, the person commits one more violation of the customs rules. Said period in such case shall commence as of the moment of detection of new violation of the customs rules.

#### Article 259. Legality in Application of Penalty Measures for Violation of the Customs Rules

Nobody may be subjected to the penalty measure for violation of the customs rules otherwise than based on and in accordance with the procedure stipulated in the legislation of the Republic of Kazakhstan.

Proceedings on cases of violation of the customs rules, their processing and implementation of resolutions of the Customs Bodies of the Republic of Kazakhstan concerning imposition of penalties shall be performed in strict compliance with the Law.

Penalty measures for violation of the customs rules shall be applied by the Customs Bodies of the Republic of Kazakhstan and their officials within the bounds of their authority and in strict compliance with the legislation of the Republic of Kazakhstan.

Systematic control by the upper customs bodies of the Republic of Kazakhstan and their officials, Prosecution Office oversight, the right to appeal and other methods, stipulated in the legislation of the Republic of Kazakhstan, shall ensure compliance with requirements of the legislation of the Republic of Kazakhstan in applying penalty measures for violation of the customs rules.

#### Chapter 40. Types of Violations of Customs Rules and Responsibility for These Violations

##### Article 260. Violation of the Regime of Customs Control Zone

Transfer of goods, transport vehicles and persons, including officials of government authorities (except for customs bodies) through the borders of the customs control zone and within its borders and performance of the production and other commercial activities without permission from the customs body of the Republic of Kazakhstan within that zone, except for the cases stipulated by the legislation of the Republic of Kazakhstan, or committing of other acts which violate the regime of customs control zone in absence of indications of the crime:

shall entail the warning or imposition of the fine in the amount from five to up to ten monthly calculated indices

##### Article 261. Non-notification on Transfer Through the Customs Border of the Republic of Kazakhstan In Entry of Goods and Transport Vehicles

Non-notification to the customs body of the Republic of Kazakhstan on transfer through the customs border of the Republic of Kazakhstan in entry of goods and transport vehicles shall entail warning or imposition of the fine in the amount from five to up to ten monthly calculated indices.

##### Article 262. Non-notification or Inaccurate Notification on the Intention to Export Goods and Transport Vehicles Outside of Borders of the Customs Territory of the Republic of Kazakhstan

Non-notification to the customs body of the Republic of Kazakhstan on the intention to export goods and transport vehicles outside of borders of the customs territory of the Republic of Kazakhstan, if the goods and transport vehicles are under the regime of customs control or export of the goods and transport vehicles implies their placement under such a regime, shall entail warning or imposition of the fine in the amount of from five to up to ten monthly calculated indices.

Inaccurate notification to the customs body of the Republic of Kazakhstan on the intention to export goods and transport vehicles outside of the customs territory of the Republic of Kazakhstan, if such notification was registered by the customs body of the Republic of Kazakhstan in accordance with the set procedure, as well as non-delivery of goods and transport vehicles after the notification to the indicated place and at indicated time shall entail imposition of the fine in an amount from ten to twenty minimal wages.

##### Article 263. Failure to Take Remedies In Cases of Accidents or Force Majeure

Failure to take remedies in the cases of accidents or force-majeure to ensure safety of the goods and transport vehicles, accepted for delivery to the place specially designated by the customs body of the Republic of Kazakhstan, or of those, transferred in transit, admission of any unauthorized use thereof, failure to inform the nearest customs body of the Republic of Kazakhstan about circumstances of the case, location of such goods and transport vehicles or failure to ensure their conveyance to the nearest customs body of the Republic of Kazakhstan or delivery of officials of this body to the location of these goods and transport vehicles shall entail imposition of the fine in the amount from ten to twenty monthly calculated indices.

##### Article 264. Non-submission of Goods and Transport Vehicles in the Place of Delivery

Non-submission of goods and transport vehicles in the place of delivery and failure to provide the documents relating thereto to the customs body of the Republic of Kazakhstan shall:

entail imposition of the fine in the amount from ten to twenty monthly calculated indices, and with respect to officials - from ten to fifty amounts of monthly calculated indices.

##### Article 265. Release Without Permission of the Customs Body of the Republic of Kazakhstan, Loss or Non-Delivery of Goods, Transport Vehicles and Documents Relating Thereto to the Customs Body of the Republic of Kazakhstan

Release without permission of the customs body of the Republic of Kazakhstan, loss or non-delivery of goods and transport vehicles which are under the customs control to the place specially designated by the customs body of the Republic of Kazakhstan shall entail imposition of the fine in the amount from ten to twenty monthly calculated indices, and with respect to with confiscation of the goods and transport vehicles which constitute items of violation, or collection of their value accompanied by suspension of the license or qualification certificate.

The loss or non-delivery to the customs body of the Republic of Kazakhstan of customs-related or other documents, to be handed to the customs body, with respect to the goods and transport vehicles, which are under customs control, shall entail warning or imposition of fine in the amount from ten to fifty monthly calculated indices.

Non-compliance with period of delivery of goods, transport vehicles and documents relating thereto, determined by the customs body of the Republic of Kazakhstan, shall entail warning or imposition of fine in the amount from five to ten monthly calculated indices.

##### Article 266. Non-stoppage of Transport Vehicle

Non-stoppage of transport vehicle crossing the customs border of the Republic of Kazakhstan, and transport vehicle, transferred through the customs border of the Republic of Kazakhstan as commodity, at places designated by the Customs Bodies of the Republic of Kazakhstan, except for the cases where such non-stoppage is caused by technical deficiency of the transport vehicle or by force-majeure circumstances, shall entail imposition of fine in the amount from ten to twenty monthly calculated indices.

##### Article 267. Departure of Transport Vehicle Without Permission of the Customs Body of the Republic of Kazakhstan



Departure of transport vehicle, which is under the customs control, or of the transport vehicle, transferred through the customs border or the Republic of Kazakhstan as commodity, from the parking place without permission or the customs body of the Republic of Kazakhstan shall entail imposition of fine in the amount from ten to twenty monthly calculated indices,

**Article 268. Mooring Vessel and Other Floating Means Which are Under Customs Control**

Mooring a vessel and other floating means which are under the customs control, by vessels and other floating means without permission of the customs body of the Republic of Kazakhstan shall entail imposition of fine in the amount of from five to up to ten monthly calculated indices.

**Article 269. Violation by Declarant of the Procedure for Customs Clearance**

Violation of the procedure for customs clearance, that is non-compliance with the requirements determined by present Edict and acts of the central customs body of the Republic of Kazakhstan concerning the start and end of customs clearance, place, time and procedure for its performance, or filing of unlawful applications for the simplified procedure of customs clearance, as well as non-compliance with the terms of its performance, except for the cases, stipulated in the other Articles of this Chapter, shall entail imposition of fine in the amount from five to ten monthly calculated indices with the suspension of the license for the performance of customs agent's activities or of the qualification certificate.

**Article 270. Illegal Operations, Modification of the Condition, Use and Disposing of Goods and Transport Vehicles With Respect to Which Customs Clearance is not Completed**

Performing operations, modification of the condition, use and disposal of goods and transport vehicles with respect where to the customs clearance is not completed, conflicting with the terms and requirements set forth by present Edict and acts of the central customs body of the Republic of Kazakhstan, except for the cases stipulated in other Articles of this Chapter,-

shall entail imposition of the fine in the amount from ten to fifty monthly calculated indices, with confiscation of the goods and transport vehicles, which constitute items of violation, or collection of their value.

**Article 271. Cargo and Other Operations Carried Out Without Permission of the Customs Body of the Republic of Kazakhstan**

Transportation, loading, unloading, re-loading, repair of damaged packaging, repackaging or acceptance for the conveyance of goods and transport vehicles, which are under the customs control, taking tests and samples of such goods, opening premises, containers and other places, where said goods and transport vehicles may be located, without permission of the customs body of the Republic of Kazakhstan shall entail imposition of fine in the amount from ten to fifty monthly calculated indices.

**Article 272. Modification, Removal, Destruction, Damages or Loss of Means of Identification**

Modification, removal, destruction, damages or loss of means of identification, applied by the customs body of the Republic of Kazakhstan, shall entail imposition of the fine in the amount from ten to twenty monthly calculated indices

**Article 273. Violation by Declarant of the Procedure for Declaring Goods and Transport Vehicles**

Violation by declarant of the procedure for declaring goods and transport vehicles, that is non-compliance with the requirements determined by present Edict and acts of the central customs body of the Republic of Kazakhstan concerning the form and place of declaring, procedure for its performance, including use in declaring of the temporary, incomplete or periodic customs declarations, except for the cases, stipulated in other Articles of this Chapter, shall entail Imposition of fine in the amount from ten to twenty monthly calculated indices with suspension of the license or the qualification certificate.

**Article 274. Violation of the Period of Lodgment of the Customs Declaration, Documents and Additional Information to the Customs Body of the Republic of Kazakhstan**

Non-lodgment of the customs declaration, with respect to goods and transport vehicles, to the customs body of the Republic of Kazakhstan within the period set by the latter, as well as lodgment default with respect to documents and information required for customs purposes, except for cases stipulated in other Articles of this Chapter and in the absence of criminal indications-

shall entail imposition of fine in the amount from ten to twenty monthly calculated indices with suspension of the license or qualification certificate.

**Article 275. Blocking of Access for Customs Body Official of the Republic of Kazakhstan to the Territory and Premises for Performance of Customs Control**

Blocking of access for customs body official of the Republic of Kazakhstan to the territory and premises where goods and transport vehicles subject to customs control, or the documents required for performance of such control, or where activities, control of which is the responsibility of the customs body of the Republic of Kazakhstan, are performed shall entail imposition of the fine in the amount from ten to fifty monthly calculated indices with suspension of the license or qualification certificate.

**Article 276. Non-submission to the Customs Body of the Republic of Kazakhstan of Reports and Non-Compliance with Accounting Procedure**

If customs body of the Republic of Kazakhstan is not provided with the reports, in accordance with the procedure determined by the central customs body of the Republic of Kazakhstan, concerning imported, exported, incoming, stored, processed, manufactured, purchased or sold goods, which are under the customs control or within the territory of free customs zones and free warehouses, and in case of non-compliance with the procedure for accounting for such goods, except for the cases stipulated in other Articles of this Chapter, and in the absence of indications of the crime shall entail imposition or fine in the amount from ten to twenty monthly calculated indices with suspension of the license.

**Article 277. Violation of the Regime of Temporary Store**

Failure to take measures to ensure release or receipt of goods and transport vehicles, storage period of which in the temporary store has exceeded set maximum periods, by owners in accordance with the customs regime of these goods and vehicles shall entail confiscation of goods and transport vehicles which constitute items of violation.

**Article 278. Violation of Procedure for Placing Goods for Storage, Procedure for Their Storage and Performance of Operations Therewith**

Violation of procedure for placing goods for storage, procedures for their storage, determined by this Edict and acts of the Central customs body of the Republic of Kazakhstan, as well as performance of operations with goods at customs warehouses, temporary stores and free warehouses, except for the cases stipulated in Articles 265, 270-272, 275, 277 of this Edict

shall entail imposition of fine in the amount from ten to twenty monthly calculated indices with suspension of the license.

Article 279. Violation of the Procedure for Processing of Goods and Replacement of Processing Products

Violation of the procedure for processing of goods, that is non-compliance with the requirements, restrictions and terms of granting permissions for processing of goods, procedure and period of their processing, amount of issuance of processing products, performance of operations associated with processing of such goods, which are determined in present Edict and acts of the central customs body of the Republic of Kazakhstan shall entail imposition of fine in the amount from ten to fifty monthly calculated indices with suspension of the license.

Replacement of products of processing with the other goods shall entail imposition of fine in the amount from ten to twenty monthly calculated indices, and with respect to officials - twenty monthly calculated indices.

Article 280. Violation of the Procedure for Performance of Commercial Activities in Free Customs Zones and Free Warehouses

Violation of the procedure for commercial activities in free customs zones and free warehouses, which is determined by this Edict shall result in imposition of fine in the amount from ten to twenty monthly calculated indices with suspension of the license for establishment of the free warehouse.

Article 281 Violation of the Procedure for Erecting Buildings, Structures and Facilities in Free Customs Zones

Erection of buildings, structures and facilities in free customs zones in violation of additional requirements determined by the Government of the Republic of Kazakhstan shall entail imposition of the fine in the amount from ten to twenty monthly calculated indices .

Article 282. Failure to Export Goods and Transport Vehicles Outside of the Customs Territory of the Republic of Kazakhstan or Return Them to That Territory

Failure to export previously imported goods and transport vehicles outside of the customs territory of the Republic of Kazakhstan, if such export is obligatory, or failure to return previously exported goods and transport vehicles to the customs territory of the Republic of Kazakhstan, if such return is obligatory compulsory, within the established deadlines, in absence of indications of the crime shall entail imposition of the fine in the amount from ten to twenty monthly calculated indices, with confiscation of the goods and transport vehicles which constitute items of violation or with the collection of the money worth of these goods and transport vehicles.

Submission to the customs body of the Republic of Kazakhstan of invalid documents, or documents obtained in an illegal manner, or documents relating to other goods and transport vehicles, as evidence of the return, or impossibility such action due to destruction or loss of goods and transport vehicles resulted from accidents or force majeure, natural wear or loss, diminution or disposal of those from possession caused by illegal actions of authorities and officials of foreign state, in the absence of the crime shall entail imposition of fine in the amount from five to ten monthly calculated indices with confiscation of goods and transport vehicles which constitute items of the violation, or with collection of value of these goods and transport vehicles.

Article 283. Violation of the Procedure for Destruction of Goods

Violation by the owner or involved party of the procedure for destruction of the goods, that is non-compliance with determined by present Edict and acts of the central Customs Body of the Republic of Kazakhstan requirements, restrictions and terms of destruction of goods, placement of waste from the destruction under appropriate customs regime shall entail imposition of fine in the amount from ten to twenty monthly calculated indices.

Article 284. Illegal Operations, Modification of Condition, Use and Disposal of Goods and Transport Vehicles Which are Placed Under Certain Customs Regime

Performance of operations, modification of the condition, use and disposal of goods and transport vehicles otherwise than in compliance with their customs regime, as well as non-compliance with the other restrictions, requirements and terms of the customs regime, except for the cases stipulated in other Articles of this Chapter shall entail imposition of the fine in the amount from ten to twenty monthly calculated indices with confiscation of goods and transport vehicles which constitute items of violation, or with collection of value of such goods and transport vehicles, with suspension of the license or qualification certificate.

Article 285. Non-compliance With the Procedure for Application of Sanctions of the Economic Policy and Other Restrictions in Transfer of Goods and Transport Vehicles Through Customs Border of the Republic of Kazakhstan

Transfer through the customs boundary of the Republic of Kazakhstan of goods and transport vehicles with violation of the procedure for application of sanctions of economic policy and restrictions, determined by the State, except for the cases stipulated in other Articles of this Chapter, where there are no indications of the crime shall entail imposition or fine in the amount from ten to twenty monthly calculated indices, which constitute items of violation, or with collection of the money worth of these goods and transport vehicles.

Article 286. Transfer of Goods Through the Customs Border of the Republic of Kazakhstan by Physical Persons With Violation of the Simplified Relieved Procedure

Transfer of goods through the customs border of the Republic of Kazakhstan by physical person with violation of the simplified relieved procedure, to be assigned by the Government of the Republic of Kazakhstan, except for the cases stipulated in Article 293 of present Edict, when there are no indications of crime shall entail imposition of fine in the amount from five to ten monthly calculated indices .

Article 287. Transfer of Goods and Transport Vehicles Through the Customs Border of the Republic of Kazakhstan Otherwise Than Under Customs Control

Transfer of goods and transport vehicles through customs border of the Republic of Kazakhstan otherwise than under customs control, that is outside of the places designated or outside of hours determined by the Customs Bodies of the Republic of Kazakhstan

for performance of the customs clearance, when there are no indications of crime shall entail imposition of fine in the amount from ten to twenty monthly calculated indices , with confiscation of goods and transport vehicles which constitute items of violation or collection of values of these goods and transport vehicles.

Article 288. Concealment of Goods Transferred Through the Customs Border of the Republic of Kazakhstan From the Customs Control

Concealment from the customs control of goods transferred through the customs border of the Republic of Kazakhstan, including with the use of secret hiding places or any other methods which prevent from detection of the goods or confer to some goods the appearance of the other ones, when there are no indications of crime shall entail imposition of the fine in the amount from ten to twenty monthly calculated indices , with confiscation of or collection of value of goods

and vehicles which constitute items of the violation, and confiscation of goods or money worth of the goods and transport vehicles with purposely constructed hiding places, used to cross the customs border of the Republic of Kazakhstan with concealment of the goods and items which constitute items of violation. Article 289. Transfer of Goods and Transport Vehicles Through the Customs Border of the Republic of Kazakhstan With False Use of Documents or Means of Identification

Transfer through the customs border of the Republic of Kazakhstan of goods and transport vehicles providing the Customs Body of the Republic of Kazakhstan with invalid documents, documents obtained in an illegal manner, documents containing false information or documents which relate to the other goods and transport vehicles, as the documents required for customs purposes, as well as use of false means of identification or of authentic means of identification, which relates to other goods and transport vehicles, except for the cases stipulated in Articles 290 and 293, of present Edict, when there are no indications of crime shall entail imposition of fine in the amount from ten to twenty monthly calculated indices , with confiscation of the goods and transport vehicles which constitute items of the violation, or with collection of the customs value of these goods and transport vehicles.

Article 290. Non-declaring or Inaccurate Declaring of Goods and Transport Vehicles

Non-declaring or inaccurate declaring of goods and transport vehicles, transferred through the customs border of the Republic of Kazakhstan, that is failure to declare in accordance with the written, verbal or other form, or declaring of inaccurate information concerning goods and transport vehicles, their customs regime and other information required for customs purposes, except for the cases stipulated In

Articles 269, 273, 274, 285-289, and 293 of present Edict, when there is no indications of crime shall entail imposition of fine in the amount from ten to twenty monthly calculated indices, and for officials - from twenty to fifty monthly calculated indices with or without confiscation of the goods and transport vehicles which constitute items of violation or with confiscating collection of the money worth of such goods and transport vehicles, with suspension of the license or qualifications certificate.

Article 291. Transportation, Storage, Purchase, Use or Disposal of the Goods and Transport Vehicles Introduced to the Customs Territory of the Republic of Kazakhstan with Violation of Customs Rules

Transportation, storage, purchase, use or disposal of the goods and transport vehicles, introduced to the customs territory of the Republic of Kazakhstan beyond customs control or with evasion from such control, or with false use of documents or means of identification, or introduction of undeclared or falsely declared items, as well as transportation, storage and purchase of the goods and transport vehicles, with respect to which customs relief is granted as to customs payments and taxes, used or alienated without permission of the Customs Body of the Republic of Kazakhstan in any other purposes than those in connection wherewith this relief was granted, shall entail imposition of fine in the amount from ten to twenty monthly calculated indices with confiscation of goods and transport vehicles which constitute items of violation or with confiscation collection of the money worth of such goods and transport vehicles, with suspension of the license or qualification certificate or without their suspension.

Article 292. Violation of the Procedure for Use and Disposal of Conditionally Released Goods and Transport Vehicles With Respect To Which Customs Relief is Granted As To Customs Payments and Taxes

The use and disposal of conditionally released goods and transport vehicles, with respect to which customs relief is granted as to customs payments and taxes, in any other purposes than those in connection wherewith such customs relief was granted without permission from the customs body of the Republic of Kazakhstan, shall entail imposition of the fine in the amount from fifty to one hundred per cent of the amount of customs payments and taxes unpaid due to granting of customs relief, with the suspension of the license or qualification certificate constitute items

Article 293. Actions Aimed at Illegal Exemption from Customs Payments and Taxes or Their Understatement

Inclusion in the customs declaration or other documents, required for customs purposes, of inaccurate information concerning the customs regime, customs value or country of origin of goods and transport vehicles, or declaring of the other inaccurate information which provides the basis for exemption from customs payments and taxes or understatement of their amounts, except for the cases stipulated in Articles 286, 289, 290 of present Edict, when there are no indications of crime shall entail imposition of fine in the amount from fifty to one hundred per cent of the amount of unpaid customs payments and taxes, with or without suspension of the license and qualification certificate.

Article 294. Actions Aimed at Refund of Paid Customs Payments and Taxes, Receipt of Payments and Other Reimbursement Without Reasonable Grounds or Non-return of Those

Submission to the customs body of the Republic of Kazakhstan of documents, which contain inaccurate information that entitles to refund of paid customs payments, receipt of payments and other reimbursement or their non-return, or return in reduced amount without reasonable grounds, when there are no indications of crime

shall entail imposition of fine in the amount from fifty to one hundred per cent of the amount of the required, received or unreturned customs payments and taxes, refunds and other reimbursement with or without suspension of the license or qualification certificate.

Article 295. Violation of the Period of Payment of Customs Payments and Taxes

Failure to pay customs payments and taxes within set period shall entail imposition of fine in the amount from fifty to one hundred per cent of the amount of unpaid customs payments and taxes with or without suspension of the license or qualifications certificate.

Article 296. Liability for Non-implementation by Banks and Organizations, Performing Individual Types of Banking Operations

Non-implementation of the decisions concerning collection of customs payments or suspension of expenditure transactions with respect to accounts of payers of customs payments through the fault of banks and organizations performing individual types of banking transactions,

or shall entail imposition of fine in the amount of unpaid customs payments.

Article 297. Illegal Performance of Activities of the Customs Broker, Specialist or Violation of Terms of Such Activities

Performance of activities of the customs broker, inclusion of the title “Customs Broker” in the name, advertisement or in other information without the license from the central customs body of the Republic of Kazakhstan, or where such license was revoked or suspended, or without presence among the staff of the specialist in customs processing, who has qualification certificate from the central customs body of the Republic of Kazakhstan, or committing of actions relating to customs processing on behalf of customs broker by the person, who holds no qualification certificate or whose qualification certificate has been invalidated, revoked or suspended, or use by the customs broker of the license received as a result of submission to the central customs body of the Republic of Kazakhstan of documents containing inaccurate information, as well as violation of other terms of such activities except for the actions stipulated in the second part of this Article, when there are no indications of crime shall entail imposition of fine on the person who committed the violation, in the amount from twenty to fifty monthly calculated indices ,

Use by the customs broker or its employees of the information which constitutes the secret protected by the Law or confidential information for personal purposes, disclosure, transfer to third parties, including government authorities not authorized thereto, of such information, when there are no indications of crime shall entail imposition of fine on the customs broker in an amount from twenty to fifty monthly calculated indices with the suspension of the license or qualification certificate.

Article 298. Illegal Performance of Activities of the Customs Carrier or Violation of the Terms of Such Activities

Performance of activities of the Customs Carrier without the license from the central customs body of the Republic of Kazakhstan, or when such license has been revoked or suspended, or the use by customs carrier of the license obtained as a result of submission to the central customs body of the Republic of Kazakhstan of documents containing inaccurate information, as well as violation of any other terms of such activities, except for the acts stipulated in the second part of this Article, shall entail imposition of fine on the customs carrier in the amount from ten to twenty monthly calculated indices with the suspension of the license.

Use by the customs carrier or its employees of information which constitutes the secret protected by the Law, or confidential information for personal purposes, disclosure, transfer to third parties, including government authorities not authorized thereto, of such information, when there are no indications of crime shall entail imposition of the Fine on the customs carrier in the amount from ten to twenty monthly calculated indices , with the revocation of the license and in respect of an employee - from twenty to fifty minimal wages.

Article 299. A Failure or Official Persons and Other Workers to Comply With the Requirements Which Are Current in the Customs Business A failure or official persons and other workers of a legal entity to comply with the requirements which are current in the customs business, for violation of which this Chapter stipulates liability, and equally a failure of any other physical persons who carry out work for the legal entity under civil rights agreements to comply with such requirements in the cases where that legal entity is hold responsible for the customs rules violation, - shall entail a warning or imposition of a fine in an amount from five to ten minimum wages.

#### Chapter 41. General Terms of Handling Cases of Customs Rules Violation and of Their Processing

Article 300. Processing Cases of Customs Rules Violation and the Procedure for Their Consideration

Processing of cases of customs rules violation shall be carried out by the official persons of the Customs Bodies of the Republic of Kazakhstan, and their handling shall be carried out by the authorized official persons of the Customs Bodies of the Republic of Kazakhstan and by the judicial bodies of the Republic of Kazakhstan in accordance with this Edict, and In respect of issues which are not covered by it, - in accordance with the legislation of the Republic of Kazakhstan concerning administrative violations.

A case of customs rules violation shall be deemed to be instituted and the proceedings of it initiated from the moment of compilation of the protocol on customs rules violation or administrative detention of the physical or official person who is being held responsible for customs rules violation.

When there a the circumstances stipulated in Article 370 of this Edict, the handling of the customs rules violation and imposition of punishment may be carried out in a simplified procedure in accordance with Articles 369 and 371 of this Edict.

Article 301. Jurisdiction of the Cases of Customs Rules Violation

Judicial bodies shall consider the cases of customs rules violation stipulated in Articles 265, 270, 277, 279, 282, 284, 285, 287-291, 296, 413-421 of this Edict.

Authorized official persons or the customs bodies of the Republic of Kazakhstan shall consider the cases or customs rules violation which are stipulated in this Edict, except for the cases stipulated in the first part or this Article.

Article 302. The Officials of the Customs Bodies of the Republic of Kazakhstan Who are Authorized to Process Cases of Customs Rules Violation

Processing of cases or customs rules violation shall be carried out by the authorized official person or the customs body of the Republic of Kazakhstan in accordance with the acts or the central customs body or the Republic or Kazakhstan.

Article 303. Deadlines for Processing Cases of Customs Rules Violation

Processing creases or customs rules violation must be finished not later than within one month from the date of instituting the case.

The term established in the first part of this Article may be extended where an objective necessity emerges, by the head or the customs body of the Republic of Kazakhstan or by the person substituting for him, and also by the heads of the upper customs bodies of the Republic of Kazakhstan or the persons substituting for them within the confines or the periods or imposition or penalties for customs rules violation as stipulated in Article 258 or this Edict. The procedure for extending periods or processing relating to cases of customs rules violation shall be established by the central customs body of the Republic of Kazakhstan.

#### Article 304. The Reasons and Bases for Instituting Cases of Customs Rules Violation

The following shall be the reasons for instituting cases of customs rules violation: direct detection by customs officials of the customs body of the Republic of Kazakhstan of signs of customs rules violation,

information and statements of Kazakhstani and foreign persons, and also reports in the mass information media,

materials received from any other law-enforcement, supervisory or any other State bodies,

Information received from foreign customs or any other law-enforcement departments and International organizations,

information received from any other customs bodies of the Republic of Kazakhstan.

Sufficient information which indicates at the signs of customs rules violation shall be the basis for instituting a case.

#### Article 305. Verifying Reports, Statements and Any Other Information On Violations of Customs Rules, Which are Being Prepared, Being Committed or Have Been Committed

When official persons of the customs body of the Republic of Kazakhstan directly detect the signs of a customs rules violation which is being committed or has been committed or when materials are received in which there is sufficient evidence indicating such signs, the protocol on customs rules violation shall be formulated immediately.

The verification of reports, statements and any other information concerning a customs rules violation which is received by official persons of the customs bodies of the Republic of Kazakhstan shall be carried out in accordance with this Edict and the legislation of the Republic of Kazakhstan.

#### Article 306. The Acts of Official Persons of the Customs Bodies of the Republic of Kazakhstan in Respect of Verifying Information on Customs Rules Violations Which are Being Prepared, Committed or which Have Been Committed

An official person of the customs body of the Republic of Kazakhstan which verifies a reports, statement or any other information on a customs rules violation which is being prepared, committed or which have been committed, shall have the right prior to the institution or a customs rules violation case, to conduct customs inspection of goods and transport vehicles and also to receive from the entities transferring goods and transport vehicles through the customs boundary of the Republic of Kazakhstan, from customs brokers and from any other potions the information and explanations which are required for the verification.

#### Article 307. The Place for Processing of Cases of Customs Rules Violation

Processing or cases or customs rules violation shall be carried out by the customs body of the Republic of Kazakhstan in whose activities zone that violation was detected.

Where necessary, processing of cases of customs rules violations may be carried out by the customs body of the Republic of Kazakhstan in whose zone of activities the violation took place.

Issues associated with transferring of cases of customs rules violation for processing from one customs body to another shall be resolved by their upper customs body of the Republic of Kazakhstan.

The upper customs body of the Republic of Kazakhstan may accept for its processing any cases of customs rules violation and transfer if for those purposes to any or the subordinated Customs Bodies of the Republic of Kazakhstan.

#### Article 308. Protocol on Customs Rules Violation

When detecting a customs rules violation, except for the cases stipulated in Article 369 of this Edict and when processing cases of customs rules violation, the relevant customs official of the customs body of the Republic of Kazakhstan shall compile a protocol in accordance with the pro-forma established by the central customs body of the Republic of Kazakhstan in accordance with the legislation of the Republic of Kazakhstan.

The protocol shall be immediately passed to the body (official person) authorized to process the case of customs rules violation.

A copy protocol shall be banded on the terms of signature or sent to the entity which is held responsible for customs rules violation.

#### Article 309. The Acts of Official Persons of Customs Bodies of the Republic of Kazakhstan When Detecting Signs of Crime, the Inquest Whereon is Conferred to the Authority of the Customs Bodies of the Republic of Kazakhstan

When there are signs of crime, the conducting of inquest whereon is conferred to the authority of the Customs Bodies of the Republic of Kazakhstan, provided they are detected in the course of processing of a cases of customs rules violation, or when considering it, and also in the course of performing the customs supervision, the issue of instituting a criminal case shall be resolved in accordance with Articles 242, 355 of this Edict in accordance with the procedure stipulated by the legislation of the Republic of Kazakhstan.

When detecting signs of crime, the Head of the customs body of the Republic of Kazakhstan or his deputy shall be obliged to adopt one of the following decisions'

1) on instituting a criminal case,

2) on denial to institute a criminal case,

3) on transfer of materials on crime to (appropriate) investigation jurisdiction. Prior to adopting one of the decisions indicated in the second part of this Article, the official person of the customs body of the Republic of Kazakhstan shall carry out verifications in relation to that fact in the procedure of processing cases of customs rules violation.

#### Article 310. Processing the Materials Relating to Customs Rules Violations After Instituting a Criminal Case

When in the process of inquest in a criminal case the processing whereof is conferred to the authority of the Customs Bodies of the Republic of Kazakhstan the signs of customs rules violation are detected which are committed by a legal entity, individual entrepreneur, physical persons which are not part of the criminal case, the processing of those violations must be continued by the official person of the customs body of the Republic of Kazakhstan independent of investigation on the criminal case in respect of the physical or official persons.

The institution of a criminal case on the signs of crime, the performance of inquest in respect whereof is conferred to the authority of the Customs Bodies of the Republic of Kazakhstan, shall not release that legal entity from the responsibility for customs rules violation

Article 311. Processing Cases of Customs Rules Violation and Their Consideration Based on Materials Received from the Bodies of Preliminary Investigation, Bodies of Inquest, the Prosecution Officer or Court of Law

In the case of denial to institute or termination of a criminal case by the Bodies of preliminary investigation, bodies of inquest, the prosecution officer or the court of law, when there are signs of violation of the customs rules, the processing and consideration of materials containing information on such signs shall be carried out after the receipt of those materials by the customs body of the Republic of Kazakhstan in the Common procedure.

#### Article 312. The Prohibition to Disclose Materials Relating to a Case of Customs Rules Violation

Actual information and evidence which are contained in cases of customs rules violation may not be disclosed by employees of customs body prior to the completion of case processing, otherwise then with the permission of the Head of the customs body of the Republic of Kazakhstan or a person substituting for him who handles the case.

Article 313. Reporting to the Prosecution Officer or Bodies of Preliminary Investigation on Crimes the Inquest on Which Is Not Included in the Scope of Authority of the Customs Bodies of the Republic of Kazakhstan

In the case of finding in the course of customs supervision, customs processing when reviewing messages, statements, and any other information and also in the course of processing and considering cases of customs rules violation, signs of crime the inquest in respect whereof is not included in the scope of authority of the Customs Bodies of the Republic of Kazakhstan, the Head of the customs body of the Republic of Kazakhstan or his deputy shall communicate available information to the prosecution officer or the bodies of preliminary investigation.

Article 314. Interaction of the Customs Bodies of the Republic of Kazakhstan With the Customs Services of Foreign States When Processing and Considering Cases of Customs Rules Violation

Interaction of the Customs Bodies of the Republic of Kazakhstan with the customs services and any other authorized bodies of foreign States and international organizations in relation to issues associated with processing and considering of cases of customs rules violation shall be carried out through the central customs body of the Republic of Kazakhstan in accordance with the procedure stipulated in the legislation of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan.

#### Article 314-1. Customs Fraud Investigation Case Mergers and Fallouts

Cases on customs rules violations may be merged (joined), if one and the same person or a group of persons is held liable for committing such violations.

A case on customs rules violations may be separated from the rest of a bigger case, if deemed necessary and if such separation does not negatively affect the completeness and objectivity of the resolution of the whole case.

Such separation or merger of cases shall be effectuated based on the appropriate resolution of the customs official of the customs body of the Republic of Kazakhstan, who investigates or reviews the case on violation of customs rules or the head of this or a higher customs authority of the Republic of Kazakhstan or his/her deputies.

Chapter 42. General Provisions Concerning the Participation of Persons in Processing and Consideration of Cases of Customs Rules Violation

#### Article 315. Persons Who Participate in the Processing and Consideration of Cases of Customs Rules Violation

The following shall participate in the processing of cases of customs rules violation:

the person who is to be held responsible,

the legitimate representative;

• a lawyer or a counselor rendering legal assistance to the person to be held responsible;

• an expert;

• a specialist;

• an interpreter;

• a witness,

witnesses from the customs.

Participation in the processing and consideration of a case of customs rules violation, the rights and obligations of the persons mentioned in this

Article shall be carried out on the basis and in accordance with current legislation of the Republic of Kazakhstan.

#### Article 316. The Rights of Persons Held Responsible for Customs Rules Violation

A person which is held responsible for customs rules violation shall have the following rights:

to know for what customs rules violation the person held responsible, to peruse the materials of the case upon the completion of its processing and during its consideration, to make extracts out of those materials,

to provide explanations,

to present evidence, to deny statements,  
to submit petitions;  
in considering and processing of the case, to use services of a lawyer or legal assistance from any other entity,  
speak in the native language and use services of an interpreter, if he does not know the language in which the processing is carried out;  
to challenge the decision upon the case,  
to exercise any other rights which are granted to that entity by this Edict and the legislation of the Republic of Kazakhstan.

Article 317. Circumstances Which Exclude the Possibility of Participation in the Processing or Consideration of a Case of Customs Rules Violation. Protests

In the processing or considering of a case of customs rules violation the participation of an official person of the customs body of the Republic of Kazakhstan, a lawyer or a representative which rounds legal assistance of the entity which is to be held responsible for customs rules violation, an expert and specialist shall be excluded in accordance with the legislation of the Republic of Kazakhstan.

On the basis and In accordance with the legislation of the Republic of Kazakhstan there may announced protest self-protest, under the circumstances which exclude the participation in the processing or consideration of a case of customs rules violation of the persons which are indicated in the first part of this Article.

Chapter 43. Proofs In Cases of Customs Rules Violation

Article 318. Circumstances Which are Subject to Proof In Cases of Customs Rules Violation And Their Evaluation

When processing or considering cases of customs rules violation, the following shall be subject to proof:

the fact of the violation (The time, the place, the method and other circumstances of commission of the customs rules violation);  
the guilt of the physical person to official;

?

circumstances which impact the degree and nature of the responsibility of the person held responsible for the customs rules violation;

the reasons and conditions accessory to the commission of the customs rules violation.

The official person of the customs body of the Republic of Kazakhstan, in whose processing or consideration the case of customs rules violation is, shall evaluate proofs In accordance with his private conviction based on a comprehensive, full and objective examination of all the circumstances of the case in their integrity, guided by the legislation of the Republic of Kazakhstan.

No proof shall have any pre-set force.

Article 319. Proofs in Cases of Customs Rules Violation

Any authentic information on the basis of which are established in accordance with this Edict and other legislation of the Republic of Kazakhstan shall be the proofs

existence or absence of a customs rules violation, the guilt of a physical persons or official which are held responsible for the customs rules violation;

the fact of commission of such a violation by a legal entity, individual entrepreneur, and any other details which have significance for correct settlement of the case.

Tills information shall be ascertained by protocols and other documents compiled in course of the customs supervision, performance of customs processing, processing and consideration of the case of customs rules violation, explanations of the person held responsible for the customs rules violation, explanations of witnesses, expert evaluations, tangible and written proofs.

Article 320. Explanations of the Person Held Responsible for Customs Rules Violation

The person who is held responsible for customs rules violation shall have the right to provide explanations in respect of the person's being held responsible and equally in respect of any other circumstances of the case which are known to him and included in the case.

Explanations of a person held responsible for customs rules violation shall be subject to verification and evaluation together with any other proofs collected in relation to the case.

Article 321. Explanations of Eye-Witnesses

An eye-witness may be inquired on any circumstances which are subject to ascertaining in respect of a case of customs rules violation, including those relating to the identity of the physical person or official person which is held responsible for customs rules violation and about their relations therewith. Actual information which is communicated by all eye-witness may not serve as proof if lie fails to disclose the source of his knowledge.

Article 322. Expert Evaluation, Conclusions of Experts

Expert evaluation shall be prescribed in the cases where for clarifying of issues which arise specific knowledge is required.

Expert evaluation shall be carried out by experts of customs laboratories and any other relevant institution or any other specialists appointed by the official person of the customs body of the Republic of Kazakhstan in whose processing or under whose consideration the case of customs rules violation is. Any physical person which has the required expertise For producing of conclusion maybe summoned as expert. The procedure for hiring of an expert in cases of customs rules violation shall be carried out in accordance with this Edict and the legislation of the Republic of Kazakhstan.

Issues which are put before the expert and his conclusion may not extend beyond the expert's scope of professional knowledge.

Article 323. Tangible Proofs

The following shall serve as tangible proofs in the cases of customs rules violation:

goods and transport vehicles which are direct objects of such violations;  
goods and transport vehicles which have purposely manufactured secret hiding places used Col. transferring through the customs boundary of the Republic of Kazakhstan with concealment of the goods and items which are direct objects of customs rules violation;  
documents and means of identification used for illegal transfer of goods and transport vehicles through the customs boundary of the Republic of Kazakhstan,

any other objects which bear traces of the violation or those which may serve as a key in establishing of the customs rules violation and in identifying of the persons who committed the violation, and also in establishing of actual circumstances of the case.

Any person who has all item which has sings of a tangible proof shall be obliged to submit such an object to the official persons of the Customs Bodies .of the Republic of Kazakhstan.

Tangible proofs shall be attached to the case of customs rules violation. They must be described in detail in the protocols on customs rules violation, on confiscation, on customs inspection and in any other protocols. Where necessary, a tangible proof may be photographed or pictured by means of any other technical devices and where possible must be sealed.

An official person of the customs body of the Republic of Kazakhstan under whose processing or consideration there is a case of customs rules violation shall be obliged to adopt every remedy to ensure the safety of tangible proofs until the case is finally completed.

The procedure and periods for the custody of tangible proofs shall be determined by this Edict and inasmuch they are not covered by it, - by the acts of the central Customs Bodies of the Republic of Kazakhstan.

When by virtue of their large dimensions or for any other reasons a tangible proof may not be attached to the case by the customs official of the customs body of the Republic of Kazakhstan under whose processing or consideration of that case is, the extract shall be compiled about the place of its location which shall be attached to the case.

Tangible proofs shall be kept until the expiry of deadlines for challenging the resolution of the customs body of the Republic of Kazakhstan on the case of customs rules violation or until the decision is adopted by the upper customs body of the Republic of Kazakhstan or the judicial bodies, including those which considered the complaint concerning the resolution of the customs body of the Republic of Kazakhstan on the case of customs rules violation, in accordance with the procedure stipulated by this Edict.

Tangible proofs which do not present any value and which may not be utilized shall be subject to destruction.

Documents which are tangible proofs shall remain attached to the case of customs rules violation or shall be submitted to interested persons at their request.

Any other tangible proofs shall be placed by the customs body of the Republic of Kazakhstan to a warehouse of temporary storage with notification of that of the entity from which they were seized. The period of storage in that case may not exceed six months from the date of sending the notification.

In the cases when in accordance with this Edict tangible proofs are not subject to confiscation they shall be returned to the person from whom they were seized.

The tangible proofs which are subject to rapid deterioration shall be returned to the person after inspection or transferred to relevant organizations for their use in accordance with their designation. The issue of return of money's worth of such goods, received from their sales shall be solved subject to decision adopted on the case of customs rules violation. In accordance with the legislation of the Republic of Kazakhstan.

#### Article 324. Handling Tangible Proofs When Passing a Criminal Case In Accordance with Jurisdiction

Under criminal cases the inquest on which is completed by the customs body of the Republic of Kazakhstan the tangible proofs shall be passed together with the cases to the bodies of preliminary investigation, to which the legislation of the Republic of Kazakhstan delegates the duty of performing preliminary investigations.

When because of large dimensions or for any other reasons tangible proofs may not be transferred to the body of preliminary investigation together with the criminal case, the Customs Bodies of the Republic of Kazakhstan must at the moment of passing of the case communicate to the body of preliminary investigation the place of location of the tangible proofs. The issue of safety of such tangible proofs shall be resolved upon in conjunction with the bodies of preliminary investigation.

The provisions of this Article shall apply in the case of transfer by the Customs Bodies of the Republic of Kazakhstan of materials on crimes, the inquest on which is not conferred to the scope of the authority of the Customs Bodies of the Republic of Kazakhstan, to the bodies of preliminary investigation.

#### Article 325. Written Evidence

Acts, extracts, written messages and any other documents in which legal entities, individual entrepreneurs, physical persons, or officials describe or certify facts and circumstances which bear on the case shall be written evidence.

Written evidence must be kept in the case (file). Documents which contain signs indicated in Article 323 of this Edict, shall be tangible proofs.

#### Chapter 44. Efforts to Provide for Processing of Cases of Customs Rules Violation

Article 326. Delivery of the Person Which is Held Responsible for Customs Rules Violation to the customs body of the Republic of Kazakhstan

For the purposes of compiling a protocol of customs rules violation where it is impossible to compile it locally, when the compilation of the protocol is mandatory and for identification of physical or official persons who are held responsible for customs rules violation, the Indicated persons may be taken to service premises of customs body of the Republic of Kazakhstan.

Delivery must be Gamed out in a shortest possible period of time.



Official persons, workers of the bodies of internal affairs of the Republic of Kazakhstan and military servicemen of the Frontier Troops of Republic of Kazakhstan shall be obliged to render assistance in delivering of persons who are held responsible for customs rules violation, and where necessary, in providing of premises for detention of such persons.

In the cases where a person who is held responsible for customs rules violation shows disobedience, resistance or any other counter-action to official persons of the customs body of the Republic of Kazakhstan or to workers of the bodies of the internal affairs of the Republic of Kazakhstan and military servicemen of the Frontier Troops of the Republic of Kazakhstan, and also in the cases where in respect of the person who is held responsible for customs rules violation, specific methods are applied, in the protocol on delivery of such a person there shall be mention of the application of special methods if there were applied, and on the nature of resistance.

#### Article 327. Administrative Detention

For the purposes of suppressing of customs rules violation when other means of persuasion or ensuring timely and accurate consideration of cases and execution of the decision upon it are impossible, the person who committed violation may be subjected to administrative detention may be used for a term up to three hours in accordance with the legislation of the Republic of Kazakhstan.

Administrative detention of a person who violated a customs regime or regime of the points of passage shall be carried out by the officials of the customs body of the Republic of Kazakhstan upon the decision of the Head of that body or his Deputy.

Persons who violated a customs regime or the regime in points of passage through the customs boundary of the Republic of Kazakhstan may be detained for a period up to three hours for compilation of the protocol and where it is necessary for establishing the identity of the person and for clarifying the circumstances of the violation - up to three days, communicating that in writing to the prosecution officer within twenty four hours from the moment of detention or for a period up to ten days with the sanctions of the prosecution officer where the violators have not any documents certifying their identity.

The term of administrative detention shall be measured from the moment of delivery of a physical or official person to the service premises of the customs body of the Republic of Kazakhstan or to any other premises where it is possible, to carry out acts for the purposes indicated in the first part of this Article and in the case of persons who are under the condition of intoxication - from the moment of becoming sober. In respect of a person who is in the indicated premises in relation to the procedure of the customs supervision or customs processing, the period of their administrative detention shall be measured from the moment of completion of such supervision or processing.

Official persons, workers of the bodies of the internal affairs of the Republic of Kazakhstan and military servicemen of the Frontier troops of the Republic of Kazakhstan shall be obliged to render assistance in detention and granting of premises for detention of persons who commit violations.

Protocols shall be compiled upon administrative detention, in accordance with the legislation of the Republic of Kazakhstan, in which there shall be an note upon the use of special means where they were used.

The procedure and the rules for keeping of detained persons shall be defined by the regulatory acts of the Republic of Kazakhstan.

The decision on an administrative detention may be challenged in accordance with the legislation of the Republic of Kazakhstan.

When it is established that the decision on administrative detention is adopted by the person who has no authority or without sufficient bases therefor, or in respect of a person who in accordance with the legislation of the Republic of Kazakhstan is not subject to administrative detention, such decisions shall be abolished and the detained person shall be freed forthwith.

In respect of persons who are held out illegal detention measures of responsibility shall apply as established by the legislation of the Republic of Kazakhstan.

#### Chapter 45. The Procedure for Carrying Out Certain Efforts Associated With Cases of Customs Rules Violation

##### Article 328. Delegation of Certain Efforts Associated With Cases of Customs Rules Violation

The official person of the customs body of the Republic of Kazakhstan under whose processing or consideration there is a case of customs rules violation shall have the right to delegate certain efforts associated with that case to an official person or any other customs body of the Republic of Kazakhstan.

The delegated (task) must be executed not later than five days after the date of its receiving.

##### Article 329. Questioning of Persons In Cases of Customs Rules Violation

The official person of the customs body of the Republic of Kazakhstan under whose processing or consideration there is a case of customs rules violation, shall have the right to summon and to carry out the questioning of physical persons, official persons, individual entrepreneurs, executives and their deputies of legal entities on the matter of the case.

Protocols shall be compiled concerning questioning of persons.

##### Article 330. The Procedure for Summoning and Questioning in Cases of Customs Rules Violation

The persons indicated in Article 329 of this Edict who are subject to questioning in the cases of customs rules violation shall be summoned by the official persons of the customs body of the Republic of Kazakhstan who processes or considers the case by the subpoena which is issued under signature of the person to be summoned.

In the case of temporary absence of the person, the subpoena shall be issued under signature to other adult, members of his family, or administration of the place of employment, training, or rest of the indicated person.

The subpoena shall be served on any employee of such legal person where such an employee signs for the served subpoena if the head or its deputy of the legal person is temporarily absent.

It must be stated in the subpoena: who as in what quality is invited for questioning, at what address and by whom, date and hour of the appointment and also the consequences of a failure to arrive.

A person who is subject to questioning may be also summoned by a telephonogramme or by way of using any other communications means.

Summoning for questioning of a person who have not reached the age of sixteen, shall be carried out with the participation of his parents or any other legitimate representatives.

Any other procedure shall be allowed only in the case where it is required by the circumstances of the case.

The persons summoned on the same case shall be questioned separately. Prior to questioning the official person of the customs body of the Republic of Kazakhstan who processes or considers the case of customs rules violation shall ascertain the identity of the person to question, finds out whether he has free command of the language in which the case of customs rules violation is processed, or needs translation services, explain to the person to question his rights and obligations.

Prior to questioning of an official person, an individual entrepreneur, the official person of the customs body of the Republic of Kazakhstan shall ascertain his authority.

Questioning in respect of the matter of the case shall begin as follows: In respect of a physical or official person who is held responsible for customs rules violation, - with the question whether he recognizes himself as guilty of commission of a violation;

in respect of a deputy executive or deputy executive of a juridical person or individual entrepreneur held responsible for violation of customs rules, - with the question whether he recognizes the fact of customs rules violation by that person,

in respect of a physical or official person who is summoned as witness, - with notifying of the circumstances in relation with which he is summoned for questioning.

After that the questioned person shall be suggested to provide their explanations of the matter of the case.

Afterwards a customs officer shall ask questions on the matter of the case.

Interrogation of a natural person under the age of sixteen shall be performed in the presence of his parents and legal representatives, and an appropriate note shall be made in the reports of interrogation.

**Article 331. Procurement of Documents Which are Required for Processing or Considering of the Cases of Customs Rules Violation**

The official persons of Customs Bodies of the Republic of Kazakhstan who process or consider cases of customs rules violation shall have the right to demand and receive documents which are required for processing or considering of the case.

The person to whom a demand is addressed to submit documents shall be obliged to forward or give them away to the official person of the customs body of the Republic of Kazakhstan while demands the documents.

Documents shall be submitted in the original, and with the consent of the official person of the customs body of the Republic of Kazakhstan - in a duly certified duplicate. When for the processing or considering of a case of customs rules violation only a part of a document is needed, then a certified extract therefrom shall be submitted. Upon expiry of the period for challenging of the decision upon the case of customs rules violation, the documents submitted in the original may be returned to the entity which submitted them by his demand. In that event, the duplicates certified by the official person of the customs body of the Republic of Kazakhstan while considering the case, shall remain in the case (file).

A failure to execute the legitimate requirements of an official person of the customs body of the Republic of Kazakhstan concerning submission of documents may entail seizure of the documents in accordance with the procedure stipulated in Articles 332 and 333 of this Edict and in accordance with the legislation of the Republic of Kazakhstan.

**Article 332. Bases for Detention of Goods, Transport Vehicles, Documents and Any Other Items**

Goods and transport vehicles which are direct objects of customs rules violation, goods and transport vehicles with specifically manufactured hiding places used for transfer through the customs boundary of the Republic of Kazakhstan with the concealment of goods and items which are direct objects of customs rules violation, the transport vehicles on which the goods were transported, which are direct objects of customs rules violation, documents, means of identification and any other items which have the features of tangible proofs as indicated in Article 318 of this Edict, shall be subject to seizure.

When a physical or official person which have in the Republic of Kazakhstan no permanent place of residence, or of any other foreign entity which has in territory of the Republic of Kazakhstan no affiliate nor representation, and also of a Kazakhstani or foreign legal entity whose paid-up charter capital or/and any other property located in the territory of the Republic of Kazakhstan, except for goods and transport vehicles which are under the customs supervision, do not cover the amount of possible fines and of money's worth of goods and transport vehicles which may become subject to payment are held responsible for commission of customs rules violation, it shall be allowed to seize goods including currency assets, and transport vehicles in order to secure collection of the indicated fines or money's worth.

The submission of proofs of having permanent residence, affiliates, representations or of sufficient amounts of paid-up charter capital and/or any other assets shall rest with the person who is held responsible for customs rules violation.

With the consent of the customs body of the Republic of Kazakhstan the seizure of goods and transport vehicles indicated in the second part of this Article may be replaced with their pledge or submission of a guarantee in accordance with the procedure stipulated in Article 138 of this Edict.

**Article 333. The Procedure for Seizure of Goods, Transport Vehicles, Documents and Any Other Items**

Seizure of goods, transport vehicles, documents or any other items indicated in Article 332 of this Edict shall be carried out by the official persons of the customs body of the Republic of Kazakhstan in the presence of witnesses.

Seizure may be carried out when carrying out customs supervision, personal inspection, customs processing, compilation of a protocol on customs rules violation, performance of customs examination, inspection.

Seizure of documents containing information which constitute a State secret, if such documents were not identified when conducting the customs supervision and customs processing, personal inspection shall be carried out in accordance with the legislation of the Republic of Kazakhstan.

Transport vehicles, documents and any other items which have no relevance to the case of customs rules violations except for the items prohibited from circulation, shall not be subject to seizure.

Protocol shall be compiled upon performance a seizure. Seized items shall be listed and described in the protocols of seizure or In descriptions which are attached to them with precise indication of name, quantity, measure, weight and individual features of those items, and where possible, their value and where necessary and possible, they shall be packed and sealed in the place of seizure.

Any seized items shall be shown to the persons present at the seizure. The fact of refusal to give goods, transport means, documents and other items voluntarily shall be noted in the reports, as well as the appeared necessity to seize them coercively in accordance with the legislation of the Republic of Kazakhstan.

#### Article 334. Evaluation of Seized Goods, Transport Vehicles and Other Items

The customs body of the Republic of Kazakhstan shall evaluate the goods, transport vehicles and other items exacted in accordance with the requirements under this Edict and the law of the Republic of Kazakhstan on the basis of the state controlled prices, if such prices are established for these items, and in other cases - on the basis of the customs value. Should the evaluation in accordance with the aforesaid procedure be impossible, it shall be made on the basis of the expert's conclusion.

Conversion of the foreign currency into the currency of the Republic of Kazakhstan shall be made by the customs body of the Republic of Kazakhstan at the exchange rate of the National Bank of the Republic of Kazakhstan at the date of detection of customs rules violation.

#### Article 335. Carrying out of Customs Examination and Inspection

The officials of the customs bodies of the Republic of Kazakhstan within their competence shall be authorized to carry out customs examination and inspection of goods and transport vehicles, of territories and premises where the goods and transport vehicles may be kept.

When required, the specialist shall be invited to participate in the customs examination.

The persons whose territories, premises and transport vehicles are to be examined and inspected shall participate in customs examination.

The persons participating in customs examination and inspection shall be instructed with regard to their rights and obligations.

The customs examination and inspection shall be performed in the presence of witnesses. The goods, transport vehicles and documents related to customs rules violation, detected during customs examination and inspection shall be seized on the basis and in accordance with the procedure pursuant to

Articles 332 and 333 of this Edict and the legislation of the Republic of Kazakhstan.

In carrying out of customs examination and inspection, measurements, photographs, filming, video recording can be made and other technical devices can be used.

The protocol of customs examination and inspection shall be drawn up.

#### Article 336. Submission for Inspection of Goods, Transport Vehicles and Documents thereto and Other Items

In accordance with the decision of the official of the customs body of the Republic of Kazakhstan who processes or considers the case of customs rules violation, the goods, transport vehicles, the documents thereto and other items can be presented for identification to the natural person or the official held responsible for customs rules violation, private businessmen as well as to the witness.

The identification shall be performed in accordance with this Edict and the legislation of the Republic of Kazakhstan.

The protocol on presenting the items for identification shall be drawn up.

#### Article 337. Receiving Information Which is Required for Processing or Consideration of the Cases of Customs Rules Violation From the State Bodies and Persons

An official poison of the customs body of the Republic of Kazakhstan who processes or considers the case of customs rules violation shall have the right to receive from the State bodies and persons free of charge on the basis of a written request information which is required for solution of the case, including the information designated for internal use or information which constitutes a commercial or any other secret protected by law.

In the case of a groundless refusal to submit the required Information the official person of the customs body of the Republic of Kazakhstan shall have the right to carry out seizure of the documents which contain the information required for the solution of the case in accordance with the procedure stipulated by this Edict and the legislation of the Republic of Kazakhstan.

The official persons of the customs body of the Republic of Kazakhstan shall be obliged to provide for non-disclosure of information received by them, by using it only for the solution of the case of customs rules violation. It shall also be prohibited to the official persons of Customs Bodies of the Republic of Kazakhstan to use such information for personal purposes, to transfer it to third parties, and also to any other State bodies, except for the cases directly stipulated in the legislative acts of the Republic of Kazakhstan.

#### Article 338. Audits, Reviews, Inspections in Cases of Customs Rules Violation

In respect of the cases of customs rules violation which is processed or considered by the Customs Bodies of the Republic of Kazakhstan for establishing facts and circumstances which have significance for the case, audits, reviews of financial and foreign economic activities of persons held responsible for customs rules violation may be appointed as well as inspection of their goods and transport vehicles.

Audits, review, inspections shall be carried out on the basis of the resolution which is passed by the Head of the customs body of the Republic of Kazakhstan or by his deputy, or by the heads of the structural subdivisions for fighting of smuggling and customs rules violation of the Customs Bodies of the Republic of Kazakhstan or by their deputies.

The results of audits, reviews and inspections shall be communicated to the entity under the audit not later than within five days after their completion.

The procedure for conducting audits, reviews, inspections and for documentation of their results shall be defined by the customs body of the Republic of Kazakhstan in accordance with the legislation of the Republic of Kazakhstan.

#### Article 339. The Procedure for Appointing Experts Expert Evaluations

Upon recognizing the need to carry out an expert evaluation, the official person of the customs body of the Republic of Kazakhstan who processes or considers the case of customs rules violation, shall pass the resolution thereon in which the grounds shall be indicated for the appointment of the expert evaluation, name of the customs laboratory or any other relevant institution at which the expert evaluation is to be carried out, as well as the questions set to that expert and the materials submitted for the use of the expert.

#### Article 340. Taking Samples and Making Assays for Expert Evaluations

The official person of the customs body of the Republic of Kazakhstan who processes or considers the case of customs rules violation shall have the right to receive from the persons held responsible customs rules violation sample signatures, samples of handwriting, to take samples and make assays of goods and any other items which are required for the performance of expert evaluation.

The official person of the customs body of the Republic of Kazakhstan who processes or considers a case of customs rules violation shall pass the resolution on taking samples and making assays.

Taking samples and making assays shall be carried out with the participation of a specialist and in the presence of witnesses. Protocol shall be compiled upon taking samples and making assays.

#### Article 341. The Rights of the Person Held Responsible for Customs Rules Violation and Also of his Lawyer and Representative When Expert Evaluation is Appointed

When processing and considering a case of customs rules violation, the person who is held responsible for commission of customs rules violation, his lawyer or the representative of the Indicated person who carries out legal support, shall have the right to peruse the decision on appointing the expert evaluation and the conclusion of the expert and also to petition of appointment of additional or repeated expert evaluation.

Persons indicated in the first part of this

Article shall also have the following rights; to reject an export,

to submit additional questions to obtain on them expert evaluations;

to participate with the permission of the official person of the customs body of the Republic of Kazakhstan who is processing or considering the case of customs rules violation during the expert evaluation and to provide explanations to the expert.

In the cases of satisfying such petitions, the official person of the customs body of the Republic of Kazakhstan who is processing or considering the case of customs rules violation shall appropriately amend or append its decision concerning the appointment of expert evaluation and delegate the conducting of the expert evaluation to the another expert, and where there are reasons, he shall appoint an additional or second expert evaluation.

In the case of a refusal to satisfy a petition, the motives of such a refusal shall, be outlined in the resolution upon imposition of penalty for customs rules violation.

#### Article 342. Certifying the Fact of a Refusal or Impossibility to Sign the Protocol

When a person which is held responsible for customs rules violation, a witness or any other person refuse to sign the protocol in which they took part, the note shall be made on that which is certified with the signature of the official person of the customs body of the Republic of Kazakhstan who compiled the protocol and also of the witnesses.

A person who refuses to sign the protocol shall have the right to present explanation and comments on the contents of the protocol which shall be attached to the protocol and also to outline the motives of their refusal to sign it.

When one of the persons indicated in the first part of this

Article, by force of physical drawbacks or for any other reasons is devoid of the ability to sign the protocol, the note shall be made upon that and an outside person who is not interested in the outcome of the case shall be invited with the consent of the questioned person shall certify with that person's signature the accuracy of the record of his explanations.

#### Chapter 46. Expenditures on the Case of Customs Rules Violations

##### Article 343. Expenditures on the Cases of Customs Rules Violation

Expenditures on cases of customs rules violation shall consist of the following:

amounts payable to witnesses, experts, specialists, translators, hired witnesses,

amounts expended in relation to performance of audits, reviews and inventory inspections,

amounts expended on storage, conveyance (sending) and examination of tangible proofs,

any other expenditures incurred by the customs body of the Republic of Kazakhstan when processing or considering a case of customs rules violation.

##### Article 344. Reimbursement of Amounts Due Witnesses, Experts, Specialists, Translators and Hired Witnesses

Witnesses, experts, specialists, translators and hired witnesses shall be reimbursed the expenses incurred in relation to arrival to the customs body of the Republic of Kazakhstan, travel expenses, costs of premise rentals and per diems shall be paid to them.

Experts, specialists and translators shall receive remuneration for work performed by them by the order from the customs body of the Republic of Kazakhstan, provided that work is not part of their service duties.

Amounts owing to witnesses, experts, specialists, translators and hired witnesses shall be paid by the customs body of the Republic of Kazakhstan upon their execution of their duties.

The procedure for payment and amounts which are subject to payment shall be established by the legislation of the Republic of Kazakhstan.

##### Article 345. Reimbursement of Expenses Under the Cases of Customs Rules Violation

The (reimbursement of) expenses associated with cases of customs rules violation shall be Imposed upon the person who according to the resolution concerning the imposition of punishment is subject to punishment, and in the case where the poison is recognized as not guilty or the case is closed, they shall be incurred by the State.

When the poison is released from responsibility on the bases stipulated in

Article 252 of this Edict, the customs body of the Republic of Kazakhstan or the official person who considered the case of customs rules violation shall have the right to impose upon the violator the expenses, except for the amounts paid to the translator.

When punishments are imposed upon several persons under a case of customs rules violation, the official person of the customs body of the Republic of Kazakhstan who considers the case shall determine in what amounts expenses must be allocated to each of them, subject to their degree of guilt or violation.

The official poison of the customs body of the Republic of Kazakhstan will process and consider cases of customs rules violation shall be obliged to collect and attach to the case the documents which define amounts of expenses associated with the case.

#### Chapter 47. Passing Cases of Customs Rules Violation for Consideration

##### Article 346. Passing Cases of Customs Rules Violation for Consideration

The official poison of the customs body of the Republic of Kazakhstan will process a case of customs rules violation, upon the completion of the case processing shall pass the materials of the case to the Head of that body or to his deputy, and the official person of central customs body of the Republic of Kazakhstan - to the authorized official of that body, not later than fifteen days prior to expiry of the term of imposition of punishment in respect of the physical or official persons and not later than one month - In respect of a legal entity or individual entrepreneur activities.

##### Article 347. Termination of Processing of Cases of Customs Rules Violation

When terminating processing of cases of customs rules violation, In the cases stipulated In this Edict, the official poison of the customs body of the Republic of Kazakhstan who processed the case of customs rules violation shall pass a motivated resolution In which the matter of the case shall be outlined as well as the bases for the termination of the processing of that case and the issue of seized goods, transport vehicles, documents and any other items, pledged items or guarantees, tangible proofs is decided upon as well as of the costs of the case of customs rules violation. Such a resolution shall enter into force after its approval by the Head of that customs body of the Republic of Kazakhstan or his deputy.

A copy resolution upon cessation of processing of a case shall within three days from the date of its entering into force be banded in to or forwarded to the person to which the processing of the case was carried out. his representative or any other interested persons.

#### Chapter 48. Considering the Cases of Customs Rules Violation

##### Article 348. The Customs Bodies of the Republic of Kazakhstan Which Are Authorized to Consider the Cases of Customs Rules Violation

The case of customs rules violation where a physical person is held responsible shall be considered by the customs body of the Republic of Kazakhstan whose official person processed that case.

The case of customs rules violation where an official person, a legal entity or an individual entrepreneur are held responsible, shall be considered by the Customs House of the Republic of Kazakhstan whose official person or official poison of a subordinated customs office whereof of the Republic of Kazakhstan performed the processing of that case. Where necessary, the Customs House of the Republic of Kazakhstan may also accept for its consideration cases of customs rules violation where physical persons are held responsible, provided the processing of such a case was carried out by an official person of the customs office which is subordinated to the Customs House of the Republic of Kazakhstan .

The Customs Department of the Republic of Kazakhstan may accept for its consideration any case the processing whereof was conducted by the official person of the customs body of the Republic of Kazakhstan which is located in the zone of activities of that Department.

The central customs body of the Republic of Kazakhstan may accept for its consideration any case of customs rules violation committed in the territory of the Republic of Kazakhstan or pass it for consideration to any other customs body of the Republic of Kazakhstan, In such a manner, however that the cases concerning official persons' legal entities or individual entrepreneurs were considered by the customs body of the Republic of Kazakhstan.

##### Article 349. Official Persons of the Customs Bodies of the Republic of Kazakhstan Who Are Authorized to Consider Cases of Customs Rules Violation

Cases of customs rules violation shall be considered on behalf of the central customs body of the Republic of Kazakhstan by the authorized official poison of that body, and on behalf of any other Customs Bodies of the Republic of Kazakhstan - by their Heads or Deputy Heads.

The official person of the customs body of the Republic of Kazakhstan who is authorized to consider cases of customs rules violation, upon having received for consideration the materials of a case, shall first solve the following issues;

where considering of that case is within the bounds of his authority,

whether the protocols and any other materials of the case of customs rules violation comply with the requirements of this Edict;

whether the materials collected in relation to the case for the consideration of its matter and whether it is subject to return for additional processing,

whether the persons are notified who participate In the consideration of the case, of the time and place of its consideration,

on application of the person held responsible, his lawyer or legal proxy;

whether the measures have been taken for ensuring exaction of the penalty, cost of goods and transport vehicles and their possible seizure.

##### Article 350. Return of the Case on Customs Rules Violation for Supplementary Proceeding

The official of the customs body of the Republic of Kazakhstan upon receipt of the case shall have the right to return it in case of inadequacy of collected materials or presence of any other circumstances impeding the consideration on the merits of the case.

The decision on the return of the case shall be issued in writing and forwarded to the customs body of the Republic of Kazakhstan or to the official of the customs body of the Republic of Kazakhstan for supplementary proceedings.

#### Article 351. The Periods of Examination of the Case on Customs Rules Violation

The case on the customs rules violation shall be examined during 15 days from the date of receipt of required materials by the authorized official of the customs body of the Republic of Kazakhstan.

In case of receipt of the application from the person held responsible, his lawyer or legal proxy on postponement of the date of the case examination the period indicated in the first part of this Article can be extended by the official of the customs body of the Republic of Kazakhstan authorized to examine this case but within the general penalty time for customs rules violation as prescribed by Article 258 of this Edict.

#### Article 352. Examination of the Case on Customs Rules Violation

The official of the customs body of the Republic of Kazakhstan upon proceeding to the examination of the case on customs rules violation shall:

explain to the persons involved in the examination of the case, who is to examine it, which case is to be examined, who is to be held responsible and the

Article of this Edict on the basis thereof he shall be held responsible;

receive the confirmation of the appearance of the person held responsible for customs rules violation, the head of the deputy head of the legal entity held responsible for customs rules violation, their lawyers or legal proxies or investigate the reasons of their default in appearance;

take the decision on the possible examination of the case in the absence of the said persons or on postponement of the examination;

identify the person held responsible and check the authorities of other persons;

explain to persons involved in the case examination their rights and obligations;

solve the matter on inviting the interpreter;

resolve the filed challenges and applications.

Following this, the official of the customs body of the Republic of Kazakhstan shall announce the protocol on customs rules violation.

The person held responsible, the head or deputy head of the legal entity held responsible for customs rules violation, their lawyers or legal proxies shall have the right to familiarize themselves with all the materials of the case, to submit the objects or documents if they can influence the case examination.

The customs official of the customs body of the Republic of Kazakhstan shall examine the circumstances of customs rules violation, study the evidences on the case, hear the additional explanations of the person held responsible, the head or the deputy head of the legal person held responsible for customs rules violation, their lawyers and proxies on the merits of the offense under examination.

#### Article 353. Presence of the Person Held Responsible, Head or Deputy Head of Legal Person Held Responsible for Customs Rules Violation in Examination of the Case on Customs Rules Violation

The case on the customs rule violation shall be examined in the presence of the person held responsible, the head or the deputy head of the legal person held responsible for customs rules violation or their lawyers or legal proxies.

The customs body of the Republic of Kazakhstan shall notify the person held responsible for customs rules violation, on the place and time of case examination by sending the written notice or by a note in the protocol of the customs rules violation which is to be handed in or send to the said person.

In the absence of the person held responsible, the head or the deputy head of the legal person held responsible for customs rules violation or their lawyers or proxies the case may be examined only subject to availability of the data on timely notification of the said persons and the place and time of the case consideration, and provided no application coming from them on postponement of the case examination, or the data that by the time of the case examination the said persons are outside the Republic of Kazakhstan as well as in the cases when the said persons which can be held responsible for customs rules violation are not identified, and in the cases of customs rules violation when sending the goods by international mail.

#### Article 354. Circumstances to be Clarified in Consideration of the Case on Customs Rules Violation

The official of the customs body of the Republic of Kazakhstan in consideration of the case on customs rules violation shall be obliged to clarify whether:

the customs rules violation occurred;

the natural person or official held responsible is guilty of it;

the person is liable to responsibility;

there are circumstances attenuating the responsibility for customs rules violation;

other circumstances essential for correct resolution of the case.

#### Article 355. Decision of the Customs Body of the Republic of Kazakhstan on the Case of Customs Rules Violation

Upon examination of the case of a customs rules violation, the official of the customs body of the Republic of Kazakhstan shall make one of the following resolutions:

1) impose a penalty;

- 2) cease case proceedings;
- 3) initiate legal action on the crimes, the inquiry thereof is referred to the competence of the customs bodies of the Republic of Kazakhstan;
- 4) pass the materials to the inquest and investigation bodies of the Republic of Kazakhstan, to take the decision on initiation of the legal action on the crimes the inquiry thereof is not referred to the competence of the customs bodies of the Republic of Kazakhstan;
- 5) return the case for supplementary proceedings.

The decision on cessation of the case proceeding shall be made upon discharge of the offender from responsibility in case of minor violation of customs rules as well as in case of circumstances eliminating the case proceedings.

The decision of initiation of the legal action shall be made in cases when in preparation of the case for consideration or during case consideration the signs of the crime are detected the investigation of which is referred to the competence of customs bodies of the Republic of Kazakhstan;

- b) on forwarding the case to the court for consideration

The decision on passing, without initiation of the legal action, of materials therein the signs of crimes are apparent, the investigation thereon is not referred to the competence of the customs bodies of the Republic of Kazakhstan shall be awarded and passed to the inquiry and investigation bodies of the Republic of Kazakhstan.

The decision on return of the case of customs rules violation for supplementary proceedings shall be awarded in the cases stipulated in Article 350 of this Edict.

The decision on the case of customs rules violation should contain:

he name of the customs body of the Republic of Kazakhstan on behalf thereof the decision was awarded;

position, last name, first name, middle name of the official who made the decision;

the date and place of the case examination;

the data on the person with respect thereto the case was proceeded, if this person was identified;

outline of the circumstances established during case examination;

reference to the

Article of this Edict stipulating the responsibility for the customs rules violation;

decision passed on the case;

dates and procedures of appeal against the resolution.

The resolution should resolve the matter on seized goods, transport vehicles, documents and other items, pledge, guarantee, tangible proofs and on expenditures on the case of customs rules violation.

The resolution on the case of customs rules violation shall be signed by the official of the customs body of the Republic of Kazakhstan who examined the case.

The resolution shall be announced upon completion of the case examination.

The copy of the resolution in the cases stipulated by parts 1 and 2 of the first part of this Article within three days following its award shall be handed in or sent to the person with respect thereto it has been awarded or to his legal proxy.

#### Article 356. Decision on Elimination of Causes and Conditions Conducive to Commitment of the Customs Rules Violation

The official of the customs body of the Republic of Kazakhstan under whose processing the case of customs rules violation is, in case of the reasons and conditions conducive to such delinquency being identified shall bring in the decision on taking corrective measures for removing such reasons and conditions to the corresponding state bodies or agencies.

The state bodies of agencies shall be obliged, within one month following the date of receipt of such decision, to inform about the taken corrective measures the official of the customs body of the Republic of Kazakhstan who brought in the decision.

#### Article 357. Filing Suits to the Court

The official of the customs body of the Republic of Kazakhstan under whose examination and processing the case on customs rule violation is, in case of detection of the data on the illegal nature of transactions shall be authorized to file a suit to the court for invalidating such transactions.

#### Article 358. Measures Taken with Respect to Seized Goods, Transport Vehicles, Documents and Other Items, Pledged Goods and Transport Vehicles, Guarantees

When resolving the matter of goods, transport vehicles, documents and other items being tangible proofs on the case, seized or in custody in the customs bodies of the Republic of Kazakhstan, the official of the customs body of the Republic of Kazakhstan who considers the case on customs rules violation shall be guided by the provisions of Article 323 of this Edict.

When resolving the matter of goods, transport vehicles seized or taken in custody in the customs bodies of the Republic of Kazakhstan, pledged goods and transport vehicles, guarantees as a pledge for exaction of a penalty or of the cost of goods and transport vehicles the official of the customs body of the Republic of Kazakhstan who considers the case on customs rules violation shall be guided by the following:.

In case of reasoned seizure of goods and transport vehicles, as a pledge to ensure the exaction of a penalty or the cost of goods and transport vehicles such items shall be returned to the person therefrom they were seized, to the pledger within two months after payment of the amounts due, and the guarantee issued for such purposes shall cease to be effective after payment of the amounts due. Should the items be not demanded by the said persons after payment of the amounts due during two months from the date of receipt thereby of the corresponding notification, such items shall be deposited in the storage house for temporary storage. In default of payment of the amounts due the matter on seized goods, transport vehicles or the pledge as the collateral for exaction of a penalty or

the cost of goods and transport vehicles, and also of the execution of a guarantee issued for such purposes shall be solved in accordance with the procedure specified by this Edict.

Under circumstances eliminating the reasons for seizure of goods, transport vehicles, their pledge to ensure the exaction of a penalty or the cost of goods and transport vehicles such items shall be returned to the person therefrom they were seized, to the pledger after identification of such circumstances, and the guarantee issued for these purposes shall cease to be effective at the moment of such identification. Should the items be not demanded by the said persons during two months from the date of receipt thereby of the corresponding notification, they shall be deposited in the storage house for temporary storage. The period of temporary storage cannot exceed six months from the date of sending such notification.

Should the item of pledge remain in possession of the pledger, the restriction set by the customs body of the Republic of Kazakhstan on the use, disposal of such items shall become ineffective respectively either after payment of the amounts due or establishment of the groundlessness of the pledge.

#### Chapter 49. Appeal against the Decision of the Customs Body of the Republic of Kazakhstan on the Case of Customs Rules Violation

##### Article 359. Appeal Against the Decision of the Customs Body of the Republic of Kazakhstan

The decision of the customs body of the Republic of Kazakhstan may be appealed by the person against whom it was taken or by his lawyer or legal proxy within thirty days from the date of receipt of such decision.

The appeal against the decision of the customs body of the Republic of Kazakhstan can be lodged with the superior customs body of the Republic of Kazakhstan or the judicial bodies of the Republic of Kazakhstan by place of location of the customs body of the Republic of Kazakhstan making enforcement in accordance with the procedure established by the law of the Republic of Kazakhstan.

##### Article 360. Consideration by the Superior Customs Body of the Republic of Kazakhstan of the Decision on the Case of Customs Rules Violation in Connection with the Complaint or Protest and Also for Purposes of Control

The superior customs body of the Republic of Kazakhstan in consideration of the decision on the case of customs rules violation in connection with the complaint of the person, his lawyer or legal proxy or the prosecutor's protest and also for purposes of control over observance of the rule of law by officials of the customs bodies of the Republic of Kazakhstan in processing the cases of customs rules violation and their examination shall make one of the following decisions:

- 1) leave the decision unchanged, and the complaint or protest - without satisfaction;
- 2) reverse the decision and pass the case for reconsideration or return it for supplementary processing;
- 3) reverse the decision and dismiss the case;
- 4) change the measure of punishment for customs rules violation while not strengthening it;
- 5) reverse the decision on imposing punishment for customs rules violation and award the decisions pursuant to parts 3 and 4 of the first part of Article 355 of this Edict.

The decision of the superior customs body of the Republic of Kazakhstan in cases stipulated by parts 2,3,4,5 of the first part of this Article shall be awarded by passing a resolution. The decision awarded shall be communicated in the written form to the prosecutor having lodged a protest or to the person having lodged a complaint, and whenever the said decisions are adopted for purposes of control over the observance by the officials of the customs bodies of the Republic of Kazakhstan of the rule of law in proceedings on the cases of customs rules violation and their examination - to the person in respect thereof the resolution on customs rules violation was passed.

##### Article 361. Grounds for Reversal or Changing the Decision on Infliction of Penalty for Customs Rules Violation or on Dismissal of Case

The grounds for reversal or changing the decision on infliction of penalty or dismissal of case on customs rules violation are as follow:

- 1) incomplete proceedings or examination of the case;
- 2) inconsistency of the conclusions laid down in the decision with the actual circumstances of the case;
- 3) violation of the requirements of this Edict, and in the part not regulated thereby - of the legislation of the Republic of Kazakhstan.

4) the wrong qualification of the doing, non-application or wrong application of penalty measures prescribed by this Edict and by the law of the Republic of Kazakhstan.

##### Article 362. Consequences of Lodging the Complaint

The lodging of a complaint on the specified date shall suspend the execution of the decision of the customs body of the Republic of Kazakhstan on the case of customs rules violation before considering the complaint, except for the decision on imposition of penalty by way of warning and in cases of imposition of fines to be collected at the place of customs rules violation.

Article 363. Grounds and Periods of Suspension of Consideration of the Complaint The examination of the complaint shall be suspended when:

1) the materials on customs rules violation the decision thereupon was appealed, are required by the preliminary investigation bodies in connection with initiation of the criminal case or investigation of the criminal case;

2) the materials of the case on customs rules violation are considered by the prosecutor with a view of supervision.

In the presence of either of the circumstances laid out in the first part of this

Article the official of the customs body of the Republic of Kazakhstan who considers the complaint shall take the decision on suspension of consideration of the complaint.

The complaint shall be forwarded to the preliminary investigation bodies or to the procurator, respectively, which is communicated to the complaint lodger.



Chapter 50. Execution of The Resolution Of The Customs Body Of The Republic of Kazakhstan on Imposition of Penalty for Customs Rules Violation.

Article 364. Enforcement of the Resolution on Imposition of Penalty for Customs Rules Violation

The resolution on imposition of penalty for customs rules violation shall be enforced by the customs body of the Republic of Kazakhstan which passed such resolution:

at the expiration of the period of the appeal against it;

at the expiration of the period of the appeal for cassation or protest against the judgment of the judicial bodies of the Republic of Kazakhstan on the complaint with respect to the decision of the customs body of the Republic of Kazakhstan.

The customs body of the Republic of Kazakhstan which passed the resolution on imposition of punishment for customs rules violation shall enforce it independently, either by forwarding to the financial body, banks and organizations performing certain types of banking operations, the notice on enforcement of the resolution or through the law-enforcement officer.

The resolution on imposition of penalty, subject to the decision on imposition of penalty being passed by the court, unless it was enforced within six months from the date of passing, shall not be liable to execution.

In cases of suspension of the execution of the resolution on imposition of penalty in connection with lodging of the complaint in due time or making the protest within the period specified by the third part of this Article, it is respired until consideration of the complaint or the protest.

Article 365. Execution of the Resolution of the Customs Body of the Republic of Kazakhstan with Respect to Imposition of Penalty and Exaction of the Cost of Goods and Transport Vehicles

The amount of the penalty or the cost of goods and transport vehicles shall be paid by the person who committed the customs rule violation not later than 15 days from the date of handing in of the decision, and in case of appeal or protest against such a decision - not later than 15 days from the date of notice of passing the resolution on leaving the complaint or protest without satisfaction.

The amount of penalty or the of the cost of goods and transport vehicles shall be paid by the person having committed customs rules violation to the customs body of the Republic of Kazakhstan in the currency of the Republic of Kazakhstan.

The foreign currency shall be converted into the currency of the Republic of Kazakhstan at the exchange rate of the National Bank of the Republic of Kazakhstan prevailing on the date of payment of penalty or the cost of goods and transport vehicles.

In default of payment of the amount of penalty or the cost of goods and transport vehicles by a due date by the person in respect thereof the decision on imposition of penalty was made, it is to be paid from the cost of seized goods and transport vehicles or by producing the repayment guarantee.

Should the natural person not work or the enforcement of the penalty or the cost of goods and transport vehicles from money incomes or money resources of the person in respect thereof the resolution on imposition of penalty was passed, be impossible for other reasons, the penalty shall be exacted on the basis of the decision of the judicial body of the Republic of Kazakhstan by a law-enforcement officer by making a claim to the property of such person or his share in the common property in accordance with this Edict and the law of the Republic of Kazakhstan.

Article 366. Enforcement of the Resolution on Confiscation

The goods, transport vehicles and any other items in respect thereto the decision on confiscation was passed in accordance with the procedure under this Edict and the legislation of the Republic of Kazakhstan, at the expiry of the period of appeal against such decision shall be confiscated under the law of the Republic of Kazakhstan.

Article 367. Enforcement of the Resolution of the Customs Body of the Republic of Kazakhstan on Revocation and Suspension of License and Qualification Certificate

The resolution of the customs body of the Republic of Kazakhstan on imposition of penalty for customs rules violation on revocation and suspension of the effect of the license and the qualification certificate shall be enforced by the customs body of the Republic of Kazakhstan which passed such resolution independently.

The revoked and suspended licenses or qualification certificate shall become invalid from the date of enforcement of the resolution of the customs body of the Republic of Kazakhstan on imposition of penalty for customs rules violation.

The person who received the licenses or qualification certificate, revoked and suspended by the customs body of the Republic of Kazakhstan, shall pass them to the customs body of the Republic of Kazakhstan not later than 15 days from the date of handing in of the resolution thereto, and in the event of appeal against or challenging such resolution - not later than 15 days from the day of handing in of the decision on leaving the complaint or the protest without satisfaction. Failure to fulfill this requirement by the specified date shall entail the liability pursuant to Article 413 of this Edict.

Article 368. Enforcement of the Resolution of the Customs Body of the Republic of Kazakhstan on Imposition of Punishment for Customs Rules Violation on the Persons Which Reside or Stay Outside the Republic of Kazakhstan and Do not Have the Property on the Territory of the Republic of Kazakhstan

The resolution on imposition of penalty on persons residing or staying outside the Republic of Kazakhstan shall be enforced on the usual terms and under the law of the Republic of Kazakhstan and international agreements.

Chapter 51. The Simplified Form of Imposition of Penalty for Customs Rules Violation

Article 369. Simplified Form of Imposition of Penalty for Customs Rules Violation

Where violations of customs rules, stipulated by Articles 260-264, 266-269, 271-276, 278, 280, 283 of present Edict, were detected, application of the simplified form of imposition of penalty for customs rules violation is allowed for, if the committing of such violation entails the penalty in the form of warning or fine

Article 370. Conditions of Application of the Simplified Form of Imposition of Penalty for Customs Rules Violation

The simplified form of imposition of penalty for customs rules violation may be applied:

with respect to physical persons or officials and individual businessmen, provided that they have come into the age of 18 years old, or in the presence of legal proxies if there are circumstances that impede exercising of their right to protection;

with respect to legal entities in the event that at the moment of detection of the violation, either senior manager or deputy senior manager of legal entity or their legal proxy is present.

In these cases, the persons indicated in the first part of this Article, shall acknowledge the fact of violation of customs rules violation, their guilt, agree to the application of the simplified form of the penalty imposition, and in case of imposition of the penalty in the form of fine, they shall express readiness and have real opportunity to pay the fine immediately at the place of detection of violation.

#### Article 371. Procedure for Application of the Simplified Form of Penalty Imposition for Customs Rules Violation

After detection of the circumstances, stipulated in Articles 369, 370 of present Edict, the official of the customs body of the Republic of Kazakhstan shall issue penalty imposition statement which is a document constituting part of strict financial reporting system. Statement shall include:

name of the customs body of the Republic of Kazakhstan;

date and place of its issue;

serial number of the format and that of the passport;

name and initials of the official who prepared the statement;

brief data on the person who have committed customs rules violation and the proxy thereof, if applicable;

brief outline of customs rules violation and reference to the Article of present Edict prescribing responsibility for such violation;

type of penalty imposed, and in case of penalty imposition - its amount and indication of payment of penalty.

In the special column of the statement, the person who have committed the customs rules violation or legal proxy thereof shall confirm in writing the acknowledgment by him of the fact of violation, his guilt (for physical persons and officials), his agreement with the use of the simplified form of penalty imposition and express readiness to pay the fine immediately.

Photocopy of the statement shall be handed, against signed confirmation, to the person who have committed the customs rules violation or his legal proxy.

The form of the statement indicated in the first part of this Article shall be determined by the central customs body of the Republic of Kazakhstan.

### Section XIII. INFORMING AND CONSULTING ON PRELIMINARY DECISIONS

#### Chapter 52. Providing the Persons with the Information and Consultancy on Customs Issues

##### Article 372. Obtaining of Information on Reasons of Passed Decisions, Action or Non-action

The person, with respect to which the decision has been made by customs body of the Republic of Kazakhstan, action has been performed by the official of the customs body of the Republic of Kazakhstan, and the person, with respect to which the decision was not made or the necessary action was not performed within a two month period, shall have the right to send the request to this customs body.

The request shall be subject to consideration by the customs body of the Republic of Kazakhstan within a one month period.

When request has been provided in writing, the response thereto shall be given in writing.

##### Article. 373. Publishing of Acts

Normative acts of the central customs body of the Republic of Kazakhstan on the rights, obligation and freedoms of citizens shall be published.

The central customs body of the Republic of Kazakhstan shall ensure publication in the mass media of normative legal acts on customs matters establishing or changing customs rules.

##### Article 374. Information on Current Acts

Information on current acts under Article 373 of this Edict, including the title of the act, subject and edition in which this act was published, shall be provided free of charge to all persons concerned by customs bodies.

Short information on general clauses of customs or another legislation of the Republic of Kazakhstan, supervision of which implementation is entitled to customs bodies of the Republic of Kazakhstan, shall be provided for general access where customs bodies of the Republic of Kazakhstan are located.

##### Article 375. Consultancy on Customs Matters

The staff of customs bodies of the Republic of Kazakhstan, customs laboratories, research organizations and educational institutions of the central customs body of the Republic of Kazakhstan shall provide consultancy on customs matters, in accordance with the procedure determined by the central customs body of the Republic of Kazakhstan.

#### Chapter 53. Preliminary Decisions

##### Article 376. Preliminary Decision

The central customs body of the Republic of Kazakhstan, the customs departments, as well as individual customs houses of the Republic of Kazakhstan as determined by the central customs body of the Republic of Kazakhstan shall make preliminary decisions concerning classification, customs value, the country of origin, in relation to particular goods or economic transactions.

The Government of the Republic of Kazakhstan shall determine the amount of payment to be collected for the adoption of such preliminary decisions.

##### Article 377. Request for Making Preliminary Decision

The person interested in passing of the preliminary decision shall submit a written request to the customs bodies of the Republic of Kazakhstan stipulated by Article 376 of this Edict.

The information required for the issuance of a preliminary decision shall be determined by the central customs body of the Republic of Kazakhstan.

The review procedure as well as the timeline for issuing a preliminary decision to the applicant shall be established pursuant to the legislative acts of the Republic of Kazakhstan and this Edict.

A preliminary decision shall not be issued in response to an application-request that fails to comply with the statutory requirements.

A preliminary decision shall not be issued with regard to issues which are contrary to the legislation or hypothetical in nature.

A preliminary decision or refusal to issue a preliminary decision may be appealed under the procedure set by the legislative acts of the Republic of Kazakhstan.

#### Article 378. Legal Implication of Preliminary Decision

The preliminary decision shall be binding on the customs bodies of the Republic of Kazakhstan.

Given the basis in terms of data and conditions for a preliminary decision does not change, a preliminary decision of the customs bodies of the Republic of Kazakhstan shall have legal force for the following periods:

- a) preliminary decisions concerning origin of goods shall remain valid for three years;
- b) preliminary decisions concerning matters other than origin of goods shall remain valid for one year.

#### Article 379 Invalidation, Revocation, Amendment or Suspension of Preliminary Decision

The superior customs bodies of the Republic of Kazakhstan shall be entitled to revoke, amend or suspend a preliminary decision issued by inferior customs bodies of the Republic of Kazakhstan.

A recipient of the preliminary decision shall be notified in writing on grounds for revocation, amendment, suspension or invalidation of the previously issued decision.

Such a revocation, amendment or suspension of a preliminary decision shall take effect after the notification from the customs bodies of the Republic of Kazakhstan is delivered to the applicant

A preliminary decision of the customs bodies of the Republic of Kazakhstan shall cease to be valid where new legislation of the Republic of Kazakhstan is enacted, and the preliminary decision no longer conforms to such legislation. The preliminary decision ceases to be valid as of the date of entry into force of such new legislation of the Republic of Kazakhstan.

A preliminary decision shall be deemed to be valid where it has been made on the basis of not authentic information submitted by an applicant.

#### Article 379-1 Preliminary Decision Transparency

Preliminary decisions issued by the customs bodies of the Republic of Kazakhstan, except for confidential information, shall be published and made available at the request of any interested person in part related to the rights, obligations and freedoms of citizens and legal persons.

### Section XIV. DISPOSAL OF GOODS AND TRANSPORT VEHICLES AND USE OF RESOURCES OBTAINED FROM CUSTOMS ACTIVITY

#### Chapter 54. Disposal of Goods and Transport Vehicles

##### Article 380. Exaction to the Ownership of the State

Goods, transport vehicles and other items confiscated in accordance with this Edict and the law of the Republic of Kazakhstan, including those on the cases of customs crimes and also goods and transport vehicles relinquished by the person in favor of the state shall be exacted in favor of the state.

The procedure of exaction of goods and transport vehicles to the ownership of the state is specified by this Edict and the law of the Republic of Kazakhstan.

##### Article 381. Disposal of Goods, Transport Vehicles and Other Items Exacted to the Ownership of the State

Goods, transport vehicles and other items exacted to the ownership of the state shall be subject to sale, unless otherwise specified by the law of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan, at -special auction in accordance with the procedure prescribed by the Government of the Republic of Kazakhstan.

##### Article 382. Recovery of Amounts not Covering the Expenditures of Customs Bodies for Sale of Goods, Transport Vehicles and Other Items

Should the amounts gained from sale of goods, transport vehicles and other items exacted to the state ownership fail to cover the expenses of the customs bodies of the Republic of Kazakhstan directly related to transportation, storage and sale of goods, transport vehicles and other items exacted to the state ownership, the lacking part shall be recovered from the declarant or any other person responsible for payment of customs fees under legal procedure.

Article 383. Disposal of Goods, Transport Vehicles and Other Items Not Sold or Not Liable to Sale

The list of goods, transport vehicles and other items exacted to the state ownership not liable to sale shall be specified by the legislation of the Republic of Kazakhstan.

The procedure of disposal of goods, transport vehicles and other items exacted to the state ownership, not sold or not liable to sale at customs auctions, commodity exchanges or through trade companies and organizations shall be specified by the law of the Republic of Kazakhstan.

Article 384. Application and Use of Resources Obtained from Collection of Customs Duties, Taxes and Customs Business

The resources obtained in the form of customs payments and taxes and also from sale of goods, transport vehicles and other items seized by the state in accordance with this Edict and the law of the Republic of Kazakhstan under cases on crimes in customs business, customs rules violation, fines stipulated by this Edict except for customs duties, taxes and fees for issuance of licenses shall enter the state budget in full.

Section XV. APPEAL AGAINST AND EXAMINATION OF DECISIONS, COMMISSIONS OR OMISSIONS OF CUSTOMS BODIES OF THE REPUBLIC OF KAZAKSTAN AND OF THEIR OFFICIALS

Chapter 55. General Provisions on Appeal

Article 385. Scope of this Section

Provisions of this section shall apply to any case of appeal against the decisions, commissions or omissions of customs bodies of the Republic of Kazakhstan and their officials except for cases of appeal against the measures of administrative responsibility.

Article 386. Right to Appeal

Any person shall have the right to appeal the decisions, commissions or omissions of the customs bodies of the Republic of Kazakhstan and their officials, and to require a written explanation of such a decision, commission or omission.

Article 387. The Procedure for Appeal

The appeal against the decisions, actions or action default of the customs bodies of the Republic of Kazakhstan and their officials shall be effected in accordance with the procedure determined by present Edict and legislation of the Republic of Kazakhstan.

Chapter 56. Appeal Against and Examination of Decisions, Actions or Action Default of Customs Bodies of the Republic of Kazakhstan and Their Officials to the Customs Bodies of the Republic of Kazakhstan and the Court

Article 388. Lodgment of Complaint to the Customs Body of the Republic of Kazakhstan

The complaint against the decisions, actions or action default of the customs bodies of the Republic of Kazakhstan and their officials shall be lodged to the superior customs body of the Republic of Kazakhstan or to the superior official, respectively.

Article 389. Period of Lodgment of Complaint to Customs Body of the Republic of Kazakhstan

The complaint to the customs body of the Republic of Kazakhstan shall be lodged within three months following the date of notification to the person on the decision made.

In the event violating the said period for valid reasons, this period, upon application of the plaintiff, can be restarted by the superior official, superior customs body of the Republic of Kazakhstan or the central customs body of the Republic of Kazakhstan, respectively.

Article 390. Periods of Examination of the Complaint

The complaint to the customs body of the Republic of Kazakhstan shall be reviewed within the time limits determined pursuant to the legislative acts of the Republic of Kazakhstan.

Article 391. Form of Complaint

The complaint shall be lodged in writing and transmitted to the appropriate customs body of the Republic of Kazakhstan or the official thereof.

In accordance with legislation of the Republic of Kazakhstan, the anonymous complaints shall not be considered.

Article 392. Consequences of Lodgment of the Complaint

Lodgment of the complaint shall not suspend the execution of the disputed decision or action.

Whenever the disputed decision or action is made with violation of legislation of the Republic of Kazakhstan, it can be suspended fully or in part.

Article 393. Withdrawal or Cancellation of Complaint

The person, who lodged the complaint to the customs body of the Republic of Kazakhstan, may withdraw or cancel it at any moment prior to making decision concerning the complaint. Withdrawal or cancellation of the complaint shall be performed upon written application of the person, who lodged the complaint.

Repeated lodgment of the complaint to the customs body of the Republic of Kazakhstan shall be performed within the periods determined for lodgment of the complaint.

Article 394. Decision of the Customs Body of the Republic of Kazakhstan or its Official on the Complaint

The motivated decision on the complaint of the customs body of the Republic of Kazakhstan or the official thereof shall be issued in writing. The complaint lodger shall be notified in writing of the decision made.

A decision shall explain the right to file a further appeal against the decision with judicial bodies and provide the time limits for the filing of such an appeal.

The decision on the complaint having the public importance can be published with the consent of the complaint lodger.

Article 395. Appeal Against and Consideration of Decisions, Action or Action Default of Customs Bodies of the Republic of Kazakhstan and their Officials in the Court

Complaints against the decisions, action or action default of the Republic of Kazakhstan and their officials can be lodged to the judicial bodies of the Republic of Kazakhstan at the location of the customs body of the Republic of Kazakhstan or at the place of work of the official of the customs body of the Republic of Kazakhstan, whose decisions, actions or action default are disputed.

The procedure for lodgment, consideration and settlement of complaints and appeals against the decisions thereon shall be determined by the legislation of the Republic of Kazakhstan.

Chapter 57. Consideration of Decisions, Actions or Action Default of Customs Bodies of the Republic of Kazakhstan and their Officials for Purposes of Control

Article 396. Consideration of Decisions, Actions or Action Default of the Customs Bodies of the Republic of Kazakhstan and their Officials for Purposes of Control

The superior customs body of the Republic of Kazakhstan or the superior official of the customs body of the Republic of Kazakhstan at any time, for the purpose of exercising control over implementation of the legislation of the Republic of Kazakhstan, shall be entitled to cancel or change the decision of the subordinated customs body of the Republic of Kazakhstan or subordinated official of the customs body of the Republic of Kazakhstan and to take any measures, prescribed by legislation of the Republic of Kazakhstan with respect to illegal actions or action default of the subordinated customs bodies of the Republic of Kazakhstan or subordinated officials of the customs bodies of the Republic of Kazakhstan.

## SECTION XVI. Officials of the Central Customs Body and Customs Bodies of the Republic of Kazakhstan

### Article 397. Officials of Customs Bodies of the Republic of Kazakhstan

Only capable citizens of the Republic of Kazakhstan, who are able in terms of their business and moral qualities, education and state of health perform functions, with the customs bodies of the Republic of Kazakhstan are charged, may hold official positions within the customs bodies of the Republic of Kazakhstan.

A probation period from three months to one year shall be applied to those hired to work at the customs bodies of the Republic of Kazakhstan.

It shall not be allowed to employ to work within the customs bodies of the Republic of Kazakhstan persons who are retired because of their age or state of health from the Armed Forces of the Republic of Kazakhstan, the National Security Committee of the Republic of Kazakhstan, the Ministry of Internal Affairs of the Republic of Kazakhstan and the Procuracy Bodies of the Republic of Kazakhstan.

The Government of the Republic of Kazakhstan shall lay down the procedure in the Regulation on Service of Customs Offices of the Republic of Kazakhstan, pursuant to which customs offices serve within the customs bodies of the Republic of Kazakhstan and pass qualification exams.

The officials of the customs bodies of the Republic of Kazakhstan shall be promoted to special ranks as follows:

The Sergeants:

junior sergeant;

sergeant;

senior sergeant.

The Junior Leadership:

warrant customs officer;

senior warrant customs officer.

The Medium Leadership:

junior customs lieutenant;

customs lieutenant;

senior customs lieutenant;

customs captain.

Senior leadership:

customs major;

customs lieutenant-colonel;

customs colonel.

Highest leadership:

customs general-major;

customs general-lieutenant;

general-colonel.

Special ranks of the highest leadership shall be awarded by the President of the Republic of Kazakhstan.

Special ranks of the junior, medium and senior leadership shall be awarded by the head of the central customs body of the Republic of Kazakhstan according to the Regulation on Service of Customs Officers approved by the Government of the Republic of Kazakhstan.

Officials of the central customs body of the Republic of Kazakhstan and the customs bodies of the Republic of Kazakhstan shall be required to wear the uniform provided free of charge, the design of which is established by the Government of the Republic of Kazakhstan and the procedure to wear it - by the central customs body of the Republic of Kazakhstan.

The provisions of parts 4, 5 and 6 of this Article shall apply to head, specialists of customs labs, their training faculty, head and specialists of scientific and research institutions and educational institutions of the central customs body of the Republic of Kazakhstan.

**Article 398. Guarantee of Due Performance by Officials of the Customs Bodies of the Republic of Kazakhstan of their Official Duties**

The officials of the customs bodies of the Republic of Kazakhstan in performance of their official duties shall represent the State Power.

The official of customs bodies of the Republic of Kazakhstan in performance of duties, assigned to him, shall be guided only by legislative and other acts of the Republic of Kazakhstan and the international treaties of the Republic of Kazakhstan and subordinated only to direct superior official.

The illegal action or interference in any form whatsoever by government authorities, political and public organization and movements, mass media, other legal entities, their officials and other employees, individual businessmen and physical persons with the purpose of influencing the decision made by the customs body of the Republic of Kazakhstan or its official or the action, performed by such official, shall not be allowed.

Upon receipt of the order or instruction, which explicitly conflicts with legislation, the official of the customs body of the Republic of Kazakhstan shall be obligated to follow the legislation.

Establishment and operation of political parties, public associations pursuing political goals and their organizations within the customs bodies of the Republic of Kazakhstan shall not be allowed..

The officials of the customs bodies of the Republic of Kazakhstan in their work shall not be bound by the decisions of political parties and public movements. The officials of the customs bodies of the Republic of Kazakhstan shall not have the right perform entrepreneurial activities, including those through intermediaries, to be the attorney for the third parties on customs issues, hold more than one paid job, except for scientific and lecturing activities, fulfill customs-related works on legal agreements of civil nature, provide any assistance, not stipulated by the legislation of the Republic of Kazakhstan, to the persons with the use of their work position and receive compensation for it, provide services and privileges, participate independently or through representatives in the governance of economic entities.

The officials of the customs bodies of the Republic of Kazakhstan shall not be allowed to organize strikes and participate in them.

The offense of the official of the customs body of the Republic of Kazakhstan, threat, resistance, violence or encroachment on his life, health and property shall entail the responsibility in accordance with present Edict and legislation of the Republic of Kazakhstan.

Protection of life, health, honor, dignity and property of the family members of the official of the customs bodies of the Republic of Kazakhstan from criminal encroachments in connection with the performance by this official of his official duties shall be provided for by the legislation of the Republic of Kazakhstan.

**Article 399. Binding Nature of Legal Orders or Requirements of the Officials of the Customs Body of the Republic of Kazakhstan**

The legal orders or requirements of the officials of the customs body of the Republic of Kazakhstan shall be binding for the government authorities, persons, officials and other employees.

Disobedience to the legal order or requirement of the official of the customs body of the Republic of Kazakhstan, as well other actions preventing from the performance of official duties assigned to this official shall entail the responsibility prescribed by present Edict.

**Chapter 59. Application of Coercive Measures, Special Means and Firearms**

**Article 400. Terms and Scope of Application of Coercive Measures, Special Means and Firearms**

In the cases and in accordance with the procedure, prescribed by present Edict, the officials of the customs bodies of the Republic of Kazakhstan, provided that they have gone through the medical testing, shall have the right to apply coercive measures, special means and firearms.

The officials of the customs bodies of the Republic of Kazakhstan shall be obligated to take special training and go through regular checks for fitness to acting in the conditions that are associated with the application of coercive measures, special means and firearms.

In applying coercive measures, special means and firearms, the official of the customs body of the Republic of Kazakhstan shall be required to:

warn of the intent to apply them, providing the time sufficient for fulfillment of his requirements except when the delay in application of coercive measures, special means and arms entails direct danger to his life and health, can entail other material consequences, cases of sudden or armed offenses, offense with the use of military technical means and transport vehicles or other circumstances, when such warning is inappropriate or impossible in the given situation;

provide pre-medical help to the injured persons and immediately notify senior official of the of the customs body of the Republic of Kazakhstan or person, acting for the latter, on the case;

make efforts to minimize any damage, caused by elimination of danger, depending on the nature and extent of the danger of the offense, persons who committed it and force of resistance.

Senior official of the customs body of the Republic of Kazakhstan or the person acting for him shall be required to immediately notify the prosecutor on all incidents of death or injuries.

The application of coercive measures, special means and firearms with excess of authorization shall entail the responsibility determined by legislation of the Republic of Kazakhstan.

#### Article 401. Application of Coercive Measures

The officials of customs bodies of the Republic of Kazakhstan shall have the right to apply coercive measures to head off offenses, arrest the offenders, overcome their resistance, head off disobedience to legal orders or requirements, prevention access to the premises, territory, goods and transport vehicles, which are under customs control, any other actions that impede performance of duties assigned to these persons as prescribed by present Edict and legislation of the Republic of Kazakhstan.

#### Article 402. Application of Special Means

The officials of the customs bodies of the Republic of Kazakhstan shall have the right to use handcuffs, rubber sticks, tear gas, light-and-sound devices of distracting effect, tools for opening premises, tools for coercive stoppage of transport vehicles, water cannon, martial arts, trained animals and other special means and vehicles:

1) to ward off attacks on citizens, officers of customs bodies of the Republic of Kazakhstan or other persons performing their official or public duties for protection of public order and struggle against crimes and to liberate hostages;

2) to ward off attacks on buildings, premises, facilities, transport vehicles belonging or used by the customs bodies of the Republic of Kazakhstan, on goods and transport vehicles which are under customs control and to liberate the said items in case of their seizure;

3) to arrest offenders, deliver them to the office of the customs body of the Republic of Kazakhstan, whenever such persons show disobedience, resistance, the other counteraction or if such persons can injure other persons or themselves;

4) to head off physical resistance to the official of the customs body of the Republic of Kazakhstan;

5) to stop the transport vehicle, driver of which has not obeyed the order of the official of the customs body of the Republic of Kazakhstan to stop;

6) in any other cases of intentional impediment to performance of the duties assigned to the official of the customs body of the Republic of Kazakhstan.

Application of special means to women, persons with visible indications of disability and minors shall be prohibited, except when they offer armed resistance or except for cases of group attack threatening people's lives and health.

The list of special means used by customs officers of the customs bodies of the Republic of Kazakhstan shall be determined by the Government of the Republic of Kazakhstan.

#### Article 403. Wearing, Storage and Use of Firearms

In performance of official duties, the officials of the customs bodies of the Republic of Kazakhstan shall be entitled to wear, keep and use firearms.

Firearms shall be used depending on the nature of the offense, specific offender, specific situation and only in circumstances and within the limits prescribed by this Edict.

The categories of officials of the customs bodies of the Republic of Kazakhstan, entitled to wear, keep and use firearms, shall be listed in the act of the central customs body of the Republic of Kazakhstan approved by the Government of the Republic of Kazakhstan.

The list of types of firearms and ammunition thereto, to be used in the customs bodies of the Republic of Kazakhstan, shall be identified by the Government of the Republic of Kazakhstan.

Officials of the central customs body of the Republic of Kazakhstan and customs bodies of the Republic of Kazakhstan shall bear responsibility for the loss, careless storage, inappropriate fulfillment of duties on guarding arms and ammunition in line with the legislation of the Republic of Kazakhstan.

#### Article 404. Application and Use of Firearms

As an extreme measure, the officials of the customs bodies of the Republic of Kazakhstan shall have the right to apply firearms in the following cases:

1) for protection of citizens from criminal encroachment as well as for liberation of hostages;

2) for warding off the group or armed attacks on officials of the customs bodies of the Republic of Kazakhstan and members of their families;

3) for warding off the attacks on buildings, premises, facilities and transport vehicles belonging to or used by the customs bodies of the Republic of Kazakhstan, goods and transport vehicles under customs control;

4) arrest of persons who offered armed resistance or who were caught in the process of committing material crime and of armed persons refusing to follow the legitimate order to give in the arms;

5) for stoppage of transport vehicles by damaging them whenever the driver does not obey the repeated legal orders from the official of the customs body of the Republic of Kazakhstan to stop, thereby jeopardizing life and health of citizenry;

6) for protection from attacks of animals;

7) for warning about application of arms, giving the alarm signal or calling for help.

Application of arms to women, persons with visible indications of disability and minors except when they offer armed resistance, except for cases of armed attacks and unless the use of arms can jeopardize life and health of other citizens.

In all the cases of application of arms, customs official shall take required measures to ensure safety of surrounding people, provide emergent medical aid to injured, and inform the prosecutor.

Chapter 60. Compensation, Material and Living Support and Social Protection of Officials of Customs Bodies of the Republic of Kazakhstan

Article 405. Remuneration of Labor of Officials of Central Customs Body and of Customs Bodies of the Republic of Kazakhstan

Payment terms of officials of the central customs body of the Republic of Kazakhstan and the customs bodies of the Republic of Kazakhstan shall be determined by the Government of the Republic of Kazakhstan.

The working hours and also the work during night time, week-ends and holidays shall be determined by the Regulations on Service of Officials of the Customs Bodies of the Republic of Kazakhstan.

Article 406. Payment of Allowances in Case of Death of the Official of the Customs Body of the Republic of Kazakhstan, Injury or Other Damage to Health and Indemnification of Material Loss

In case of death of the official of the customs body of the Republic of Kazakhstan in connection with the performance of the official duties, the family of this person shall receive lump sum allowance in the amount of 10 annual compensations of the official in accordance with his last position in the customs bodies of the Republic of Kazakhstan.

In case when the official of the customs body of the Republic of Kazakhstan in connection with performance of official duties is injured or suffered other damage to health preventing him from further engagement in professional activities, said person shall receive the lump sum allowance in the following amounts:

- disabled of first and second group - 5 annual compensations;
- disabled of third group - 2 annual compensations;
- in case of permanent loss of capacity to work without qualifying for disability - 1/2 of the annual compensation.

Monthly payments to indemnify for the damage caused to the officers by injury or other damage to health (in case of death - to family members) in connection with performance of official duties in the customs bodies of the Republic of Kazakhstan, the indemnification of additional expenses caused by damage to health, shall be effected in accordance with the procedure and on the terms determined by the legislation of the Republic of Kazakhstan.

The damage caused to the property of the official of the customs body of the Republic of Kazakhstan or his next of kin in connection with performance by this official of duties shall be indemnified in full.

Payment of allowances and indemnification of the property damage shall be made out of the State budget of the Republic of Kazakhstan.

The procedure for calculation of the annual compensation and payments mentioned in this Article shall be determined by the Government of the Republic of Kazakhstan.

Article 407. Compulsory State Personal Insurance of the Officials of the Customs Bodies of the Republic of Kazakhstan

The officials of the customs bodies of the Republic of Kazakhstan shall be liable to compulsory state personal insurance at the expense of the funds of the state budget of the Republic of Kazakhstan. The insurance amounts shall be paid:

1) in case of death of the insured official during the period of service in the customs bodies of the Republic of Kazakhstan or before the expiry of one year after retirement therefrom as a consequence of wound (contusion), other bodily injuries, diseases occurred during execution of duties, to his heirs (upon producing of the inheritance right certificate) - 10-fold annual money remuneration;

2) in case of qualifying disability of the insured person in connection with the execution of official duties during the service or before the expiry of one year after retirement from the customs bodies of the Republic of Kazakhstan:

- to the invalid of the first group - 5-fold annual remuneration;
- to the invalid of the second group - 3-fold annual remuneration;
- to the invalid of the third group - 1 annual remuneration;

3) in case of severe bodily injury inflicted to the insured person in connection with the execution of official duties without entailing disability -

3 month remuneration, and in case of medium or trivial bodily injury - one month remuneration.

The insurance payment under this type of insurance cover shall be paid regardless of payments under other types of insurance and payments for indemnification for damage.

The annual money remuneration of the official of the customs body of the Republic of Kazakhstan shall be determined on the basis of the last position held by this official in the customs body of the Republic of Kazakhstan and include all types of money payments which the said person was supposed to receive in the year of insurance event emergence.

Article 408. Income Tax Imposition on Personal Income of the Officials of Customs Bodies of the Republic of Kazakhstan

The procedure and terms of income tax imposition on personal income, gained in connection with the performance of official duties by officials of the customs bodies of the Republic of Kazakhstan, shall be determined by the Tax Legislation of the Republic of Kazakhstan.

Article 409. The Leave of the Official of the Customs Body of the Republic of Kazakhstan

The official of the customs body of the Republic of Kazakhstan every year shall be entitled to the 30 day leave without taking into account the time of travel to the place of rest and back with the coverage of travel costs.

Regular 45 day leaves shall be granted to the officials who serve in high-mountain areas as well as in other areas of the Republic of Kazakhstan with hard or unfavorable climatic conditions as determined by the Cabinet of the Ministers of the Republic of Kazakhstan.

The officials of the customs bodies of the Republic of Kazakhstan shall be entitled to additional paid leave:

- after 10 years of service in these bodies - 5 calendar days;



after 15 years of service - 10 calendar days;

after 20 years of service - 15 calendar days.

Article 410. Provision of Officials of the Customs Bodies of the Republic of Kazakhstan with Living Space, Telephone.

The customs bodies of the Republic of Kazakhstan can have the housing assets formed in accordance with the procedure specified by the Cabinet of Ministers of the Republic of Kazakhstan.

In case of death of the official of the customs body of the Republic of Kazakhstan in connection with the execution thereby of the official duties the right shall be retained for the family of the killed person to receive the housing not later than one year from the day of death of the official of the customs body of the Republic of Kazakhstan on the same grounds as at the time of his getting registered.

The residential telephones shall be installed for the officials of the customs bodies of the Republic of Kazakhstan within three months from the date of filing the application subject to the availability of technical means.

Article 411. The Rights of Officials of Customs Bodies of the Republic of Kazakhstan During Travel and Business Trip The officials of the customs bodies of the Republic of Kazakhstan shall be entitled to use free of charge, for official purposes, all types of public urban, commuter, local transport (except for diplomatic transport and taxi), in rural areas - incidental passing transport.

Article 412. Pension Security of Officials of the Customs Bodies of the Republic of Kazakhstan

Pension security of the officials of the customs bodies of the Republic of Kazakhstan and their family members shall be determined in accordance with legislation of the Republic of Kazakhstan.

Officials of the customs bodies of the Republic of Kazakhstan after retirement shall retain the right to medical treatment in health care institutions, where they were registered.

Chapter 61. Administrative Violations, Encroaching on Activities of the Customs Bodies Of Republic Of Kazakhstan, Responsibility For Such Violations, Proceedings on Their Cases And Their Consideration

Article 413. Disobedience to the Order or Requirement of the Official of the Customs Body of the Republic of Kazakhstan

The disobedience to the legal order or requirement of the official of the customs body of the Republic of Kazakhstan in performance by this official of his official duties, except for cases, stipulated by the other Articles of the present Edict, shall entail imposition of the fine in the amount from five to ten monthly calculated indices .

Article 414. Offense of the Official of the Customs Body of the Republic of Kazakhstan, Persons Participating in Performance of the Customs Control, Customs Clearance, and in Proceedings on or Consideration of the Customs Rule Violation Case, As Well As Offense of Witnesses

The offense of the official of the customs body of the Republic of Kazakhstan in the course of performance by him of the official duties, auditors, experts, specialists, translators, involved or invited for participation in the performance of the customs control, proceedings on or consideration of the customs rule violation case, as well as witnesses, in absence of indications of the crime shall entail imposition of the fine in the amount from five to ten monthly calculated indices.

Article 415. Threat of Violent Actions With Respect to the Officials of the Customs Body of Republic of Kazakhstan, Persons Participating in Performance of the Customs Control, Customs Clearance, Proceedings on or Consideration of the Customs Rule Violation Case As Well As Witnesses

The threat of corporal injuries, beating or other violent actions with respect to the officials of the customs body of Republic of Kazakhstan in connection with performance by them of official duties, auditors, experts, specialists, translators, involved or invited for participation in the performance of the customs control, proceedings on or consideration of the customs rule violation case, as well as witnesses, in absence of indications of the crime shall entail imposition of the fine in the amount from ten to twenty monthly calculated indices.

Article 416. Refusal or Evasion By the Witness of Testimony

If the person, to be questioned concerning violation of customs rules as a witness, refuses or avoids testimony, except for cases of testimony against himself, his spouse and next of kin, to be determined by the Law, it shall entail imposition of the fine in the amount of three monthly calculated indices.

Article 417. Impeding or concession of Performance of auditing, check, inventory

Impeding or concession of the officials of the legal person or individual businessmen performance under the decree of the customs body of Republic of Kazakhstan of auditing, check, inventory, if them performance it is provided by its his charter, rules of, but also legislation of Republic of Kazakhstan, - results in imposition of the fine on, individual businessmen at a rate of twenty monthly calculated indices , and for officials of the legal person - fifty monthly indicated indices.

Article 418. Concession or evasion of an expert and expert from participation in production on business about infringement of the customs rules, realization of the customs control or production of customs registration

Concession or the evasion without valid excuse of the expert from a summer residence of the conclusion, interpreter - from participation in production or consideration of business about .infringement of the customs rules, and expert, besides - and from participation in realization of the customs control or production of customs registration - results in imposition of the fine at a rate of ten monthly calculated indices.

Article 419. Concession or evasion of the Republic official from fulfillment of the decree or assignment order about realization of examination or requirement about a call of the expert

Concession or evasion without valid excuse the officials, which decree or assignment order of the customs body of Republic of Kazakhstan in realization of examination or requirement about a call of the expert for participation in realization of the customs control, production of customs registration, production on business about infringement of the customs rules or its his consideration is directed, from their fulfillment - attracts imposing on the official of the fine at a rate of three

Article 420. Impeding to the official of the customs body of Republic of Kazakhstan in realization of customs inspection and other actions

Impeding to the official of the customs body of Republic of Kazakhstan in realization of customs inspection and other actions, stipulated by the present Decree, if such impeding does not attract the criminal liability or responsibility according to other

Articles of the present Decree, - attracts imposing of the fine in the size from five up to twenty monthly calculated indices.

Article 421. illegal effect or the interference with the purpose to affect the accepted decision or realized action

Illegal effect or interference In which was to the form on the part of the legal persons, their officials and other workers with the purpose to affect on accepted by the customs body of Republic of Kazakhstan or its his official the decision or action realized by this official, and the equally such effect or interference of the individual businessmen and physical persons - attracts imposing of the fine at a rate of ten monthly calculated indices .

Article 422. Proceedings On And Consideration Of Administrative Violations, Encroaching On The Activities Of The Customs Bodies Of Republic Of Kazakhstan

Proceedings on and consideration of the cases of administrative violations, encroaching on the activities of the customs bodies of republic of Kazakhstan, shall be performed in accordance with the provisions of this chapter as they concern the procedure, determined by section XII of present edict, and if unsettled by those, they shall be governed in accordance with legislation of the republic of Kazakhstan concerning administrative violations.

Proceedings on administrative violation cases, indicated the first part of this Article, shall be performed by specially authorized officials of the customs bodies of the Republic of Kazakhstan; these cases shall be tried by the courts of the Republic of Kazakhstan.

Article 423. Transmission Of The Case Of Administrative Violation Encroaching On The Activities Of The Customs Bodies Of The Republic of Kazakhstan

Upon termination of proceedings on the case of administrative violation, encroaching on activity of the customs bodies of Republic of Kazakhstan, senior official of appropriate customs body of Republic of Kazakhstan, his deputy or the authorized official of the Central Customs Body of Republic of Kazakhstan, shall issue the resolution to transfer such case for consideration by judicial bodies of the Republic of Kazakhstan not later than fifteen days prior expiry of the penalty imposition period. Said resolution shall include:

name of the customs body of the Republic of Kazakhstan, on behalf of which resolution has been issued,  
surname, name, patronymic of the official who issued resolution, date and place it was issued;  
information on the person, with respect to which resolution was issued,  
information on the person, with respect to which violation was committed,  
description of circumstances, detected in course of proceedings on the case,  
reference to the Article of present Edict, that provides for responsibility for committing the violation,  
name of the judicial body of the Republic of Kazakhstan, to which the case is transferred for consideration.  
Resolution shall also indicate costs incurred in performance of the proceedings on the case.

Chapter 62. Responsibility of the Customs Bodies of the Republic of Kazakhstan and Their Officials

Article 424. Responsibility of the Customs Bodies of the Republic of Kazakhstan

The customs bodies of the Republic of Kazakhstan shall be responsible before the citizenry and State for ensuring the economic sovereignty and economic security of the Republic of Kazakhstan, state of protection of the legal rights and interests of the persons and fulfillment by them of obligations in the sphere of customs business.

If their employees violate legal rights and interests of the citizens, the customs bodies of the Republic of Kazakhstan shall be obligated to restore these rights and ensure that guilty persons are punished, in accordance with the legislation of Republic of Kazakhstan.

The customs bodies of the Republic of Kazakhstan shall be responsible for the losses or damage, caused to the persons and their property owing to their illegal decisions, actions or action default in the performance by them of work duties.

The losses or damage shall be indemnified on the general basis in accordance with the procedure, stipulated by the legislation of the Republic of Kazakhstan.

Article 425. Responsibility Of The Officials And Other Employees Of The Customs Bodies Of the Republic Of Kazakhstan

Disciplinary, administrative, criminal and other responsibilities for illegal decisions, actions or action default, inappropriate performance of their work duties shall rest with the officials and other employees of the customs bodies of the Republic of Kazakhstan.

Article 426. Procedure for Entry of Present Edict Into Force

Present Edict shall enter into force as of the date of its publishing.

President

Republic of Kazakhstan

N. NAZARBAEV

Almaty, 20 July 1995, №2368