

Cabinet of Ministers of Ukraine

Resolution

No.1862

of 12 December 2002

Kyiv

On Approval of the Procedures for Sampling of Goods, Conduct of Research (Tests, Expert Examination) for Purposes of Customs Clearance of Goods, and of Disposal of the Samples

As amended by Cabinet of Ministers Resolution No.92 of 18 January 2003

In accordance with Articles 75, 314 and 316 of Ukraine's Customs Code, the Cabinet of Ministers of Ukraine

resolves:

1. To approve the Procedures of sampling goods, conduction of research (tests, expert examination) for purposes of customs clearance of goods, and of disposal of samples (enclosed).
2. To repeal Ukraine's Cabinet of Ministers' Resolution No.1665 of 21 October 1998 «On the Procedures of sampling goods and other objects for conduction of research necessary for their customs clearance» (Official Gazette of Ukraine, 1998, No.42, page 1557).
3. That this Resolution come into force on 1 January 2004 (Clause 3 as amended by Cabinet of Ministers' Resolution No.92 of 18 January 2003)

Prime-Minister of Ukraine

V.Yanukovich

Ind. 27

APPROVED

by the Cabinet of Ministers
of Ukraine's Resolution No.1862
of 12 December 2002

THE PROCEDURES of sampling goods, conduction of research (test, expert examination) for purposes of customs clearance of goods, and of disposal of samples

1. Sampling of goods, provision of documentation for classification of goods, verification of Certificates of Ukrainian origin of products and their customs clearance and also disposal of

samples and documentation (hereinafter referred to as sampling of goods) shall be carried out in accordance with procedures of customs control and customs clearance.

The objective of research (test, expert examination) is to solve issues as follows:

determining the product's code according to the Ukrainian Classification of Goods for Foreign Economic Activities;

identifying (determining the physical and chemical structure and composition of) the product, and also the raw material after its processing;

whether products are drugs (narcotics), strong acting or poisonous substances;

inclusion of goods into the checklists which limit export or import of these goods (double or military purpose goods);

whether the product is an object of artistic, historic or archeological value;

whether data stated in the Certificate of Ukrainian origin of the product, is true.

2. Goods shall be sampled by the authorized official of the Customs body on the basis of the substantiated written order by the Head of this Customs body or his deputy, with obligatory presence of the product owner or declarer, or his authorized person.

In case an individual's belongings and luggage are examined and the individual or person authorized by him are absent, sampling may be carried out, with two witnesses present.

Sampling of goods under customs control shall be carried out by authorized persons of governmental supervisory bodies at the permission of the Head of the Customs body or his deputy, with the Customs body's official and the goods owner or declarer, or their authorized person present.

At other governmental supervisory bodies' request, sampling may be carried out by the product owner or declarer or person authorized by them, with the Customs body's official present, at the permission of the Head of the Customs body or his deputy.

Customs bodies shall be entitled to be informed of the results of the research (tests, expert examinations) of goods under customs control sampled by the goods owner or declarer or the governmental supervisory body's authorized person. Customs bodies must also be provided with copies of documents on results of such research (tests, expert examinations).

3. In complicated cases (an unknown object under research, necessity to apply special devices or special knowledge and expertise, and so on), the Head of the Customs body or his deputy may duly involve specialists and experts of appropriate customs laboratories and other organizations, in the sampling.
4. Samples of goods, except for large-sized and technologically complex goods (machines, production process lines, industrial designs and so on) shall be taken (provided) in the minimum quantity (weight) which makes their research (tests, expert examination) feasible and allows for the repeat research (tests, expert examination) if necessary (hereinafter referred to as check samples). Norms (standards) of sampling shall be set by the State Customs Service.

With regard to large-sized and technologically complex goods (machines, production process lines, industrial designs and so on) may require that participants of foreign economic activities provide technical and process documentation only. As true technical and process documentation shall be considered officially issued books, governmental standards, specifications, producer's catalogues and registration certificate data, products' drawings signed by the draftsmen and officials.

In order to establish that data, stated in the Certificate of Ukrainian origin of the product, and data on the product itself are true, and also that they comply with the description of classification groups of the Ukrainian Classification of Goods for Foreign Economic Activities, customs bodies may require that producing companies, participants of foreign economic activities and individuals provide technical and process documentation for these goods in order to conduct research (tests, expert examination), particularly, originals or consignor (consignee)-certified copies of materials on physical and chemical properties, major production process stages, and goods' designation (utilization).

5. Customs security shall be applied on the samples.
6. Sampling shall be formalized with a certificate (report) in the form as set by the State Customs Service.

The certificate shall be done in triplicate to be signed by the Customs body's official, who has taken samples, by the product owner or declarer or their authorized person, the expert of the laboratory if he takes part in the sampling, and by the witnesses involved.

The certificate shall be done in triplicate, with one original to be attached to the samples, the second one shall be given to the product owner or declarer, or their authorized person, and the third one stays in the files of the Customs body.

7. Safety rules and fire safety rules must be complied with, during the sampling.
8. Samples under customs security, along with the certificate on sampling, shall be mailed or delivered by the customs body's official to the customs laboratory or other institution's (organization's) laboratory in order to carry out research (tests, expert examination).
9. Research (tests, expert examination) of the samples shall be carried out within the time period which may not exceed one month of the day of samples' arrival in the laboratory, and may not exceed the product's expiry date.

Samples of perishable goods shall be promptly researched.

10. The product owner shall be notified of the decision made by the Customs body based on the results of the laboratory research (tests, expert examination).

Product owners or declarers, or persons authorized by them, shall be entitled to be informed of results of the research (tests, expert examination) and to obtain copies of documents on results of research (tests, expert examination).

11. Check samples shall be sealed and kept in the laboratories within two months. The product owner shall be entitled to challenge the Customs body's decision in court.

Check samples with short expiry dates shall be kept in the laboratory within the time period, which shall not exceed their expiry dates.

12. After expiry dates, check samples shall be duly written off in case the owner does not orally or in writing require that they be returned. The procedure of writing off samples shall be set by the State Customs Service.
13. Samples, including damaged ones, technical and process documentation belong to the owners. Upon completion of the research (tests, expert examination), and with dates stated in 11 of these Procedures, taken account of, samples shall be returned to the owner or his authorized person at their oral or written request, and the appropriate certificate (report) be done, the form of which shall be approved by the State Customs Service. Technical and process documentation taken (provided) for research (tests, expert examination), classification of goods, verification of Certificates of Ukrainian origin of goods and their customs clearance, shall be returned to the owner or his authorized person upon completed customs clearance of goods or upon provision of the Customs body with copies of documents

and comparison of them with the documents package, by the Customs body's official. Copies of the documents shall stay in the Customs body's archive.

Samples non-requested by the owner or his authorized person, shall be destroyed by the laboratory, and the appropriate certificate (report) be done. The owner shall not be compensated for destroyed samples. The form of the certificate on destroyed samples shall be approved by the State Customs Service.

14. Customs bodies shall not compensate expenses incurred by the product owner as a result of sampling goods under customs control. Sample research (tests, expert examination) expenses incurred by Customs bodies and Customs laboratories shall not be compensated by the person entitled to the goods, except when such research (tests, expert examination) is carried out at this person's initiative.

Cost of samples used during research (tests, expert examination) shall be included, on the basis of the certificate of destroyed samples, to production costs of the product owners from whom they (samples) have been taken.

15. Customs clearance of goods sampled for research (tests, expert examination), may not be completed until the Customs body, keeping the goods, obtains results of the research (tests, expert examination).