

Information on reforms in customs legislation of the Republic of Uzbekistan

Customs Code of the Republic of Uzbekistan was approved by the Law of the Republic of Uzbekistan # 548-I dated December 26, 1997 and enacted from March 1, 1998 pursuant to Resolution of the Oliy Majlis (Parliament) of the Republic of Uzbekistan.

Current Customs Code of the Republic of Uzbekistan contains 198 articles comprising 19 chapters in XI sections. Here one can talk about conventional separation of the Code into two main parts, i.e. the general part and special part. General part forms main understandings in customs legislation, and as for the special part – it includes sections that form concrete and relatively independent blocks of customs operations.

In past, amendments and addenda were introduced in the Code 6 times (Laws of the Republic of Uzbekistan # 832-I dated August 20, 1999, # 175-II dated December 15, 2000, # 320-II dated December 7, 2001, # 405-II dated August 30, 2002, # 447-II dated December 13, 2002, and # 482-II dated April 25, 2003). Amendments touched upon the issues of customs payments and terms of payments, procedure for licensing the activity, control over which is imposed on customs authorities, and the issues regulating the procedures for customs control over goods processing.

It should be mentioned that the current Customs Code has basically fulfilled its tasks at the modern stage of economic development of the Republic of Uzbekistan. However it does not reflect the significant experience gained by customs authorities in 1998-2000.

At the same time due to the development of international law there are certain inconsistencies with international norms, in particular with rules of the World Trade Organization, provisions of Kyoto Convention and other international conventions that represent the summary of international practices. These inconsistencies should be eliminated from national legislation regardless of membership of our country in WTO or the mentioned conventions, since on the basis of these legal norms the foreign trade and its regulation is carried out in the overwhelming majority of countries, including their trade with the Republic of Uzbekistan.

Lacking in the current Customs Code are the number of important provisions, in particular the ones regarding protection of intellectual property, and there are no clear definitions of some important concepts, there is imbalance of rights and responsibilities of customs authorities on one side, and of law-abiding participants of foreign economic activity on the other. Listed deficiencies have most boldly identified themselves during the development of a new edition of Customs Code.

In recent years global changes are happening in all the sectors of world economy and trade. They lead to growth in goods production, and accordingly to the growth in the international turnover of goods, which in combination with the activity of international organizations and legal framework development, and introduction of modern information technologies stipulates the need to improve methods of tariff and non-tariff regulation of foreign economic activity, customs control and processing of commodities, currency control and of conducting foreign trade.

The need in the new edition of Customs Code of the Republic of Uzbekistan was caused by the practical problems in the development of economy and foreign trade of the Republic of Uzbekistan, and further development of legal framework for customs service activity, and by the backlog of the legislation in the area of customs legal relationships from national legislation substantially updated in general.

President of the Republic of Uzbekistan I.A. Karimov on the 14 session of the Oliy Majlis (Parliament) of first convocation when touching upon the issues of foreign economic activity regulations has set the following task:

“...all the system of organization of the foreign economic activity should be fundamentally reviewed. I think that it is excessively regulated. Methods of administrative regulation, and not of economic and tariff regulation, dominate in it. We should faster move to civilized forms of foreign economic activity adopted in the world, and to expedite the process of Uzbekistan’s accession to the World Trade Organization.”

President of our country has identified strategically important directions for development of a society and of a country as a whole in the near future. The tasks have been set for gradual implementation of a course for further liberalization and expanding of economic reforms in all the areas and sectors of the economy, which is inseparably linked with the need to liberalize the foreign economic activity. For this it is required to create even more favorable legal conditions that meet international norms, and guarantees and economic incentives for broad attraction of foreign investments in the country’s economy.

In 1997-2003 there were significant changes in the legal system of the Republic of Uzbekistan that were associated with adoption of a whole number of new laws which have fundamentally changed the legal climate in the country. Here first of all we are talking about the Laws “On foreign economic activity”, “On foreign investments”, “On guarantees to and measures to protect foreign investors’ rights”, “On entrepreneurship and guarantees for entrepreneurs’ activity”, “On licensing certain types of the activity”, “On protective measures, antidumping and compensation duties” and other legislative acts that are in interconnection with customs legislation.

During formation of market economy and of its legislative basis it was possible and justified to set practical mechanisms for carrying out customs activity at a by-law, predominantly agency level of normative regulation. Meanwhile international legal acts stipulate that all main norms for legal

relationships between the economic entities and public control authorities, which include customs, should be contained exactly in the legislative acts with clear distinction between the competency of the Government and of the agency.

According to the order of the President of the Republic of Uzbekistan as of February 10, 2000 “On measures to ensure the implementation of tasks identified in the report of the President of the Republic of Uzbekistan at first session of the Oliy Majlis (Parliament) of the Republic of Uzbekistan of second convocation” and also for the purposes to align customs legislation of the republic with generally accepted international legal norms, and to further liberalize the foreign economic and currency policy, the State Customs Committee is developing the draft new edition.

It is necessary to state that the Republic of Uzbekistan has entered with the European Community in the “Agreement on partnership and cooperation”, according to which it has undertaken the obligations to align national legislation with the European one. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan # 415 dated September 3, 1999 “On the comprehensive program of the Government of the Republic of Uzbekistan for implementation of the Agreement on partnership and cooperation (APC) between the Republic of Uzbekistan and EC” has identified main directions for improving current legislation of the Republic of Uzbekistan, including provisions pertaining to customs processing, transit, cargo warehouses and transportation.

For the purposes to adapt legislation of the Republic of Uzbekistan to EC legislation there were a number of seminars with participation of Eurocustoms representative conducted at the State Customs Committee, during which certain provisions of the current Customs Code of the Republic of Uzbekistan were analyzed in comparison with EC legislation and recommendations, that were taken into account when developing the draft new edition of the Code, were developed.

As for norms of international law, here one should mention that the main foundation for the new draft law are the International Convention for Simplification and Harmonization of Customs Procedures (Kyoto Convention), General Agreement on Tariffs and Trade and other international agreements and conventions on customs and international trade.

Draft new edition of Customs Code of the Republic of Uzbekistan is a much larger document than the Code in force. The increase is due to the fact that in new edition there is a more clear definition of legal relations, and more emphasis on regulation of the relations related to commodity and means of transport movement through the customs border. Enlightened are the peculiarities of including commodities in certain customs regimes and actions, including the issues of customs payments application.

New edition of Customs Code additionally includes such sections and chapter as “Special customs procedures”, “Risk management”, “International posting”, “Internal customs transit”, “Currency control”, “Protection of

intellectual property rights by customs authorities”, “Customs statistics”, “Information systems and information technologies” and others.

When developing the draft law with consideration to the practice of application of current Customs Code and experience accumulated by the world community in the area of international trade and customs law, the following main principles were taken into account:

- compliance with rules of international trade and customs, firstly with requirements of WTO and Kyoto Convention;
- elimination of existing inconsistencies between customs procedures in the current Code and international norms for customs operations;
- attachment to the document of a direct action feature;
- efficient facilitation to the development of trade and entrepreneurship through simplification and harmonization of customs procedures, and also through favoring international cooperation;
- full review of procedural section taking into account the experience and international norms;
- ensuring the compliance of the new edition of Customs Code to current legislation of the Republic of Uzbekistan regulating foreign economic activity and to international legal norms.

It is necessary to separately review the changes that have touched upon the administrative-procedural part of the draft Code.

Report of the President of the Republic of Uzbekistan on the first session of the Oliy Majlis (Parliament) of the Republic of Uzbekistan of second convocation on the issue of lawmaking activity in the judicial-legal area says that: “it is necessary to give critical assessment to the adopted codes, laws and norms specifying the meaning and content of the constitutional state. On this basis it is necessary to identify the list of those paramount laws and norms, that are subject to adoption for the purposes of filling the legal field that is necessary on the way towards forming the constitutional state.”.

Developed draft new edition of Customs Code is a comprehensive legislative act that is one of the most important sections in the issues of public regulation of foreign economic activity. The work on the draft new edition of Customs Code was carried out on the basis and with consideration to effective legislative acts of the Republic of Uzbekistan. Theoretical provisions and conclusions contained in the works and speeches by the President of the Republic of Uzbekistan I.A. KARIMOV on the issues of economic reform and improvement of foreign economic activity served as theoretical-methodological and normative basis for the draft law.

Adoption of a new edition of Customs Code of the Republic of Uzbekistan will allow to form the timely and efficient legal framework, which in cooperation with other law enforcement bodies, would allow to ensure security and provide efficient assistance to further integration of the Republic of Uzbekistan in the world economy and liberalization of foreign economic activity.

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