

**CHAPTER 7. DETERMINATION OF COUNTRY OF ORIGIN OF GOODS****Article 33****Determination of Country of Origin of Goods**

1. The country of origin of goods shall be determined in order to apply tariff and non-tariff regulatory measures when importing goods onto the customs territory of the Republic of Kazakhstan and exporting goods from this territory.
2. The country of origin of goods shall be defined as the country where goods were wholly produced or were subjected to sufficient processing in compliance with the criteria established by Article 35 of this Code. For the purposes of application of the tariff and non-tariff regulatory measures the country of origin of goods may be understood as a group of countries, customs unions of the countries, region or part of a country, if it is necessary to identify them.

**Article 34****Goods Wholly Produced in a Given Country**

The following shall be considered as goods wholly produced in a given country:

- 1) mineral products extracted from the soil of a country, from its territorial waters (seas) or from its continental shelf;
- 2) vegetable products harvested or gathered in a given country;
- 3) live animals born and (or) raised in a given country;
- 4) products obtained from live animals in a given country;
- 5) products obtained from hunting and fishing conducted in a given country;
- 6) products of maritime fishing and other sea products obtained by a vessel of a given country or a vessel leased (chartered) by that country;
- 7) products obtained aboard a factory ship of a given country solely from products specified in Sub-paragraph 6) of this Article;
- 8) products obtained from marine soil or subsoil outside the territorial waters (sea) of a given country, provided this country has the sole right to work that soil or subsoil;
- 9) scrap and waste (secondary raw materials) derived from manufacturing and other processing operations, as well as used articles collected in a given country and fit only for processing into raw materials;
- 10) products of high technologies, obtained in open space onboard a spacecraft of a given country or leased (chartered) by a given country;
- 11) goods produced in a given country solely from products referred to in Sub-paragraphs 1) through 10) of this Article;
- 12) electricity generated on the territory of a given country.

**Article 35****Criteria for Sufficient Processing of Goods**

1. Where two or more countries take part in the production of goods, the country of origin of goods shall be the country where the goods underwent final operations in processing or production in compliance with the criteria for sufficient processing of goods and in compliance with this Article.
2. The criteria for sufficient processing of goods in a given country shall be as follows:
  - 1) a change in the goods classification code in accordance with the foreign economic activity commodity nomenclature at the level of any of the first four digits, resulting from processing the goods;

2) fulfillment of production or technological operations sufficient for regarding the country where such operations took place as the country of origin;

3) a change in the value of goods such that the percentage ratio of the cost reaches a fixed share of the price of the finished product (rule of ad valorem ratio).

3. The criteria for sufficient processing of goods, specified in Sub-paragraphs 2) and 3) of Paragraph 2 of this Article with respect to certain goods, shall be established by the Government of the Republic of Kazakhstan.

4. Where the ad valorem ratio rule is applied, the price indices of goods shall be calculated as follows:

1) for imported goods – based on the customs value of these goods when they are imported into the country where the finished product is manufactured or, if the origin of the imported goods is unknown, based on the documentarily certified price of the first sales of goods on the territory of the country where the finished product is manufactured;

2) for finished products – based on the seller's factory (warehouse) price which does not include expenditure for loading, customs clearance and export of the goods from the country of export (ex-factory price).

5. The following operations shall be considered as not meeting the criteria for sufficient processing of goods in a given country:

1) operations necessary for preservation of goods during their storage or transportation;

2) operations necessary for preparing goods for sale and transportation (splitting a consignment, grouping of packages, sorting, repacking);

3) simple assembly operations, which mean assemblage of a commodity's components with the help of strengthening materials (screws, nuts, bolts etc.) or by riveting, welding, bonding, or gluing;

4) mixing of goods (components) originating in various countries, if the characteristics of the finished product are not essentially different from the characteristics of the goods, which have been mixed;

5) slaughtering of livestock;

6) a combination of two or more of the above mentioned operations.

6. If there are no special requirements set forth as to how to determine the origin of specific types of goods imported into the customs territory of the Republic of Kazakhstan or to a country which enjoys tariff preferences provided by the Republic of Kazakhstan, the following general rule shall be applied: goods are considered as originating in a given country if the operations on processing or manufacturing of goods result in a change in the classification code at the level of any of the first four digits according to the foreign economic activity commodity nomenclature .

### **Article 36**

#### **Determination of Origin of Goods Supplied in a Disassembled or Unassembled State**

1. When determining the country of origin of goods in unassembled or disassembled state, supplied in several lots, or when their shipment in one lot is impossible due to production or transportation reasons, as well as in the event that a lot of goods is subdivided into several lots by mistake, such goods shall be considered as a single commodity..

2. The conditions for the application of Paragraph 1 of this Article are as follows:

1) preliminary notification of the customs authorities of a shipment of goods in disassembled or unassembled state, or shipped in several lots, stating the reasons for shipping this way, and specifying the classification codes of each lot in compliance with the foreign economic activity commodity nomenclature, and the value and country of origin of the goods in each lot. In case of subdividing commodities into several lots by mistake or wrong address, documents confirming the mistaken subdivision of the entire lot of goods shall be provided additionally;

- 2) shipment of all lots of goods from the same country by the same supplier under the same contract;
- 3) declaration of all lots of goods to the same customs authority;
- 4) importation into the customs territory of the Republic of Kazakhstan of all shipments of goods within a period of time not to exceed six months from the date of acceptance of the customs cargo declaration in respect of the first lot of goods by a customs authority. Upon a declarant's justified request, when it is impossible to deliver goods due to reasons not dependent on the consignee, the period for shipping remaining lots of goods may be extended by the customs authority. This extension shall not exceed one year, starting from the date of importation of the first lot of goods.

### **Article 37**

#### **Particular Features of Determining the Origin of Goods**

1. The country of origin of energy resources, machines, equipment and tools used in production or processing shall not be taken into consideration when determining the country of origin of goods.
2. Accessories, appliances, spare parts and tool kits to be used with machines, equipment, devices, or means of transportation, shall be considered as having the same origin as the machines, equipment, devices, or means of transportation, provided that the accessories, appliances, spare parts and tool kits are imported with and sold together with them, and in the quantities specified in the accompanying log, logbook and other technical documents.
3. The packaging in which goods are imported into the customs territory of the Republic of Kazakhstan shall be considered to have the same country of origin as the goods packed in them, except in cases when, in compliance with the foreign economic activity commodity nomenclature, the packaging is to be declared separately from the goods. In such cases, the country of origin of packaging shall be determined separately from the country of origin of goods.
4. Where the packaging in which the goods are imported into the customs territory of the Republic of Kazakhstan is considered to have the same origin as the goods, only the packaging intended for retail sales of the said goods shall be taken into consideration for the purpose of determining origin of goods, including the application of the ad valorem ratio rule.

### **Article 38**

#### **Confirmation of Origin of Goods**

A certificate of origin or declaration of origin shall be confirmation of the origin of goods.

### **Article 39**

#### **Certificate of Origin of Goods**

1. 'Certificate of origin of goods' shall mean a document, proving the origin of goods and issued by the body authorized by that country or by the country of exportation, provided that in the country of exportation, the certificate is issued based on information received from the country of origin of goods.
2. When goods are exported from the customs territory of the Republic of Kazakhstan, the certificate of origin of goods shall be issued by an appropriate authorized state body, whenever such a certificate is required under the terms of the contract, in compliance with the national regulations of the country of importation of goods, or when the availability of the certificate is stipulated by international agreements of the Republic of Kazakhstan.

The appropriate authorized state body, which issued the certificate shall be obliged to keep a copy of it and other documents, based upon which the origin of goods was determined, for at least three years from the day of its issuing.

3. When information on the origin of goods in the certificate of origin of goods is based on criteria for sufficient processing other than those applied in the Republic of Kazakhstan, the country of origin of goods shall be determined in compliance with the criteria specified in Article 35 of this Code.

#### **Article 40 Declaration of Origin of Goods**

1. 'Declaration of origin of goods' shall mean a statement as to the origin of goods, made by a manufacturer or a seller on the shipping document relating to the goods.

2. When the information on the origin of goods in the declaration of origin of goods is based on criteria for sufficient processing other than those applied in the Republic of Kazakhstan, the country of origin of goods shall be determined in compliance with the criteria specified in Article 35 of this Code.

#### **Article 41 Terms of Submission of Certificate of Origin of Goods**

1. When goods are imported into the customs territory of the Republic of Kazakhstan, the certificate of origin of goods shall be submitted in the following cases:

- 1) the country of origin of said goods enjoys tariff preferences in compliance with international agreements to which the Republic of Kazakhstan is a signatory;
- 2) a customs authority has a well-grounded suspicion that goods originate from countries whose imports are subject to non-tariff regulatory measures;
- 3) it is stipulated by international agreements to which the Republic of Kazakhstan is a signatory.

2. In cases specified in Paragraph 1 of this Article, the certificate of origin shall be submitted in compliance with the format stipulated by international agreements to which the Republic of Kazakhstan is a signatory.

3. Regardless of the provisions of Subparagraph 1, Paragraph 1 of this Article, submission of a certificate of origin of goods shall not be required when:

- 1) goods imported into the customs territory of the Republic of Kazakhstan are exempted from customs duties and taxes in compliance with the terms of the chosen customs regime;
- 2) the customs value of the imported consignment of goods does not exceed an amount equal to nine hundred monthly calculated indices, established by the law on the national budget for the relevant financial year, except for multiple shipments under one contract and repeated shipments of the same goods by the same shipper to the address of the same consignee under different contracts;
- 3) norms and terms established by the Government of the Republic of Kazakhstan with regard to goods conveyed across the customs border of the Republic of Kazakhstan by natural persons are complied with;
- 4) it is stipulated by international agreements of the Republic of Kazakhstan.

4. The original certificate of origin shall be submitted together with the customs declaration and other documents required for customs clearance, except in cases when customs clearance of goods is conducted according to a procedure of preliminary and temporary declaration. If a certificate is lost, an officially certified copy shall be accepted.

5. The origin of goods shall be determined by customs authorities after the information indicated in the certificate has been compared with the information given in the shipping documents. A discrepancy between the quantity of goods actually delivered and the quantity of

goods indicated in the certificate should not exceed five per cent. In other cases, the certificate of origin shall be considered as not having been correctly completed.

6. In case of doubts as to the authenticity of the certificate or of information contained therein, a customs authority may apply to the authorized body of the country of origin which certified the certificate, with a justified request to provide additional or clarifying data, including spot checking of certificates. In such cases, the goods shall not be considered as originating in that country until documents proving their origin have been submitted.

7. A condition for customs authorities to accept certificates of origin shall be the availability of samples of forms, stamp imprints, and signatures of persons as well as addresses of the bodies authorized to certify and issue certificates of origin, officially transferred through the authorized body on customs issues.

8. The origin of goods shall be confirmed by a declaration of origin when a certificate of origin is not required.

#### **Article 42**

##### **Grounds to Deny Release of Goods for Reasons Relating to Origin**

1. A customs authority shall deny the release of goods in the event that the goods originate in a country whose goods are prohibited for importation into the Republic of Kazakhstan, in compliance with the legislation of the Republic of Kazakhstan or international agreements to which the Republic of Kazakhstan is a signatory. Such denial by a customs authority shall be presented to the declarant in the written form.

2. Submission of a certificate of origin or declaration of origin of goods that were not properly completed or failure to submit them shall not be the reason to deny release those goods, except in cases stipulated by Paragraph 1 of this Article.

3. Where the origin of goods is not confirmed, doubled rates of customs duties shall be applied with respect to such goods.

4. The preferential or most favored nation procedure shall be applied (restored) with respect to goods specified in Paragraphs 2 and 3 of this Article, provided the customs authority receives confirmation of the origin of the goods within one year from the day the customs declaration is accepted by the customs authority.

#### **Article 43**

##### **Additional Provisions Relating to Determination of Origin of Goods**

1. The Republic of Kazakhstan shall grant tariff preferences, provided the rules of «direct shipment» are complied with. In cases specified by an international agreement to which the Republic of Kazakhstan is a signatory, compliance with the rule of “direct purchase” shall be a prerequisite to grant tariff preferences to countries, which are signatories to that agreement.

2. «Direct shipment» shall mean delivery of goods from the country of origin to the Republic of Kazakhstan without their transit (transportation) through the territory of another country, except in cases when goods are transferred through the territory of one or several countries due to economic, geographical, technical or transportation reasons, provided that these goods remain under customs control in the transit countries, including during temporary storage or placement in bonded warehouses on the territory of these countries.

3. The rule of «direct shipment» shall also apply to goods purchased at exhibitions or fairs, provided the following conditions are observed:

- 1) goods were delivered from the territory of the countries of their origin to the territory of the country holding the fairs or exhibitions, and remained under customs control during their holding;
- 2) from the moment of their delivery to a fair or exhibition, goods were not used for any purposes other than for demonstration;

3) goods are imported to the Republic of Kazakhstan in the same state as when they were delivered to the fair or exhibition, taking into consideration changes in their state due to natural wear or losses due to normal shipment (transportation) and storage conditions.

4. "Direct purchase" shall mean transfer of goods across the customs border of the Republic of Kazakhstan based on an agreement signed between a Kazakhstani person and a resident of the country - signatory to the international agreement to which the Republic of Kazakhstan is a signatory.