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MODERNIZING THE CUSTOMS SERVICE OF THE REPUBLIC OF KAZAKHSTAN IN CONDITIONS OF FORMATION AND DEVELOPMENT OF THE EURASIAN ECONOMIC UNION

Mazhit Essenbayev

*Customs Control Committee of the Ministry of Finance of the Republic of Kazakhstan,
the Republic of Kazakhstan*

zhzhaisanbaeva@q0100.customs.kz

Abstract

In the last decade of the 20th century, the creation of the Customs Union in the CIS region was regarded as an important step towards the reintegration of countries on the post-Soviet territory.

The desire and the initiate to form a qualitatively new level of relations on the basis of a new interstate association, formed on the voluntariness and rights equality principles were developed in the historical speech of the President of the Republic of Kazakhstan in Moscow State University on March 29, 1994 year.¹

Key words: customs regulation, Customs Code of Customs Union, customs payment and taxes, customs declaration.

Introduction

In his prominent speech at the Moscow State University the President of the Republic of Kazakhstan said, “There arose a necessity of moving to the qualitatively new level of relations between our countries based on new interstate association formed on the voluntariness and rights equality principles. The Eurasian Economic Union (EEU) can become such an association. It should be built on other than that of CIS principles, because the base of the new association should consist of supranational bodies served to solve two key issues: forming the united economic area and ensuring cooperative defense policy control. Herewith I would like to emphasize that all other issues concerning the interests of sovereignty, internal state-political organization, foreign policy activities of every participant remain inviolable, which means non-interference with each other’s domestic affairs” [1].

Now these words of the President are timely as well, though much has already been done. The necessity of regional integration is based upon the common territorial borders of the states, proximity of historical development; it is mutually complemented by natural resources, productive and economic potential, transport and communication links, socio-demographic, scientific and technological potentials as well as commonality of economic problems, external economic and

¹ The historical speech of the President of the Republic of Kazakhstan Nurslultan Nazarbayev with the idea to create the Eurasian Economic Community at the Moscow State University on March, 29, 1994 (http://yeurasia.org/nazarbaev_msu_1994/)

geopolitical interests.

A few years passed from the moment of forming Customs Union between Russia, Belarus and Kazakhstan formation and now nobody doubts the importance and necessity of this integration. It is proved by the dynamics of mutual trade turnover between our countries. In comparison to 2009, the trade volume of the Republic of Kazakhstan with the partners in the Customs Union in 2012 increased by 91.4%, i.e. by almost twice. The growth of mutual trade also has a positive impact on the overall foreign trade activity. In 2012 the volume of export-import operations in the Republic of Kazakhstan with third-world countries has reached 112 billion US dollars in value terms, having exceeded that of 2009 to 57%.

Since 2013 our countries have entered into a higher level of integration, which is the Common Economic Space, by combining capital and labor markets, conciliating our economic systems and elaborating common economic strategies of development and projects.

Taking up its position at the crossroads of Asia and Europe in the center of the Eurasian continent in order to get the most benefits from the new integrated association for its economic growth, the Republic of Kazakhstan actively increases its capacity towards developing the transport system, strengthening the old networks of major trunk oil and gas pipelines and the constructing new ones, as well as railways, roads, seaports.

Customs regulation is one of the traditionally effective levers of influence not only on foreign trade turnover, but also on mutual turnover of goods, the level and dynamics of the internal economic processes.

International practice determines the Customs Union as the economic union of several countries, which delegates the part of the state sovereignty concerning the customs regulation in the Customs Union. In this part, since 2010 the territory of the Customs Union has common rate policy; the general principles in the area of non-tariff regulations in regard to bans and restrictions have been adopted and implemented.

One of the components of the customs regulation is the customs administration, which is a barrier to the trade relations between the Member States of the Customs Union and third-world countries. The cancellation of internal borders has led to the merger of customs territories of Member States of the Customs Union into the common customs space, herewith while maintaining sovereignty our customs services, should operate as a single agency, coordinating their activity and unifying customs administration.

The first step in this work is the adoption of the Customs Code of the Customs Union in 2009 which is a core document, developed on the basis of the International Convention of the simplification and harmonization of customs procedures, taking into account the best practices at that time of Customs Services of Russia, Belarus and Kazakhstan concerning customs control and customs clearance. Other mechanisms, which are not included into the Customs Code and which are necessary for the customs authorities activities were adopted in the form of international contracts and the decisions of the Customs Union Commission.

In order to implement the regulations of the Customs Code of the Customs Union, the Customs Union Commission concluded 17 international contracts and made 56 decisions (as of August 1, 2014).

From December 2011 to June 2012 there was an active work in developing the amendments to the customs legislation of the Customs Union. This work resulted in making the draft Protocol on changes and additions to the Agreement on the Customs Code of the Customs

Union, including 126 amendments and having been sent to governmental agencies of States Parties to be agreed upon.

Now the Working group undergoes the process of discussing the results of the draft Protocol.

Then common standards and regulations for the information exchange concerning the customs control, monitoring and analysis were adopted as well as for technical equipment of the check points on the border.

For information. Now the customs services of the of member states of the Customs Union exchange the information:

- on fulfilling the control and analytical functions
- on exporting goods outside the territory of the Customs Union
- on transport means of international transportation.
- on preliminary decisions about goods classification.
- on the amount of distributed import taxes.

And last but not least, for the effective and simultaneous management of processes in the field of Customs Administration some documents defining the necessary tools and mechanisms of this regulation were adopted. First of all, these imply establishing a United Board of Heads of Customs Services from the member states of the Customs Union.

Undoubtedly, now the necessity and the topicality of setting up such an agency are evident. After all, the Customs authorities of Russia, Belarus and Kazakhstan, faced the task of coordinating their action on the common customs territory of the Customs Union. Contrary to other government authorities, they have harmonized their legislation almost by 100%.

For information. The United Board has 6 working groups working at common solution projects that are later introduced into practical activity of the Customs Service of member states, in particular:

- on developing risk management system in the Customs authorities of the member states of the Customs Union;
- on developing and applying Customs control after goods release;
- on the issues of goods classification;
- on protecting intellectual property;
- on applying the criminal law and the administrative offences law of the member states of the Customs Union in violating customs law;
- on Customs examination and expert researches.

The results of the basis of six meetings of the United Board are as follows: three draft decisions of the Customs Union Commission were prepared, three technical documents in the field of communication were developed and adopted.

At the same time, it should be noted that the customs development is a continuous process of improvement. One of the basic principles of the Customs Union is approximately equal level of the customs service development; the movement towards should be approximately the same. The Customs Services of member states should “check the time” from time to time and define the common strategic objectives in the short and long term perspective by identifying and eliminating problems of a general nature and by informing each other on the applied and planned information technologies to be introduced.

Now basing on system analysis and critical rethinking of its work, the Customs Services

and Eurasian Economic Commission seek the ways of further strategic development.

The general objective of the strategy, adopted by the Customs Service of the Republic of Kazakhstan for the period up to 2020 is to form the sustainable, effective functioning customs system, which would contribute to economic development and competitiveness of the economy of the Republic of Kazakhstan. The evaluation of the strategic objectives implementation is expressed by the specific values of target indicators in years, including the issue of reducing time for the customs clearance, for border crossing, for the effectiveness of the risk management system, and solving fiscal problems solving etc.

It should be noted that the problems the Customs Service of the Republic of Kazakhstan is facing today are not unique and correspond to the tasks which the Customs authorities of Russia and Belarus face. These issues are contained in the draft guidelines on improving customs administration in the Customs Union until 2015, developed by the Eurasian Economic Commission and customs Development Strategy up to 2018 and adopted by the Government of the Russian Federation in 2012.

Among the main priorities in its activities the Customs authorities determine reducing administrative barriers, both on the border and during customs clearance of goods, shifting the importance to the post-clearance control, using modern information technology.

Fulfilling its strategic objectives, the customs service of the Republic of Kazakhstan is currently working on the following issues:

1. Reducing the number of regulatory bodies, as well as consent documents required at check points on the border.
2. Delegating such administration duties as collecting indirect taxes (VAT, excise) to the tax authorities.
3. Introducing joint controls at check points on the border.
4. Developing the preliminary information exchange about goods movement between the Customs authorities of the Republic of Kazakhstan and the Customs authorities of the Contracting Parties, as well as between the Customs service and foreign trade administration in the country.
5. Developing and implementing public service standards on customs procedures.
6. Developing integrated customs rate to ensure the transparency of the customs clearance and to simplify the application of the tariff and non-tariff regulation.
7. Implementing the electronic declaration of the exported goods with the use of the procedure of remote release of goods.
8. Implementing and developing the status of Authorized Economic Operators.
9. Shifting the importance of customs control of goods imported into the territory of the Republic of Kazakhstan to post-clearance control, with regard to results of risk management system.
10. Tightening qualification regulations as for customs representatives and owners of Temporary Storage Warehouses in order to strengthen their responsibility as well as improve the quality of temporary storage.
11. Rating the customs posts according to the level of equipment, geographical location (external, internal), the composition of the goods.

The way these issues are resolved in Kazakhstan is presented below:

1. Reduction of regulatory bodies as well as consent documents required at check points on the border

Customs authorities have currently received the following control functions at check points on the border:

- transport control from the Ministry of Transport and Communications of the Republic of Kazakhstan;
- sanitary and epidemiological inspection of the Ministry of Health of the Republic of Kazakhstan;
- functions of the veterinary and phytosanitary control are also delegated to customs authorities. Thus, State control at checkpoints across the customs border of the Republic of Kazakhstan, will be implemented by the two regulatory authorities, customs and border control.

Nowadays to save the time there are only 4 customs documents required to cross the border: waybill; invoice; confirmation of payment Customs payment and taxes (CPT); bill of entry.

2. The establishment of joint controls at check points on the border

Cooperation with customs authorities of neighbouring countries has also helped to reduce the clearance time on the border. On June 2, 2012 we signed with the Head of the Customs Service of the Kyrgyz Republic the Protocol on interim arrangements for the joint customs control at a few road crossings on the Kazakh-Kyrgyz border.

Now, joint control is exercised on three Kazakh-Kyrgyz state border checkpoints: “Syptay Batyr”, “Aisha-Bibi”, “Korday”.

3. Delegating the collection of indirect taxes (VAT, excise) to the tax authorities

Speaking about the administration of indirect taxes there exist a few challenges which Customs authorities face, namely: the process time of considering the exemptions on VAT between two bodies: Customs and Tax; reporting of VAT payments to the two public authorities; money diversion from importers to pay VAT prior to release of goods; repeated taxation of imported goods in some cases; the high propensity for corruption – in the Republic of Kazakhstan we are planning to delegate the function of collecting indirect taxes on imported goods from third countries to the tax authorities.

The advantages of this solution are as follows:

- acceleration of the customs declaration procedure;
- simplification of the payment procedure, VAT refunds and credits;
- simplification of administration;
- exclusion of double taxation;
- business transparency and simplicity.

4. Preliminary information exchange about goods transferred between the Customs authorities of the Republic of Kazakhstan and the Customs authorities of the Contracting Parties as well as between the Customs service and foreign trade administration in the country.

Customs Service of the Republic actively cooperates with the customs services of the countries-partners in external trade. Today protocols on the implementation of the preliminary

information with the General Customs Administration of China have been signed.

We are planning to sign agreements with the United Arab Emirates, Italy, the Netherlands, France, Switzerland, Austria, France, Germany, Ukraine, Turkey, Canada, the Czech Republic and South Korea.

Beginning from June 17, 2012 year, according to the decision of the Customs Union Commission no. 899 dating from January 9, 2011, we have implemented the procedure of preliminary notification at road checkpoints of the Republic of Kazakhstan; which significantly reduces not only the time, but also financial expenditure on customs formalities. Today, transit together with preliminary information makes up 86% of the total number of transit operations.

The preliminary information is received by the web-portal of customs bodies of the Republic of Kazakhstan on a free basis for any participant of foreign economic activity.

5. Development and implementation of public service standards on customs procedures

The first six public service standards in the field of customs are approved and put into effect in the Republic of Kazakhstan, namely:

1. To include royalties and allied rights, trademarks, service marks and places of origin names to the Customs register of intellectual property;
2. To give the status of Authorized Economic Operator;
3. To include customs representatives to the register;
4. To include customs carriers to the register;
5. Customs clearance and release of goods;
6. To implement paperless declaring goods which are transferred across the customs border of the Customs Union.

This year another five standards are going to be introduced, as well as developing and introducing nearly twenty standards as for direct interaction of customs bodies of the Republic and the participants of foreign economic activity.

6. Development of the integrated customs tariff to ensure transparency of customs clearance and to simplify applying measures of tariff and non-tariff regulation

ICT is a systematized and codified list of information about all tariff and non-tariff measures applied for import, export or transit, including all government requirements concerning certain goods.

Introducing integrated customs tariff helps to automate procedures in obtaining permissions and customs declaring by reducing terms of customs clearance as well as to increase awareness of participants of foreign trade activities.

7. Introducing electronic declaration of exported freights with the use of remote release of goods

Today society and customs service approached such a level of information development that we need to reconsider customs technologies in favor of informative ones without which transition to a new level is impossible.

Since January 1, 2013 the Committee of Customs Control has begun the project on implementing paperless electronic declaring concerning the goods produced for export. By the end

of 2013 paperless electronic declaring had been implemented to the full.

In 2012 information system of electronic declaring of export came into force; on December 24-28 there was approbation and now in two regions (Kostanay and Karaganda) the pilot project is being introduced. At the second half of the year electronic declaring of import started to be used in a pilot mode. In general, electronic declaring came into force in 2014.

This is a very important sector as for cutting on expenses associated with international trade. Transition to electronic declaring will allow creating the simple, clear, effective and economic scheme of interaction between participants of foreign economic activity and customs authorities.

8. Introducing and developing the status of Authorized Economic Operators

The status of Authorized Economic Operators is an innovation in the customs legislation of our country, being developed according to recommendations of SAFE Framework of Standards to Secure and Facilitate Global Trade, as well as the International Convention on Simplification and Harmonization of Customs Procedures.

These days the status of AEO is given to more than 55 companies in the Republic of Kazakhstan. Practice has shown that the use of the simplified procedure allowed reducing a great number of customs formalities, to facilitate arranging the work, to reduce expenses on AEO.

Contribution to successful universal applying the SAFE Framework is impossible without ensuring mutual recognition of AEO certified by different customs administrations. In future, mutual recognition of AEO status will be essential so as operators could use the real benefits arising from SAFE Framework, and to take part in international trade on equal terms.

9. Shifting the importance of customs control of the goods imported to the territory of the Republic of Kazakhstan to post-clearance control with regard to results of risk management system

The purpose of shifting the importance of post clearance control to the stage when goods are released lies in accelerating customs clearance, thus control actions will be applied with use of the risk management system.

10. Tightening qualification regulations for customs representatives and owners of TSW (Temporary Storage Warehouse) in order to strengthen their responsibility as well as improve the quality of temporary storage

With regard to the analysis of customs offenses made by the customs service of the Republic of Kazakhstan we are developing the legislative acts which would tighten regulations as for institutions and officials working in customs infrastructure.

1.1. Referring to customs representatives:

To exclude from the register of customs representatives in case of administrative offense.

1.2. Referring to customs carriers:

To exclude from the register of customs carriers in case administrative offense and/or debt on customs payments.

1.3. Referring to warehouses of temporary storage:

To include ensuring payments of 5 million Euros to the qualification requirement for warehouses of temporary storage, as well as equipment available in a warehouse which reads out

information from electronic locking and sealing devices.

1.4. Referring to Authorized Economic Operators:

To increase the fee for receiving the status of Authorized Economic Operator from 1 million Euros to 5 million Euros.

11. Categorization of customs posts according to equipment degree, a geographical arrangement (external, internal), goods structure

In view of uneven development of customs posts, impossible and unfeasible technical and material equipment of each customs post in the territory of the Republic of Kazakhstan, categorization of posts is based on:

- geographical arrangement (external/internal);
- fitting out rate (infrastructure, TSW, customs control technologies, etc.);
- kind of goods (industrial, agricultural production, consumer goods);
- directions (export/import).

For information. Customs Control Committee has defined three categories of customs points

I category

- on the border;
- with well-developed infrastructure, TSW, customs representatives, carriers;
- traffic capacity no fewer than 100 vehicles a day;
- the main trunk routes. These customs points have the right to process any range of items.

II category

- in the regional centers of the Republic or in the large logistic centers of the country pegged to transport infrastructure;
- with well-developed infrastructure, TSW, customs representatives, carriers, customs warehouses;
- processing no fewer than 50 declarations in day. These customs points have the right to process any range of items.

III category

- in single-industry towns, the regional centers, villages;
- processing mainly homogeneous goods (agricultural products, ore, rolled steel, etc.);
- no well-developed infrastructure. These customs points process goods according to the list approved by Committee of Customs Control.

Summary and concluding remarks

The most important direction of Customs Service work in Kazakhstan is the work at creating favorable conditions for transport and logistics capacity development from the side of customs authorities of the Republic of Kazakhstan.

For the objective assessment of this work the World Bank developed the LPI index (logistics performance index) which would show whether the goods were delivered in an easy and simple way. The index would also demonstrate a condition of trade logistics at national and international levels. In our opinion, this index can be used to evaluate the work of customs service in a more objective way than indicators “Doing Business”. The following indicators underlie the definition of LPI: overall performance of customs authorities (speed, simplicity, predictability);

quality of infrastructure (ports, railroads, highways, information technologies); simple organization of the international deliveries of goods; competence of logistics (transport operators, customs brokers); possibility of tracking goods throughout the chain of deliveries; keeping up to the delivery periods (timely receiving goods by the consignee).

Therefore, the comparative characteristics of data in the period 2007-2012 (i.e. for 5 years of work) concerning the modernization of the Customs Service of the Republic of Kazakhstan in conditions of forming and developing Eurasian Economic Community is presented on the basis of LPI index:

- overall performance of customs authorities: performance arose from the 139th position in 2007 up to the 73rd position in 2012;
- quality of infrastructure: 138th and 79th positions respectively;
- simple organization of the international deliveries of goods: from the 129th to the 92nd position;
- competence in logistics: from the 126th to the 74th position;
- possibility of tracking goods throughout the chain of deliveries: from the 117th to the 70th position;
- keeping up to the delivery periods: from the 120th to the 132nd position;
- general index of logistics arose from the 133rd position in 2007 to the 86th in 2012.

These statistical data indicate substantial changes in the qualitative performance of customs services.

However, at the same time respondents point to problems which still exist:

- unstable legislation, frequent changes in the Customs Code of the Republic of Kazakhstan and Customs Code of Customs Union as a result of creating the Customs Union;
- administrative barriers during customs clearance procedures;
- the absence of preliminary information on freight;
- lack of electronic declaration;
- not competitive Kazakhstan routes due to high cost of transport services (in Kazakhstan the transport constituent on the goods which are transported by railway reaches 8%);
- mistrust to the transkazakhstan routes (due to risks of pilferage of freights) and, as a result, the high cost of insurance payments during transportation;
- imperfect organization of transport processes;
- lag in applying modern transport technologies as well as in informational support of transport sphere.

Endnotes

1. The historical speech of the President of the Republic of Kazakhstan Nurslultan Nazarbayev with the idea to create the Eurasian Economic Community at the Moscow State University on March, 29, 1994 (http://yeurasia.org/nazarbaev_msu_1994/)