

S. Mamyrova^{1*}, S.K. Zhetpisov², Sh. Sabitova³, M.H. Zhumanova¹

¹D.A. Kunaev Eurasian Law Academy, Kazakhstan, Almaty

²NAO "Toraigyrov University", Kazakhstan, Pavlodar

³Sorbonne Institute-Kazakhstan KazNPU named after Abai, Kazakhstan, Almaty

*e-mail: saltanat10.mamirova1970@mail.ru

ISSUES OF THEORY AND PRACTICE OF ORGANIZING AND CONDUCTING CUSTOMS INSPECTIONS AS ONE OF THE FORMS OF CUSTOMS CONTROL

This article is devoted to one of the urgent problems of modern customs law. The aspects of customs inspection considered in the article, as one of the forms of customs control, have a double meaning. On the one hand, the customs inspection helps the customs authorities to identify violations of customs and tax legislation committed by participants in foreign economic activity. On the other hand, customs inspections (especially if they are carried out frequently) prevent participants in foreign economic activity from freely carrying out business activities. Therefore, in the practical activities of customs authorities there, when organizing and conducting customs control, it is important to carry out actions clearly regulated by customs legislation. Since not only the detection of violations of customs legislation, but also the minimization of complaints and appeals to judicial authorities from participants in foreign economic activity regarding illegal actions of customs officials during customs inspection will directly depend on the exact implementation of the norms of customs legislation regulating the procedure for customs inspection. Identification of all problems related to the organization and conduct of customs inspections of participants in foreign economic activity will help make this necessary form of customs control transparent and effective.

All these issues are considered by the author in the article below. The conclusions made by the author are based on a comprehensive study of the norms of customs legislation regulating the organization and conduct of various types of customs inspection, as well as materials of practical activities of customs authorities and judicial practice on customs inspection.

The practical significance of this article lies in the possibility of using theoretical results when conducting further research in the field of customs law, in general, and customs control, in particular. Also, the results of the article can be used in the development and improvement of the norms of the customs legislation of the Republic of Kazakhstan.

Keywords: customs control, customs legislation, customs inspection, desk customs inspection, exit customs inspection.

С. Мамырова¹, С.К. Жетписов², Ш. Сабитова³, М.Х. Жуманова¹

¹Д.А. Қонаев атындағы Еуразиялық заң академиясы, Қазақстан, Алматы қ.

²«Торайғыров университеті» КЕАҚ, Қазақстан, Павлодар қ.

³Абай атындағы ҚазҰПУ-дың Сорбонна-Қазақстан институты, Қазақстан, Алматы қ.

*e-mail: saltanat10.mamirova1970@mail.ru

Кедендік бақылау нысандарының бірі ретінде кедендік тексерулерді ұйымдастыру мен жүргізудің теориясы мен тәжірибесі мәселелері

Бұл мақала қазіргі кедендік құқықтың өзекті мәселелерінің біріне арналған. Кедендік бақылау нысандарының бірі ретінде кедендік тексерудің мақалада қарастырылған аспектілері екі есе маңызды. Бір жағынан, кедендік тексеру кеден органдарының сыртқы экономикалық қызметке қатысушылар жасайтын кедендік, салық заңнамасын бұзушылықты анықтауға ықпал етеді. Екінші жағынан, кедендік тексерулер (әсіресе, егер олар жиі жүргізілсе) сыртқы экономикалық қызметке қатысушыларға кәсіпкерлік қызметті еркін жүзеге асыруға кедергі келтіреді. Сондықтан кедендік бақылауды ұйымдастыру және жүргізу кезінде отбасылық органдардың практикалық қызметінде кеден заңнамасымен нақты реттелген іс-әрекеттерді жасау маңызды. Кедендік тексеруді жүргізу тәртібін реттейтін кеден заңнамасы нормаларының нақты орындалуына кеден заңнамасын бұзу фактілерін анықтау ғана емес, сонымен қатар кедендік тексеру жүргізу кезінде кеден органдары лауазымды адамдарының заңсыз іс-әрекеттеріне қатысты сыртқы экономикалық қызметке қатысушылар тарапынан сот органдарына шағымдар мен өтініштерді барынша азайтумен байланысты болады. Сыртқы экономикалық қызметке қатысушылардың кедендік тексерулерін

ұйымдастыруға және жүргізуге байланысты барлық проблемаларды анықтау кедендік бақылаудың осы қажетті нысанын ашық және тиімді етуге көмектеседі.

Бұл сұрақтардың барлығын автор төмендегі мақалада қарастырады. Автор жасаған тұжырымдар кедендік тексерудің әр түрін ұйымдастыру және жүргізу тәртібін, сондай-ақ кедендік тексеру мәселелері бойынша кеден органдарының практикалық қызметі мен сот практикасының материалдарын реттейтін кеден заңнамасы нормаларын жан-жақты зерттеуге негізделген.

Осы баптың практикалық маңыздылығы кеден құқығы, тұтастай алғанда, Кедендік бақылау саласында одан әрі зерттеулер жүргізу кезінде теориялық нәтижелерді пайдалану мүмкіндігінде жатыр. Сондай-ақ баптың нәтижелерін Қазақстан Республикасы кеден заңнамасының нормаларын әзірлеу және жетілдіру кезінде пайдалануға болады.

Түйін сөздер: Кедендік бақылау, кедендік заңнама, кедендік тексеру, камералдық кедендік тексеру, көшпелі кедендік тексеру.

С. Мамырова^{1*}, С.К. Жетписов², Ш. Сабитова³, М.Х. Жуманова¹

¹Евразийская юридическая Академия им. Д.А. Кунаева, Казахстан, г. Алматы

²НАО «Торайгыров университет», Казахстан, г. Павлодар,

³Институт Сорбонна-Казахстан КазНПУ имени Абая, Казахстан, г. Алматы

*e-mail: saltanat10.mamirova1970@mail.ru

Вопросы теории и практики организации и проведения таможенной проверки как одной из форм таможенного контроля

Данная статья посвящена одной из актуальных проблем современного таможенного права. Рассматриваемые в статье аспекты таможенной проверки, как одной из форм таможенного контроля, имеют двойное значение. С одной стороны, таможенная проверка способствует выявлению таможенными органами нарушений таможенного, налогового законодательства, которые совершают участники внешнеэкономической деятельности. А с другой стороны, таможенные проверки (особенно, если их проводят часто) мешают участникам внешнеэкономической деятельности свободно осуществлять предпринимательскую деятельность. Поэтому в практической деятельности таможенных органов при организации и проведении таможенного контроля важно совершение действий, четко регламентированных таможенным законодательством. Поскольку от точного выполнения норм таможенного законодательства, регламентирующего порядок проведения таможенной проверки, будет напрямую зависеть не только выявление фактов нарушений таможенного законодательства, но и минимизация жалоб и обращений в судебные органы со стороны участников внешнеэкономической деятельности по поводу неправомερных действий должностных лиц таможенных органов во время проведения таможенной проверки. Выявление всех проблем, связанных с организацией и проведением таможенных проверок участников внешнеэкономической деятельности, поможет сделать эту необходимую форму таможенного контроля прозрачной и эффективной.

Все эти вопросы рассматриваются автором в изложенной ниже статье. Выводы, сделанные авторами статьи, основаны на всестороннем исследовании норм таможенного законодательства, регламентирующего порядок организации и проведения разных видов таможенной проверки, а также материалов практической деятельности таможенных органов и судебной практики по вопросам таможенной проверки.

Практическая значимость настоящей статьи заключается в возможности использования теоретических результатов при проведении дальнейших исследований в области таможенного права, в целом, и таможенного контроля, в частности. Также результаты статьи можно использовать при разработке и совершенствовании норм таможенного законодательства Республики Казахстан.

Ключевые слова: таможенный контроль, таможенное законодательство, таможенная проверка, камеральная таможенная проверка, выездная таможенная проверка.

Введение

The purpose of the study, the main points of which are outlined in this article, is to identify the legal nature, problems of organizing and conducting customs inspections of participants in foreign economic activity. The study of the legal nature of

the customs inspection of participants in foreign economic activity is necessary in order to determine the legislative parameters of this event. What is the purpose of customs checks of participants in foreign economic activity? What is the basis for such a customs check? What are the powers of inspectors? What are the limits of customs inspection?

What are the consequences after a customs check for participants in foreign economic activity? Answers to these and many other questions will help to identify problems in the organization and conduct of customs inspections, as well as to eliminate negative aspects in practice and in the legislation governing customs inspections.

Along with the above, the study of the legal nature of a customs check as a form of customs control is due to the fact that the changes that have occurred in the regulation of customs control, including customs checks, in the Code of the Republic of Kazakhstan “On Customs Regulation in the Republic of Kazakhstan” (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32) require a detailed analysis of these norms in comparison with the results obtained in practice. The analysis should be subject to the rules on customs inspection in relation to the effectiveness and efficiency of customs inspections of participants in foreign economic activity conducted by customs authorities during the period of validity of such rules.

Changes occur in the legislation of Kazakhstan and other countries all the time. This is due to the need to adapt to changing conditions. Improving existing legal acts is one of the options for improving the legislative framework. Since January 2018, the Customs Code of the EAEU came into force – a codified legal act, which was created to regulate customs relations within the territories of the participating countries.

This document replaced the Customs Code of the Customs Union, adopted back in 2009. The new code replaces the old one in order to simplify customs turnover, improve its conditions and create a more loyal common customs space. Revision of the norms of customs legislation is an objective process aimed at ensuring the effectiveness of such norms and creating favorable conditions for the work of participants in foreign economic activity.

Much attention is paid to the issues of organizing and conducting customs inspections, both by researchers in the science of customs law and by entrepreneurs. Thus, the article of the Russian researcher Larkina A.I. is devoted to highlighting the actual problems of customs inspection (<https://elibrary.ru/item.asp?id=46701390>). In it, the author considers the features of a customs check as a complex form of customs control carried out by authorized bodies and draws conclusions on improving the actions of the customs authorities of the Russian Federation.

The article by Bessonova A.E. is devoted to the consideration and analysis of statistical data on customs inspections by customs authorities and Matve-

eva N.V. (Bessonova 2021). The authors characterize the main problems of customs inspection and put forward proposals aimed at solving them.

Only the norms of customs legislation that are transparent and enforceable for participants in foreign economic activity will ensure the rule of law in the customs sphere and the interest of all subjects of customs law in their proper implementation.

Research Methodology

The goals set in the study of the issues of regulation of the organization and conduct of customs inspections involve the use of almost all methods of scientific research existing in legal science.

The method of historical analysis made it possible to trace the development of the norms governing relations associated with the emergence of such a form of customs control as a customs check, as well as the organization and conduct of a customs check. Along with this, the theoretical provisions of customs law were subjected to historical analysis, the authors of which considered various aspects of customs control and customs inspection.

Most of all, in the study of the organization and conduct of customs inspections, the comparative legal method of research was used. This method includes a wide range of tools that allow the most complete study and disclosure of the features, distinctive features of customs law in general, the institution of customs control and customs inspection, as a form of customs control, in particular. Such a tool of the comparative legal method as a normative comparison made it possible to draw conceptual conclusions regarding the characteristics of the customs law norms that regulate the customs check and its types. As a result of applying the method of problematic comparison, the author was able to identify and systematize the most pressing issues of law enforcement practice in organizing and conducting customs control.

Along with the above, a concrete sociological method was used, without which not a single study can do. This method made it possible to collect, process and analyze scientific material on the issue under study, the legal framework governing relations and practical material on the main problems of customs inspection.

Main part:

It should be noted that, in general, customs control is regulated by section 6 “Customs control” of

the Code of the Republic of Kazakhstan dated December 26, 2017 No. 123-VI “On customs regulation in the Republic of Kazakhstan”. In the structure of Section 6 Chapter 46 “General provisions on customs control”, Chapter 47 “Forms of customs control and their application”, Chapter 48 “Measures to ensure the conduct of customs control and their application”, etc.

According to Article 416 of the Code of the Republic of Kazakhstan dated December 26, 2017 No. 123-VI “On customs regulation in the Republic of Kazakhstan”, “Customs inspection is a form of customs control carried out by the customs authority after the release of goods using other forms of customs control and measures established by the Code to ensure customs control provided for by the Code, in order to verify compliance by persons with the customs legislation of the Eurasian Economic Union and (or) the Republic of Kazakhstan” art. 416 (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32).

Let’s analyze this definition. It follows from it that customs verification is one of the forms of customs control. It is important that the customs check is carried out after the release of goods. That is, after the completion of customs clearance and after the placement of goods in the declared customs procedure, the goods may be subject to customs inspection. At the same time, the actions of participants in foreign economic activity in relation to the transported goods and vehicles related to the customs clearance of goods may be subject to customs verification.

In essence, a customs check consists in comparing information about goods held by the customs authorities with documents and (or) accounting and reporting data, with invoices and other information received by the customs authorities. That is, information about goods declared by declarants will be compared with information about goods in accounting, tax and other reporting.

It should be noted that the current definition of customs control does not include control over the implementation of international legislation. In this regard, we consider it expedient to expand the concept of customs control, including in it the provision by customs authorities of control not only of national legislation and the legislation of the EAEU, but also of international legislation.

Consider the cases in which a customs check is carried out.

1. A customs check is carried out under customs control in accordance with paragraph 9 of

Article 399. Namely, in order to verify information that confirms the release of goods already cleared by customs and used in the customs territory of the Eurasian Economic Union, if the customs authorities have certain information. This information that such goods were imported and are in the customs territory in violation of the customs legislation of the EAEU p. 9, art. 399 (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32).

2. A customs check is carried out under customs control in accordance with paragraph 4 of Article 484. In this case, when entering into the registers of persons carrying out activities in the field of customs, the customs authorities check the fulfillment of the conditions for inclusion in the registers or those applying for inclusion in them. Along with this, the customs authorities conduct customs checks in relation to persons who have already entered the registers and carry out their activities as customs representatives, customs carriers, owners of a temporary storage warehouse, customs warehouse, free warehouse, duty-free shop p. 4, Art. 484 (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32).

3. A customs check is carried out under customs control in accordance with paragraph 5 of Article 529. In this case, a customs check is carried out in relation to participants in foreign economic activity who claim to receive the status of authorized economic operators. Why do they need to enter the relevant register and fulfill the conditions for inclusion in such a register. A customs check can also be applied to already existing authorized economic operators for compliance with the conditions for their inclusion in the register p. 5, art. 529 (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32).

The subjects of customs inspection are:

- on the one hand, the customs authorities and officials of the customs authorities;
- on the other hand, the persons being checked.

Officials of other state bodies of the Republic of Kazakhstan may be involved on the part of the customs authorities when conducting a customs check. They are involved in researching issues that require special knowledge and skills, and obtaining advice during customs inspections.

Let’s take a closer look at the persons being checked. The Code “On Customs Regulation in the Republic of Kazakhstan” refers to them:

- 1) declarants;
- 2) carriers;
- 3) persons carrying out temporary storage of goods in places that are not a temporary storage

warehouse;

4) persons carrying out activities in the field of customs;

5) persons having powers in relation to goods after their release;

6) authorized economic operators;

7) persons who directly or indirectly participated in transactions with goods placed under the customs procedure;

8) persons in respect of whom there is information that goods are (were) in his possession or use in violation of the customs legislation of the Eurasian Economic Union and other legislation of the Republic of Kazakhstan, including goods illegally moved across the customs border of the EAEU p. 5, Art. 416 (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32).

As follows from the customs legislation, the customs inspection is carried out by the customs authority in relation to the persons being inspected, which are created, registered in accordance with the legislation of the Republic of Kazakhstan, or having a permanent residence in the territory of the Republic of Kazakhstan. Such persons in the tax and, in general, financial legislation are called residents.

Among the persons being checked are persons who directly or indirectly participated in transactions with goods placed under the customs procedure. That is, in relation to such persons, a customs check can be carried out. But, on the other hand, these persons, who are connected with the person being checked in transactions with goods, are obliged, at the request of the customs authorities, to provide copies of documents and other information on settlements made with the person being checked. Such persons are obliged to provide information on a transaction with goods in relation to third parties who are also involved in transactions with such goods for the purposes of customs verification.

Due to the fact that Kazakhstan is currently pursuing a policy of supporting entrepreneurship, government agencies have established restrictions on conducting inspections of business entities, which include participants in foreign economic activity. It should be noted that when conducting a customs check, the customs authorities may involve other state bodies. This applies, for example, to the tax and other authorities of the Republic of Kazakhstan, which, at the request of the customs authorities, submit the documents they have and information about the person being checked.

Such information relates to the registration of organizations and individual entrepreneurs, the pay-

ment and calculation of taxes, as well as accounting and reporting documents, etc. Such documents may include documents constituting state commercial, bank tax and other secrets protected by law. At the same time, of course, such documents are seized strictly in compliance with the requirements of the law and are not subject to disclosure for other purposes.

The customs check is divided into cameral and field p. 7, art. 416 (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32). As a type of customs inspection, a cameral customs inspection is carried out by customs authorities at their locations, without going to the place of activity of the person being checked. Verification in this case consists in the study and analysis of information contained in customs declarations, shipping, transport and other documents provided by the person being checked when performing customs operations or at the request of customs authorities. In addition, during a desk customs inspection, customs authorities may examine documents and information from other state authorities regarding the person being inspected. Such documents include data from customs or other state authorities based on the results of applying the risk management system.

In-house customs inspection of the implementation in the places of activity of the customs authority without visiting the person being inspected, and, therefore, without drawing up a decision or instruction of the customs authority to conduct a desk customs inspection.

By the way, the customs legislation establishes a list of grounds for the appointment of a desk customs inspection. Therefore, only if there is such a basis, the head of the customs authority may decide to conduct a desk customs audit in respect of a participant in foreign economic activity.

So, the grounds for the appointment of a desk customs inspection are:

1) data obtained as a result of the analysis of information from the customs or other state bodies of the Republic of Kazakhstan, and which indicate a violation of the customs legislation of the EAEU, the Republic of Kazakhstan or other legislation of the Republic of Kazakhstan;

2) information that indicates a possible violation of the customs legislation of the EAEU, the Republic of Kazakhstan or other legislation of the Republic of Kazakhstan;

3) An appeal or request from the competent authority of a foreign state that is not a member of the Eurasian Economic Union to conduct an audit of

a person who has made transactions related to the movement of goods across the customs border of the EAEU with a foreign person;

4) verification of information obtained as a result of the information exchange of our customs authorities with customs, tax, law enforcement authorities of a foreign state;

5) appeals of persons, both individuals and legal entities, as well as state bodies, which indicate a possible violation of the customs legislation of the EAEU, the Republic of Kazakhstan and other legislation of the Republic of Kazakhstan;

6) a person's initiative application for a customs check;

7) the results of customs, tax and other types of control (including other forms of customs control and measures ensuring customs control), if they revealed possible violations of the customs legislation of the Republic of Kazakhstan;

8) cases of non-receipt of a response in the course of the previous customs check or on previously sent requests of the customs authorities;

9) reorganization of the audited person or filing documents for liquidation or bankruptcy p. 3, art. 417 (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32).

It should be noted that, since desk customs inspections do not interfere with the significant activities of business entities, except for identifying an unidentified frequency of their conduct. In other words, if one of the listed grounds is available, then the head of the customs authority may decide on the presence of a customs inspection chamber of a person in relation to the person being checked.

Since a desk customs check can be carried out within five years from the date of registration of the customs declaration for the goods being moved, it is likely that there may be cases of non-delivery of a notice of elimination of violations according to the registration data of the person being checked by the customs authorities. In this case, the customs authority, within five working days from the date of return of such documents, must conduct an examination at the location of the person being checked with the involvement of two witnesses. In other words, the customs authorities must document the absence of the person being checked at the place of registration. Based on the results of the examination, an examination report is drawn up. It indicates the date and place of compilation; Full name, position of the official of the customs authority who drew up the act; name of the customs authority; Full name, details of the identity document, address of

the place of residence of the involved witnesses; Full name or name of the person being checked, his identification number; information about the results of the survey p. 11, art. 417 (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32).

If, as a result of the examination, the actual absence of the inspected person at the location is established, then the date of delivery of the Desk customs inspection report and notification of the elimination of violations will be the date of drawing up the inspection report.

Thus, a desk customs inspection is an important type of customs inspection. Its significance lies in the fact that a desk customs inspection allows, at minimal cost, to verify compliance by participants in foreign economic activity with the customs legislation of the EAEU and the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan. Along with this, based on the results of a desk customs inspection, a decision may be made to conduct an on-site customs inspection in respect of participants in foreign economic activity.

An on-site customs check is a check that is carried out by the customs authority with a visit to the location of a legal entity, the place where the activities of an individual entrepreneur are carried out, or the place where these persons actually carry out activities p. 1, art. 418 (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32). This means that an on-site customs check is not carried out in relation to individuals, but only to legal entities and individual entrepreneurs. Article 418 of the Code "On customs regulation in the Republic of Kazakhstan" regulates the procedure for conducting an on-site customs inspection.

It should be noted that the Customs Code excludes norms that provide for scheduled on-site customs inspections. In other words, the law allows only unscheduled customs inspections of participants in foreign economic activity. In other words, field customs checks are divided by law into the following types:

- 1) for an unscheduled field customs inspection;
- 2) for a counter unscheduled field customs check.

As we noted above, an on-site customs inspection may be appointed based on the results of customs control, as well as on the basis of the results of a desk customs inspection. Moreover, unscheduled field customs checks can be carried out without limiting the frequency of such checks. To ensure the observance of the interests of participants in foreign economic activity, the legislation canceled sched-

uled customs checks. But this does not mean that participants in foreign economic activity will not be subject to customs checks. Customs checks will be carried out only if there are sufficiently compelling reasons that indicate violations of customs legislation. Also, on-site customs checks will be carried out in order to prevent violations of customs legislation, as part of the risk management system. Paragraph 10 of Article 418 of the Code “On Customs Regulation in the Republic of Kazakhstan” clearly defines the grounds for the appointment of on-site customs checks.

It should be noted that it is very important to observe the procedure for conducting an on-site customs check, both for officials of the customs authority and for the persons being checked. Since the actions of officials of the customs authority, if they are carried out in violation of the norms of customs legislation, can be appealed by the person being checked. This is important to ensure that the interests of participants in foreign economic activity are observed.

It is important when visiting the objects of customs inspection that the officials who are appointed as inspectors must present their service certificates. In other words, they must confirm their authority when conducting an on-site customs inspection. If an official of the customs authority, who is not specified in the order to conduct an on-site customs inspection, arrives at the exit customs check, the person being checked may not allow him to enter the objects of check and will be right. Presentation of service certificates before the on-site customs inspection is the duty of the appointed officials of the customs authority p. 14, art. 418 (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32).

For participants in foreign economic activity, an important point is that during the on-site customs inspection, he does not have the right to make changes or additions to the documents being checked that are related to his activities.

Next, we consider it necessary to pay attention to the timing of the on-site customs inspection. According to paragraph 16 of Article 418 of the analyzed Code, the term for conducting an on-site customs inspection should not exceed two months. Moreover, this period does not include the period of time between the date of delivery to the person being checked of the requirement to submit documents and information and the date of receipt of such documents and information.

Two months is the deadline for conducting an on-site customs inspection. But the legislation provides

for the possibility of its extension for one month by the decision of the customs authority that conducts such an inspection p. 17, art. 418 (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32).

As in the case of a desk customs inspection, an act of an exit customs inspection is drawn up during an exit customs inspection. It records all the results of the field customs inspection. The procedure for drawing up an act of an on-site customs inspection is regulated by paragraph 19 of Article 418 of the Code “On Customs Regulation in the Republic of Kazakhstan”.

The ratio of a desk and field customs inspection is that, based on the results of a desk customs inspection, the customs authorities can appoint an exit customs inspection.

It should be noted that the improvement of legislation is a continuous process that allows you to identify and correct the roughness of the legislation. This process should involve not only legislators, but also those to whom this law will apply.

In this regard, a good example is the entrepreneurs of Kazakhstan and their organization – the National Chamber of Entrepreneurs of the Republic of Kazakhstan “Atameken”. On their initiative and direct participation, changes were made to the current customs legislation of the Republic of Kazakhstan on the issues of conducting a customs check. Thus, 119 amendments were made to the Customs Code of the Republic of Kazakhstan in 2020. The amendments concern the improvement of the procedure for conducting a customs inspection, the procedure for applying the RMS, the digitalization of customs services and the protection of the rights of entrepreneurs in the customs sphere.

Regarding the regulation of the customs check, the following changes were made.

1) Elements of in-house tax control have been introduced into the procedure of a desk customs audit, allowing entrepreneurs to independently eliminate identified violations without bringing them to administrative responsibility. At the same time, the term for a desk customs check has been reduced from six to two months, and the term for the submission of additional documents by entrepreneurs, on the contrary, has been increased from five days to two months.

2) A new type of customs inspection has been introduced – a comprehensive on-site customs inspection based on the use of a risk management system (RMS). Such an inspection will be carried out according to the schedule approved for six months and posted on the website of the customs authority.

At the same time, entrepreneurs must receive notification of such an inspection 30 calendar days in advance.

3) Field customs checks will be carried out only by the customs authority at the place of registration of a participant in foreign economic activity.

4) Based on the results of the customs check, a preliminary act will be issued. Entrepreneurs can send their objections to the preliminary act, which must be considered by the customs authorities.

5) In the event of a gross violation of the procedure for conducting a customs check, the customs check may be declared invalid [4].

In other words, the changes made to the Customs Code are aimed at improving the procedure for conducting a customs inspection and increasing its efficiency in the interests of entrepreneurs and the quality of a customs inspection.

In practice, customs officers very often question the correctness of determining the customs value by foreign economic activity participants and require supporting documents. This, of course, is not always convenient for participants in foreign economic activity and requires various costs on their part, including with the tax authorities. The question arises – what are the customs authorities guided by when they themselves calculate the customs value and ask it to be recalculated by participants in foreign economic activity. The most important thing: how to be in this case, the participants in foreign economic activity?

As a rule, the most common method for determining the customs value of goods is the first method under customs legislation – this is the “method at the transaction price of imported goods” [1, art. 101]. In accordance with this method, the customs value of the imported goods is calculated by adding the value of the goods themselves, paid to the seller, with the cost of actual costs, including the costs of transportation and delivery of goods (freight), and also insurance costs. According to the customs legislation, if this method cannot be applied, then other methods for determining the customs value are applied (there are six in total).

However, in practice it often turns out that it does not matter by what method the FEA participant calculated the customs value for imported goods, but in any case, the customs authorities usually consider this customs value to be incorrectly determined and underestimated. Naturally, the customs authorities will always be interested in recalculating the declared customs value only in the direction of its increase. For them, the higher the cost, the great-

er the amount of the customs payment, and this is beneficial for them. Well, it is natural that the customs representatives, who depend on the customs authorities more than on the participants in foreign economic activity, prefer to satisfy the customs officers than the latter.

Therefore, they recalculate the customs value and set the required value adjustment. But this will not happen if the participants in foreign economic activity are always ready and have all the documents confirming the correctness of the calculation of the customs value, which is shown in the customs declaration.

But one cannot accuse the customs authorities of being biased. Usually, the main reason that the customs officers question the correctness of the calculation of the customs value is the unreliability of the information that the participants in foreign economic activity provide to the customs officers themselves. Whereas, according to the customs legislation of the Republic of Kazakhstan, the customs value declared in the customs declaration, and all information related to the correctness of determining the customs value, must be based on “reliable, quantifiable, objective and documented information” (http://online.zakon.kz/Document/?doc_id=39082703#pos=470;-32).

Naturally, if the declarant does not have such information, the customs authorities have the right to use the information they have on similar similar goods, including that contained in the catalogs of trading companies. And of course, the content of this paragraph allows the customs authorities to consider the information provided by the participants in foreign economic activity as “inaccurate” and use their sources of information allowed by law to recalculate the customs value. At the same time, they take prices from the Internet, directories, statistical data, etc. as an example or benchmark. And it does not matter to them that these prices, as a rule, are retail prices, or are indicated without discounts. In addition, customs officials consider the price indicated in the contract to be too low if they are aware of higher prices for exactly the same goods that were imported earlier. If this happens, then the participant in foreign economic activity must prove through documents that the customs value determined by him for his goods is reliable, individual and cannot be compared with the prices for analogues of this goods. However, in practice it is very difficult to prove one’s case to the customs authorities, it is almost impossible.

In this case, it would be logical if, in order to justify the customs value, the FEA participant

would attach to the main documents a copy of the export declaration in the country of the sender-seller in which the goods were issued. In this case, it would be better if this declaration is certified by the sender himself and, if possible, by the customs authority of the seller's country. This will prove to the customs officers and will confirm that the goods were exported from the country in which the goods were purchased, exactly at the price indicated in the customs declaration. In addition, you can confirm the value of the declared goods by presenting bank documents confirming the payment by the declarant of exactly the amount indicated in the declaration.

In practice, there were cases when the customs authorities tried to recalculate the customs value of imported materials, based on information from the statistical database of our country. But experienced participants in foreign economic activity, thanks to the arguments and evidence they cited in defense of the correctness of prices for imported materials, which were provided by the supplier of discounts for the grade of material, a large batch of purchases, etc. (by the way, all this was stipulated in the contract), were able to leave the customs value at the same level.

In practice, situations have repeatedly arisen when the customs authorities insisted on adjusting the customs value only because of discrepancies between the price of equipment declared by the company in the customs declaration and statistical data on previous imports of similar goods.

It also happens that customs authorities often require participants in foreign economic activity to submit additional documents, which, for various reasons, declarants cannot promptly do.

Among such additional documents required by the customs authorities may be: various price lists from the manufacturer, estimates and estimates of manufacturers for the goods being valued at a discount, as well as various accounting documents. Usually, in most cases, a foreign trade participant cannot provide all of the listed documents, due to the fact that many of these documents are internal documents of a foreign seller organization and may contain commercial or other secrets.

But all such participants in foreign economic activity need to keep in mind that if they can present other documents instead of the required ones, which also confirm the value of the imported goods, this will help him justify the value indicated in the customs declaration both before the customs authorities and, if necessary, in court.

To solve possible similar problems, it is necessary for all participants in foreign economic activity to stock up on the maximum number of documents confirming the cost of goods at the stage of purchasing goods abroad.

Regulated by the customs legislation of the Republic of Kazakhstan, relations related to the conduct of customs inspections by customs authorities in relation to participants in foreign economic activity make it possible to achieve the goal of customs control – compliance by participants in foreign economic activity with the norms of customs legislation. However, in practice, customs inspection is not always effective. One of the reasons for this is the weak methodological support of the risk management system (RMS).

It does not allow obtaining proper information about the results of applying risk minimization measures to solve control and analytical tasks. The existing risk management information system used by the customs authorities, despite significant financial injections, systematically fails, because many of its components are not integrated with each other.

According to the International Convention on the Simplification and Harmonization of Customs Procedures of 1973 (<https://inbusiness.kz/ru/news/proverki-s-narusheniyami-teper-nedejstvitelny>), the priority areas for selective control are:

- use of the risk management system;
- a risk analysis method for determining the persons and goods, including vehicles, subject to inspection, and the extent of such inspection;
- a strategy based on a system of measures to assess the likelihood of non-compliance with the law.

According to the Memorandum of Understanding between the Eurasian Economic Commission and the World Customs Organization, adopted in Brussels on June 17, 2016, four principles were defined regarding the risk analysis and management system:

- preliminary exchange of data on commodity deliveries in automatic mode;
- creation of a risk analysis and management system;
- creation of conditions at the border for the physical control of vehicles and containers;
- creation of strong partnership relations with other states (https://online.zakon.kz/Document/?doc_id=37170957&pos=4;-108#pos=4;-108).

These control measures should be proportional to the level of risk. It is important to introduce risk assessment and selectivity procedures in order to

make customs checks more efficient and less time consuming.

According to the international economist V.V. Bobyrev, it is necessary to strengthen international cooperation, about which he writes: "Competent international bodies, for example, Interpol and the World Customs Services Organization, should be responsible for collecting and disseminating information for competent authorities about current trends and ways of money laundering" (Bobyrev 2011: 43).

Currently, the NCIS National Service is responsible for customs control in the UK. In connection with the introduction of an automated computer system, information about financial transactions registered in the computer network of banks, police and customs was concentrated in a single center. This document for control provides for the use of the received operational data, commercial and transport documents provided by the exporter (importer). And also, at the request of the customs authority, you can request documents containing information on the quantity and quality of goods.

In the context of digitalization of public services and the activities of state bodies, it would be advisable to adopt the experience of foreign countries in relation to focusing the information flow in a single database of controlling state bodies.

Conclusions:

Thus, summing up the above, we come to the following conclusions.

First. In order to improve the concept of customs control in order to expand the powers of the customs authorities of the Republic of Kazakhstan to ensure that participants in foreign economic activity, along with the legislation of the Republic of Kazakhstan and the Customs Union of the EAEU, also comply with international legislation, the following definition is proposed:

"Customs control is a set of measures carried out by the customs authorities to comply with international legal acts of the Republic of Kazakhstan, as well as customs and other legislation of the Republic of Kazakhstan, the control over the implementation of which is entrusted to the customs authorities."

Second. The current risk management information system used by the customs authorities, despite significant financial injections, systematically fails, since many of its components are not integrated with each other.

The consequence of this is the infringement of the rights of entrepreneurs, and, consequently, the appeal of these illegal actions in court. The risk management system needs to be improved and brought into line with international standards.

Third. When conducting a desk customs check, the customs authorities question the correctness of the calculation of the customs value. Whereas, according to the customs legislation of the Republic of Kazakhstan, the customs value declared in the customs declaration must be documented.

Naturally, if the declarant does not have documentary evidence, then the customs authorities have the right to consider the information provided by the participants in foreign economic activity as "inaccurate" and use their sources of information allowed by law to recalculate the customs value. Customs authorities have the right to use the information they have to determine the customs value of goods for similar similar goods, including that contained in the catalogs of trading companies.

At the same time, they take as an example or a guideline prices from the Internet, directories, statistical data, etc. And it does not matter to them that these prices are usually retail prices, or are indicated without discounts. To solve this problem, it is recommended to attach a copy of the export declaration in the country of the sender-seller for which this product was issued to justify the customs value. In this case, it would be better if this declaration is certified by the sender himself and the customs authority of the seller's country. This will confirm that the goods were exported from the country in which they were purchased, and also that they were purchased at exactly the price indicated in the customs declaration.

Fourth. The creation of a unified information base of financial institutions, customs, tax and law enforcement agencies of the Republic of Kazakhstan on financial transactions will reduce the costs of controlling state bodies, advance the risk management system and greatly increase the efficiency of state, including customs control.

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