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SPEECH

**Chairman of the Revenues Committee under
the Ministry of Finance of the Kyrgyz
Republic**

Mr. Malabekov Zamir

**Regarding updated Customs Code
of the Kyrgyz Republic**

Dear ladies and gentlemen!
Dear colleagues!

I have this honour to inform you that on the 12th April the Parliament of the Kyrgyz Republic has promulgated new Customs Code of the Kyrgyz Republic.

Main provisions of the new Customs Code were developed by the commission on management the reforms and modernization of customs service established by the Kyrgyz Government Decree (Ref. № 402-p, dated by 25/10/2001) chaired by the First Vice-prime minister of the Kyrgyz Republic. It included deputies of the Legislative meeting Zhogorku Kenesh of the Kyrgyz Republic, representatives of the Prime-minister administration of the Kyrgyz Republic, Ministry of Finance of the Kyrgyz Republic and international organizations.

Since the establishment of the Kyrgyzstan Customs service on the 31st December 1991 this new Customs code is the third in row.

First edition of the Customs Code dates back to the 2nd July 1992 and initially underpins the political and lawful foundation for the implementation of the customs policy and customs affairs and initiated the start up for the development of the system national customs regulatory frameworks.

Second edition of the Customs Code was put in force in October 1997.

This second edition in particular became the democratic and civilized customs model and up-to-date customs regulatory framework.

Since the Kyrgyz Republic accession to WTO in 1998, and its scaled national socio-economic reforms entailed an issue of putting the national legal and political field, governing the foreign trade in compliance with the obligations of the Kyrgyz Republic born by its accession to the WTO. Also the Kyrgyz Republic accession in 2000 the World Customs organization has respectively required conceptually new approach and principals governing the customs affairs, particularly making its customs rules and procedures correspondingly compliant with the standard rules of the International Convention on simplification and harmonization of customs procedures.

New Customs Code of the Kyrgyz Republic by the style of being narrated and by the methodology of defining the key issues of the customs activities is different from the existing Customs Code of the Kyrgyz Republic. Current organizational and legal mechanisms of the customs procedures included in the existing Customs Code do not facilitate the achievement of the optimal outcome of increased efficiency of fiscal and law administration in the field of customs activities.

Key principals of the customs activities pursuant to the new Customs Code are the following principals reinforced by the Kyoto Convention on on simplification and harmonization of customs procedures:

- Predictability and transparency of all activities by the customs bodies available to the stakeholders of the foreign trade activities in all areas of the foreign trade;
- Customs control based on the system of risk management and audit method (including the sampling control);
- Deployment of electronic data base and electronic modes of the data exchange when applying customs procedures;

- Maximum efficient application of the information systems and technologies in the customs procedures;
- To make available to the concerned parties all required information relevant to the laws, regulatory and administrative papers governing the customs activities, rules and procedures;

Significant importance is also given to the adoption of the Customs Code of the Russian Federation and Republic of Kazakhstan, whose provisions and principals should be considered when developing the Customs Code due to the obligations of the Kyrgyz Republic on harmonization and unification of the customs regulatory frameworks within frameworks of the Eurasian economic community and Commonwealth of independent states.

When developing new Customs Code the customs service has been confronted with the great interest from ministries, agencies, association of entrepreneurs, wide circle of the civic society institutions willing to attend the draft discussion. So by the Governmental Decree of the Kyrgyz Republic (Ref. № 564 – p dated by the 24th September 2003) was established the intersectoral commission that included the [Parliament] deputies of the Legislative meeting Zhogorku Kenesh of the Kyrgyz Republic, representatives of Secretariat of the special representative of the President of the Kyrgyz Republic on the attraction of foreign investments, Office of the Prime-minister of the Kyrgyz Republic and Ministry of Finance of the Kyrgyz Republic for the expertise of the drafted code on the matter of harmonization and unification with the international rules and norms.

This intersectoral commission prepared proposals on the amendments to be introduced to the 310 articles of the Customs Code of the Kyrgyz Republic (amounted to 69%).

During the work of the intersectoral commission 4 meetings were held that summarized the outcomes of the joint discussions and introduced the corresponding proposals:

- on regulating of the issue of licensing entities engaged in the foreign economic activities in the field of the customs relevance through introduction of a whole new chapter;
- on introduction of the corresponding amendments in 245 articles of the drafted CC

These proposals were considered and cleared by the Committee on taxes, customs and other duties of the Legislative meeting Zhogorku Kenesh of the Kyrgyz Republic.

There were 3 round tables held in the free format attended by the stakeholders of the foreign economic activities on the discussion of the drafted Customs Code and outcomes were reported to the public through the mass media.

Considering newly drafted Customs Code it is possible to note that its indisputable advantages are such factors as sufficient independence, significant expansion of the rights of the foreign economic activities stakeholders, clear definitions of norms, lack of variant reading, clarity in understanding of norms and provisions of Customs Code that beneficially distinct the draft from the existing Customs Code.

Executive summary Draft of Customs Code of the Kyrgyz Republic.

By the volume the newly drafted Customs Code of the Kyrgyz Republic consists of 14 chapters, 61 (69) sections and 399 articles.

1. New Customs Code draft was introduced with the clear norms stipulating matters of the customs procedures and customs formalities and in whole comprehensively stipulate the matter of customs activities in the Kyrgyz Republic.

2. With the purpose of streamlining the Criminal and Administrative legislation from the new Customs Code draft were removed such chapters as “Smuggling and other crimes in the field of customs activities”, “Inquest and rapid follow-up detection activities by the customs bodies”, “Infringement of the customs rules and responsibility. Legal proceedings with filing case on infringement of the customs rules and their consideration” and it enabled to reduce the material volume of the CC.
3. The draft was amended with the norms regulating the flow of good by the individuals, clearly stipulating procedures on the processing and control over goods imported by individuals for personal use. Goods that cannot be classified as “for personal use” are imposed to the general policy for processing, control and levy with the customs charges.
4. New CC draft for the first time was introduced with the provisions related to the special simplified customs procedures that envisages the submission of the single customs declaration for goods for the certain period of time during which such goods crossed multiple times the customs border by the same individual, export of goods upon presentation of data required to identify goods, customs processing of individuals moving goods.
5. One of the innovations of the new CC draft is introduction of norms envisaging conditions when customs declaration on imported goods can be submitted prior to the time when goods approach the Kyrgyz border (Article 310).
At this in kind of the pre-time declaration can be used soft [electronic] mode of declaration with the electronic data fed on-line on the goods, customs regime and other details required for customs purposes.
6. When drafting the law were envisaged matters of the ensuring compatibility of provisions in new CC draft with the tax legislation.
So, for example, due to the receivables incurred by the foreign economic entities on the payment of customs duties and taxes, the existing CC of the Kyrgyz Republic envisages the accrual of penalty (article 121) without time limitation and this is the result of poor design of the existing regulations.
In the new CC draft of the Kyrgyz Republic it is envisaged that total amount of penalty accrued for the delayed payments of the customs duties and charges cannot go beyond 100% of the principal amount payable on the customs duties and taxes (article 275).
Also the issues of paying taxes when handling goods and vehicles through the customs border, collection and reimbursement of the paid customs taxes and duties were brought in consistency with the existing tax legislation.
7. This CC draft includes the principally new methods of the customs control being performed (**customs control deploying audit techniques**). Customs control with the deployment of audit techniques is being applied with the purpose to test true and fair statements on goods crossing the customs border with simplified customs procedures.
8. When drafting the new CC were envisaged the matter of its compatibility:
 - with the issues of technical regulation including measures securing protection of Kyrgyz national interests when performing foreign trade in goods, licensing, quoting, system of export control measures, imperative confirmation on compliance with the standards and requirements on the safety of goods and other bans and limitations when handling goods through the customs border of the the Kyrgyz Republic (article 15; chapter 3; article 85; article 218);
 - with the leasing policy including the transportation and use of goods and vehicles being the subjects of leasing (Chapters 18,19);
9. For the first time the CC stipulates the norms governing issues of the informtaiona systems and technologies. Application of the up-to-date information technologies will enable to create new opportunities for the replenishment of the state revenues, acceleration of customs procedures, improvement of the authenticity of the customs statistics, more efficient combat with the smuggling and infringement of the customs rules. Automated and computerized technologies in customs activities shall enable to increase the rapid follow-up in the decision execution, data monitoring and its accessibility, efficient use of the single data base.

For the wide public discussion and introduction of proposals and comments, the new CC draft of the Kyrgyz Republic was published on the web-page of the customs office in English, Russian and Kyrgyz languages.

In conclusion I would like to note that customs office will undertake all the efforts and administrative capacity for the implementation of the new CC draft, customs rules and procedures in compliance with the standard rules of the International Convention on simplification and harmonization of customs procedures.

Thanks for your attention!

REFERENCE:

¹ Date of the Kyrgyz Republic accession to the WTO in 1998
(Ratified by the Law of the Kyrgyz Republic on the 17/11/1998, Ref. № 146)

The Kyrgyz Republic has officially joined the World Customs Organization in 2000 (Ratified by the Law of the Kyrgyz Republic on the 6/1/1997, Ref. № 7)

International Convention on simplification and harmonization of customs procedures was signed on the 18/05/1973 in Kyoto, Japan. Renewed in 1999.