



**On approval of the Agreement between the Government of the Republic of Kazakhstan and the Government of the Kingdom of Belgium on cooperation and administrative mutual assistance in customs affairs**

*Unofficial translation*

Decree of the Government of the Republic of Kazakhstan dated August 23, 2011 No. 945

*Unofficial translation*

The Government of the Republic of Kazakhstan **hereby RESOLVED as follows:**

1. To approve the attached Agreement between the Government of the Republic of Kazakhstan and the Government of the Kingdom of Belgium on cooperation and administrative mutual assistance in customs affairs, done in Brussels on December 5, 2006.

2. This resolution shall be enforced from the date of its signing.

*Prime Minister of the Republic of Kazakhstan*

*K.Massimov*

**AGREEMENT**

**between the Government of the Republic of Kazakhstan and the Government of the Kingdom of Belgium on cooperation and administrative mutual assistance in customs affairs**

The Government of the Republic of Kazakhstan and the Government of the Kingdom of Belgium, hereinafter referred to as the Parties,

taking into account the importance of ensuring the accurate calculation of customs duties, taxes and other payments levied on imports and exports, as well as the proper implementation of measures to prohibit and restrict customs control;

bearing in mind that violations of customs legislations shall be detrimental to economic, social, cultural, social health and trade interests;

bearing in mind that the illegal movement across borders of dangerous goods, endangered species of flora and fauna and toxic waste shall pose a threat to society;

recognizing the need for international cooperation in the field of the implementation and enforcement of customs legislation of member states;

convinced that efforts to prevent violations of the customs legislation of member states and to ensure the accurate calculation of customs duties, taxes and other payments can become more effective through the cooperation of the customs administrations of the Parties;

taking into account the international conventions to which the Parties to the prohibition, restrictions and special control methods for individual goods shall be Parties;

**hereby agreed as follows:**

## **Section I**

### **Definitions**

#### **Article 1**

The following terms shall be applied for the purposes of this Agreement,:

1. "Customs administration":  
in the Republic of Kazakhstan - Customs Control Committee of the Ministry of Finance of the Republic of Kazakhstan;  
in the Kingdom of Belgium, the Customs and Excise Administration of the Federal Public Service of Finance of the Kingdom of Belgium.
2. "Customs legislation" - a set of regulatory legal acts of the member states applied by customs administrations concerning the import, export, transit of goods, including regulatory legal acts, which relate to measures for prohibition, restriction and control.
3. "Customs duties and taxes" - customs duties, taxes and other payments levied upon the import or export of goods.
4. A "customs offence" - any breach of customs legislation, or attempted such breach.
5. "Person" - any individual or legal entity.
6. "Person Details" - any information regarding a person or person to be identified.
7. "Information" - any information, documents, reports, certified copies thereof or other communications in any form, including information on electronic media.
8. "Requesting Administration" - the customs administration that requests assistance.
9. "Requested Administration" - the customs administration from which assistance shall be requested.
10. "Administrative regulations" - directives, instructions, methodological instructions, which shall be guided by officials of customs administrations of the Parties.

## **Section II**

### **Sphere of the agreement**

#### **Article 2**

1. The Parties shall, through their customs administrations in accordance with the provisions of this Agreement, provide each other with administrative assistance to prevent investigate and suppress customs offences.

2. Assistance under this Agreement shall be provided by both Parties in accordance with the national legislation and administrative regulations of their states, within the competence and available capacity of their customs administrations.

## **Section III**

### **Sphere of mutual assistance**

#### **Article 3**

1. Customs administrations shall transmit to each other, upon request or on their own initiative, information that can help to ensure the proper implementation of customs legislation, as well as to prevent, investigate and suppress customs offences.

2. Each customs administration, when conducting investigations at the request of another customs administration, shall act in accordance with the national legislation and administrative provisions of its state.

#### **Article 4**

1. Upon request, the Requested Administration shall provide the necessary information on customs legislation and procedures applicable in the member states relating to investigations relating to customs offences.

2. Each customs administration shall, on its own initiative, transmit any available information concerning:

- 1) new methods of combating customs offences;
- 2) new trends, means or methods of committing customs offences.

#### **Article 5**

The customs administrations of the Parties may provide each other with technical assistance in the field of customs, including:

- 1) official business trip of customs officers to familiarize themselves with the technologies used by both customs services;
- 2) training and assistance in improving the special skills of customs officers;
- 3) exchange of information and experience in the use of technical means of monitoring and detection;
- 4) official business trip of customs experts on issues of customs affairs;
- 5) exchange of professional, scientific and technical data related to customs legislation and procedures.

## **Section IV**

### **Special cases of administrative mutual assistance**

#### **Article 6**

1. As requested, the Requested Administration shall provide the Requesting Administration with the following information:

- 1) if the goods imported into the customs territory of one member state legally removed from the customs territory of the other member state;
- 2) if the goods exported from the customs territory of one member state legally imported into the customs territory of the other member state;
- 3) on the customs regime under which the goods, legally imported into the customs territory of the member state, have been placed.

## **Article 7**

1. As requested, the Requested Administration shall carry out special supervision of:

- 1) the transfer, inter alia, of persons suspected by the Requesting Administration of having committed customs offences into and from the customs territory of the Requested Administration;
- 2) movement of goods, in which there shall be signs of customs offence;
- 3) vehicles in view of which the Requesting Administration has information that they are used for the purpose of violating customs legislation in the customs territory of the Requesting Administration state.

## **Article 8**

1. Customs administrations shall provide each other, on request or on their own initiative, with information on acts committed or preparing to be committed that commit or may commit a customs offence. Such information includes information on trafficking:

- 1) weapons, explosives and nuclear materials;
- 2) objects of art of considerable historical, cultural or archaeological value to the state of one of the Parties;
- 3) substances that pose a danger to the environment and public health;
- 4) endangered animal and plant species, their parts and derivatives.

2. In special cases where substantial damage to the economy, public health and safety, as well as other vital interests of the member of one member state, the customs administration of the other Party shall, on its own initiative, promptly provide information.

## **Section V**

### **Inquiry transfer**

## **Article 9**

1. Requests for assistance made under this Agreement shall be submitted in writing directly to the customs administration of the other Party and accompanied by all necessary

documents, in particular copies of documents submitted to the Requested Administration in export and import procedures. If circumstances so require, the request may be sent by e-mail. Such a request should be confirmed in writing within one month.

2. Requests made pursuant to paragraph 1 of this Article shall include the following information:

- 1) the name of the requesting authority;
- 2) the purpose and reason of the request;
- 3) a brief description of the case, a list of regulatory acts, as well as a type of investigation ;
- 4) names and addresses of the persons under investigation, if known.

3. The request of any Customs administration for a certain procedure shall be granted in accordance with the national legislation of the Requested Administration State.

4. The information provided under this Agreement shall be transmitted only to the officials designated for this purpose by each Customs administration. The list of such officials shall be transmitted by the customs administration of one Party to the other.

5. Requests shall be provided in English.

## **Section VI**

### **Execution of requests**

#### **Article 10**

In the event that the Requested Administration does not have the requested information, it shall make requests for such information in accordance with its national legislation and administrative regulations. These requests shall include obtaining all information and documents in connection with the customs offence.

#### **Article 11**

1. Upon written request, the officials appointed by the Requesting Administration, with the permission of the Requested Administration and subject to the conditions it may impose, for the purpose of investigating the customs offence, may:

1) verify the documents, records and other necessary data concerning the customs offence with the documents, records and other relevant data in the offices of the Requested Administration;

2) receive copies of documents, records and other important information related to the customs offence.

2. Officials of the Requested Administration staying in the territory of the other member state in the cases provided for in paragraph 1 of this Article shall be obliged to confirm the official position by providing an official certificate.

3. Officials of the Customs Service of one Party located in the territory of the member state shall be protected and liable for the commission of offences in accordance with the national legislation of that state.

## **Section VII**

### **Confidentiality of information**

#### **Article 12**

1. Any information obtained under this Agreement shall be used only for the purposes of this Agreement and only by customs administrations, except in cases in which the customs administration providing such information has clearly confirmed its use for other purposes or by other law enforcement authorities. Such use shall be subject to any restrictions imposed by the customs administration that provided the information.

2. The information and documents submitted upon request shall be used solely for the purposes of the implementation of this Agreement and may not be transmitted to anyone or used for other purposes and shall be made public without the written consent of the Customs administration that provided this information.

3. Any such information, if provided for by the legislation of the state of the Party providing the information, may be used in criminal investigations only after authorization has been obtained from the customs administration providing the information.

4. Any information obtained under this Agreement shall be protected and confidential and shall be subject to the same information under the legislation of the state of the other Party.

5. The transmission of data on individual under this Agreement shall be in accordance with the national legislation of the member states.

## **Section VIII**

### **Exceptions**

#### **Article 13**

1. If the Requested Administration considers that the provision of assistance may be detrimental to the sovereignty, security, public order or other important national interests of the state, or may violate industrial, commercial or professional secrets, or be contrary to national legislation and administrative provisions applicable by the Requesting Administration, it may refuse to provide assistance in whole or in part, or certain conditions may be imposed upon it.

2. If the Requesting Administration seeks assistance that could not be provided by itself in the case of a similar application to it by the Requested Administration, this fact should be noted in its request. Execution of such request shall be at the discretion of the Requested Administration.

3. Execution of the request may be deferred by the Requested Administration on the grounds that it may interfere with the ongoing investigation, proceeding or prosecution. In such a case, the Requested Administration shall consult with the Requesting Administration on the timing and conditions of the request as may be required by the Requested Administration.

4. If assistance is refused or postponed, the reason for refusal or delay shall be indicated.

## **Section IX**

### **Expenses**

#### **Article 14**

1. The Customs Administration may reject the claim for reimbursement due to the implementation of this Agreement, except for the expenses of certification, payment to non-government experts and translators. In this case, expenses shall be reimbursed only at the request of the authorized person.

2. In the event that major and minor expenses are required for the execution of the request, the Parties shall agree on the terms and conditions under which the request will be executed, including the cause of the expenses.

3. Expenses related to the implementation of Article 11 hereof shall be borne by the Requesting Administration Party.

## **Section X**

### **Implementation of the agreement**

#### **Article 15**

1. Customs administrations will ensure that those liable for investigating and suppressing customs offences establish and maintain direct and direct contact with each other, as appropriate.

2. Customs administrations shall agree on further actions under this Agreement necessary for the implementation of this Agreement.

3. Disputes between the Parties regarding the interpretation and implementation of this Agreement shall be settled through mutual consultations and negotiations.

4. At the request of one Party, Customs administrations shall meet to revise this Agreement.

## **Section XI**

### **Entry into force and termination**

#### **Article 16**

By mutual consent of the Parties, this Agreement may be amended and added by separate protocols, which are integral parts of this Agreement.

These Protocols shall enter into force in accordance with the procedure stipulated in Article 18 of this Agreement.

## **Article 17**

This Agreement does not affect the rights and obligations of the Republic of Kazakhstan and the Kingdom of Belgium arising from other international treaties to which they are parties

## **Article 18**

This Agreement shall enter into force on the first day of the third month following the date of receipt of the last written notification of the implementation by the Parties of the domestic procedures necessary for its entry into force.

## **Article 19**

1. This Agreement shall be entered into indefinitely and either Party may terminate this Agreement at any time through diplomatic channels.

2. This Agreement shall terminate three months upon expiry of the date of receipt by one Party of written notice of the intention of the other Party to terminate it.

In witness to which the undersigned, authorized in accordance with the procedure established by the national legislation of the member states, signed this Agreement.

Done at Brussels on December 5, 2006 in two copies, each in English, Kazakh, Dutch, French and Russian, all texts being equally valid.

In the event of a disagreement in the interpretation of the provisions of this Agreement, the Parties shall refer to the English text.

*FOR THE GOVERNMENT*

*OF THE REPUBLIC OF KAZAKHSTAN*

*OF THE KINGDOM OF BELGIUM*

*FOR THE GOVERNMENT*