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**PROBLEMS OF LEGISLATION IMPROVEMENTS IN THE FIELD
OF THE CUSTOMS AND CUSTOMS LOGISTICS
INFRASTRUCTURE IN THE EURASIAN ECONOMIC UNION**

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Abstract

The relations between the former Soviet Union countries at political and economic level are becoming more stable and longstanding. One example of such economic integration was the establishment of the Customs Union. The purpose of the union was not only to maintain and strengthen the economic space between countries and to ensure the free movement of goods, but also to enable members to carry out coordinated trade policy with other countries and to protect a domestic market through unification of the customs legislations and procedures. The creation of the Eurasian Economic Union (EAEU) on January 1, 2015 was the next stage of deeper economic integration between the countries. In the operations of the Customs Union, the functionality of the logistics is directly related to the states' regulations on foreign trade activities, the structure of systems for transporting goods and vehicles across the customs, and the creation of cost-effective transit ways. In the context of increasing trade flow between the member countries of the union and the third-party countries, it is necessary to develop a system of logistics in the management of foreign trade flow processes.

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1. Introduction

At the current stage of development, the implementation of logistics methods in managing imports and exports of trade flow has become urgent for the economy of Kazakhstan. The state's intensification and expansion of foreign economic relations and the dynamic expansion of horizontal relationships between the leaders of the partner countries opened many opportunities for Kazakhstan. These opportunities include enhancement of economic independence, initiation of intermediary and transport organizations, and improvement of contractual relations and mutual economic incentives.

At the plenary session of the Council of Foreign Investors, the President of the country Nursultan Nazarbayev presented the "New Silk Road" project, which aims to increase the volume of transit traffic through the territory of Kazakhstan twice by 2020. If in 2010 the transit of goods through the territory of Kazakhstan amounted to 15 million tons, in 2011 - 16.5 million tons, in the nearest future it is planned to increase to at least 50 million tons (Khamidulin, 2012). President Nazarbayev announcing the beginning of the project has stated: "Kazakhstan must revive its historical role and become the largest business and transit hub of the Central - Asian region, a bridge between Europe and Asia ... The first - its advantageous geographical position; the second - a constant traffic growth; third - direct access to the markets of the Customs Union and the fourth - a favorable investment climate ... competitive advantage of the "New Silk Road", which will be based on the implementation of the "principle of 5C - speed, service, value, safety and stability. As a result of their territorial and functional linkages there must be a synergistic effect "(Nazarbayev, 2012).

The essence of the project is that a single network of hubs on international level will be established in Kazakhstan which will include trade and logistics, finance and business, innovation and technology, and tourism. The purpose of the construction of these hubs is to provide the basic principles of logistics on the territory of Kazakhstan: speed, service, value, safety and stability.

Kazakhstan has already started to implement the project of revival of the Great Silk Road with the support of the People's Republic of China. According to the Kazakhstan's project "New Silk Road," its key element is the hub of transport and logistics which is in the process of creation by the national carrier "Kazakhstan Temir Zholy". In the west of Kazakhstan, it is planned to expand the seaport of Aktau and to construct a logistics center in Aktobe, which gives access to the Caspian region, Russia and Europe. Currently the construction of the highway connecting Western Europe and Western China has almost been completed, and work on expansion of the country's railway network is underway.

2. Problem Statement

The problem is that the legislation related to the customs logistics needs sufficient improvements. Analysis of the current legislation related to the customs logistics of the EAEU revealed imperfection of the norms regulating the customs logistics and near-customs infrastructure: delays in customs registration of the goods; substandard customs logistics infrastructure; insufficient simplification of customs registration procedure and transport servicing.

Currently the countries of the EAEU are implementing projects on the development of customs and logistics sectors. For instance, the Russian Federation has adopted the conception on the customs clearance and control of importing goods in places adjacent to the state borders of the Russian Federation

(approved by the decision of the board of the Federal Customs Service of Russia on August 29, 2008 and by the State Border Commission on July 9, 2009) [The concept of customs clearance and customs control of imported goods in the places close to the state border of the Russian Federation, 2009]. The main goal of the conception was to transfer the customs declaration to the places close to state border, and consequently to relieve large cities from inflow of vast cargos, which will lead to decrease in traffic load. The conception clarifies that it is advisable to declare customs either at newly established customs-logistics terminals (CLTs) or at the modernized preexisting CLTs.

On August 29, 2008, the Council of Ministers of the Republic of Belarus approved a program intended to improve the logistics system in the country for the period up to 2015. In contrast to many European countries, in the Republic of Belarus, there is a need for improvement in the field of logistics and this program aims to correct it. High quality customs service, efficient use of innovative technologies of customs clearance and control are the most important characteristics of customs activity. That is why it is important to study the experience of the European Union in using logistics methods in the organization of systems for customs clearance and control, as the EU sets a standard of the highly-developed union of geographically close countries. In the condition of formation and development of the logistics system in Belarus, it can be noted that the country is implementing only fragments of logistical approaches in the foreign trade operations.

A treaty for the establishment of the Eurasian Economic Union (EAEU) was ratified by Russia, Kazakhstan and Belarus on May 29, 2014 in Astana. The treaty requires the implementation of mechanisms in many areas of the economic segments of the member countries, including the joint projects. Recommendations on the enactment of transport policy will be carried out considering the obligations taken by each member state upon joining the World Trade Organization, as well as in the framework of other international treaties (Sergeev, 1997).

The EAEU should take World Customs Organization's (WCO) "Standards to Secure and Facilitate Global Trade" as a basis for the logistics of tariff and non-tariff management of exports and imports. The main objectives and principals of the "Standards to Secure and Facilitate Global Trade" include the following:

- setting standards to assure increased safety and to facilitate the international supply chain of goods at the global level to achieve greater certainty and predictability;
- implementing an integrated management system for international supply chain of goods for all kinds of transports;
- strengthening the functions and capabilities of customs service in the framework of challenges and opportunities of the twenty first century;
- strengthening the cooperation between customs services to improve their capabilities to detect high-risk consignments;
- strengthening the cooperation between customs authorities and the business community (businesses);
- assisting the continuous movement of goods across the secure international trade supply chain.

This document was adopted by the World Customs Organization (WCO) in June 2005, and in hand with the Kyoto Convention (International Convention on the simplification and harmonization of

customs procedures, concluded in Kyoto on May 18, 1973; latest revision came into force on February 3, 2006), became the basis for the transition to the new principles of international trade, a new round of development of cooperation between customs administrations and businesses.

3. Research Questions

Currently the legislation related to the customs logistics and near-customs infrastructure of the EAEU member-states differs from each other. So it is crucial to conduct comparative analysis of the EAEU countries legislation related to the customs logistics and near-customs infrastructure. As a result the unification of the corresponding norms among the EAEU Customs Union countries shall be proposed. Kazakhstan needs to systemize the legislation related to the transport.

In regards to the railway system in Kazakhstan, it should be noted that the length of railways in Kazakhstan exceeds 15 thousand km., and 16 fouling points (11 with Russia, 2 with Uzbekistan, 1 with Kyrgyzstan and 2 with China) connect the railway system of Kazakhstan with neighboring states. Railway systems in Russia and Kazakhstan are extremely interdependent. Kazakhstan Railways provide 68% of overall turnover and over 57% of passenger traffic of the country. Currently, there are 2742 companies engaged in cargo transportation in Kazakhstan. As part of the strategy of development of transport, Kazakhstan is planning to build nearly 1, 400 km of new railway stations and to electrify 2,700 km of existing railway stations by 2017 (Transport Strategy of the Republic of Kazakhstan up to 2020, 2014).

In addition to the rail mode of transport, goods are transported by road, air, sea (river) and pipeline transport modes. For example, the port of Aktau is the only strategic trade output in Kazakhstan over the sea. Caspian Sea which has the sea port is practically the only natural possibility to transport cargo to neighboring countries. The seaport of Aktau provides trucking into bays of Iran and Baku. Moreover, under modern conditions, this port represents a strategic interest as part of the Silk Road. Since the beginning of 2016, Aktau international sea trading port processed over 4 million 149 thousand tons of dry and oil cargo, which is 96.4% of the plan. The total transshipment of crude oil and petroleum products accounted for 1 million 723 thousand tons, dry cargo - 2 million 425 thousand tons, including transshipment of metal products – 1, 070 thousand tons, other cargoes - 229 thousand tons, grain - 407 thousand tons, and the volume of ferry traffic was 719 thousand tons (Statistical data: [Electronic resource], 2016).

However, currently there is only one port that operates on the Caspian Sea, which is no longer sufficient for carriers. To solve these problems, the Government of Kazakhstan has developed projects to construct a new port Kuryk, which is planned to be built with the support of the Government of Azerbaijan. Furthermore, another port construction is planned, which will not have such a narrow specialization, and would be built to provide a versatile cargo. This trend provides a good opportunity for the development of partnership between the government and private entities. It should be noted that Kazakhstan has adopted the Law "About government and private entities partnership" [Law of the Republic of Kazakhstan dated October 31, 2015 № 379-V «On Public Private Partnership», 2015], which allows to attract private capital in the management of state assets, which in turn reduces the load on the

state budget, helping to attract private investment and allowing participation of the quasi-public sector in projects.

In general, per program's documents large logistics centers in major network-wide nodes and ports, such as Almaty, Astana transportation hubs, Aktau seaport are planned to be created in Kazakhstan. In total, the formation of thirty-four large logistics centers is planned in Kazakhstan. They include four international, twelve regional and eighteen medium capacity (in terms of cargo capacity) logistic centres.

First of all it is a creation of the conditions to develop business through large infrastructure projects revealing transport potential of the country. As was stated by the President Nazarbayev N.A. in Tashkent summit: "Our country currently implements the large infrastructure project "Nurly Zhol", and our Chinese partners builds Economic belt of the Silk Road, so we are on the same path to create open, effective and common economic space.» (Batalov, 2016).

The members of the EAEU are in active cooperation with the Shanghai Cooperation Organization (SCO), of which they are members too. Since the establishment of the SCO, a new large system of regional cooperation has been created which aims to create assurance in political stability and security, to expand economic cooperation, common prosperity and development of the people of the member states of the SCO. Because of its operations, the SCO has gained credibility in the world arena and has become one of the most influential members of all modern systems of international relations. The operations of the SCO are based on solid legal framework and on the successful functioning of multilateral cooperation mechanisms, which is evidenced by the establishment of partnerships with states, international organizations and institutions that share the principles and values of the SCO.

As experience of the regional trade unions shows their creation is aimed to accelerate trade, growth of trade turnover and further economic integration on common market basis. Analysis of such unions work shows high effectiveness of their work. So between 1990-2007 goods turnover among NAFTA, MERCUSOR, ASEAN and Andean Community countries grew more rapidly in comparison with other world (Mukhtarova, 2003).

One of directions of the SCO is to use the advantages of geographical proximity and complementarity of economies, and to stimulate further cooperation. For example, in conditions of overcoming the negative consequences of the global financial and economic crisis in 2009, the members of the SCO developed a mutual initiative to strengthen multilateral economic cooperation. At the level of the Ministerial meetings, the Programs of multilateral trade and economic cooperation among the member states are conducted. In the past for many years the members of the SCO's were tied by economic and cultural routes of the Silk Road, and it is symbolic that in the modern world, these ties have not lost their relevance and even are acquiring new important roles for all member states.

Moreover, in 2013 during his visit to the Central Asian countries, Chinese President Xi Jinping has taken the initiative for the cooperated construction of Economic Belt of the Silk Road. This concept aroused great interest among all countries in the world and has been recognized in Central and West Asia, as well as in Central and Eastern Europe.

4. Purpose of the Study

To conduct comparative analysis of the current legislation related to the customs logistics and near-customs infrastructure of the EAEU countries and to detect differences in it; analyze the transport legislation of Kazakhstan and propose improvements into it.

5. Research Methods

The analysis by comparison, generalization and logical inference of the current legislation related to the customs logistics and near-customs infrastructure of the EAEU countries revealed similarities and differences. Also the legal analysis of the current transportation legislation was conducted. And the conclusion to systemize the transport legislation is made.

Currently, the countries of Central Asia are at the peak of economic transformation. Each country produces its medium- and long-term programs of economic development. One commonality of these programs is the countries' aspiration to actively participate in the process of multilateral regional economic cooperation. The program of creation of the Economic Belt of the Silk Road offers the countries advanced opportunities for economic development.

Experts conclude that logistics contribute to 10-12% of the GDP of member states of the EAEU. In the EU, this figure is 20-25%. The prime goal of logistics is to reduce the logistics costs in the final cost of the product. Nowadays, the share of logistics costs in the final cost of the product in the member states of EAEU are consistently high on average at 20-25%, but can go up to 35%. However, the world's average is 11%, in China – 14%, in the EU countries – 11%, while in the US and Canada – 10% (Urkimbaev, 2014).

It is important to note that the People's Republic of China has become the main partner of Kazakhstan in the field of transport and logistics infrastructure development. It is no coincidence that in the context of cooperation in the transport sphere, an agreement to establish a joint transport and logistics company between Kazakhstan and China was signed. Thus, in 2015 during the visit of Askar Mamin, (Chairman of the Board of JSC "Kazakhstan National Company Temir Zholy") to China, the necessity of a joint project was noted, the purpose of which is to provide transport services on the territory of Eurasia. The prospects of the creation of a joint logistics company is to provide transportation, to implement complex export-import operations, including customs clearance services of goods in Europe, the CIS, and Ukraine. In context of the purpose of the agreement, the port of Lianyungang is planned to be used as the main consolidating cargo area to send goods to the countries of the Persian Gulf, Asia, Europe and the CIS. With this purpose, the agreements about the establishment of a special SCO area with the involvement of investors from China were reached (Artymovich, 2016).

Moreover, in the summer of 2016 in Tashkent at the meeting of the heads of SCO countries, Kazakhstan's President Nursultan Nazarbayev and Chairman of China Xi Jinping, discussed the issues of further bilateral cooperation in trade-economic sphere. In November of 2016, Kazakhstan and China discussed the joint implementation of a special economic zone (SEZ) "Khorgos - Eastern Gate". It should be noted that in the territory of SEZ all conditions for successful work of investors have been created: tax relief, ready infrastructure, as well as project support services.

At the same time, the discussions about improvement of the efficiency of the Lianyungang port by applying a flexible tariff policy on transit cargo is still ongoing. For example, in 2016 a joint terminal is planned to transport more than 200 thousand containers in TEU, and by 2020 to handle up to 550,000 containers in TEU (Shaerman, 2016).]

6. Findings

In Kazakhstan, one of the most important conditions of an active state customs policy is to have a single regulatory framework of foreign economic activity. Today Kazakhstan's customs policy, in fact, is regulated by the Customs Code of the Customs Union. One of the features of the formation of an active customs policy in Kazakhstan is the necessity to eliminate excessive administrative barriers in the customs field which may cause damage to Kazakhstan's economy and to improve the new customs technology which alleviates the conditions for legal trade and ensures the appropriate level of monitoring of goods across borders (Artymovich, 2016).

The legislation regulating the relations in the field of customs logistic and customs infrastructure consists of many normative legal acts. For example, Kazakhstan's legislation in the field of logistics is represented by the following normative acts: the law of the Republic of Kazakhstan dated from December 8, 2001 № 266-I "About Railway transport" (with alterations and amendments on September 4, 2016); the law of the Republic of Kazakhstan "About Automobile Transport"; the law of the Republic of Kazakhstan "About Merchant Shipping"; the Agreement about International Goods Transport by Rail (AIGR) (with alterations and amendments on July 1, 2016); Agreement on amendments and additions to the agreement between the railway administrations of the Commonwealth of Independent States, Georgia, the Republic of Latvia, the Republic of Lithuania, the Republic of Estonia about the peculiarities of application on certain provisions of the Agreement on International Freight Traffic (AIGR); Resolution of the Government of the Republic of Kazakhstan dated from July 18, 2011, № 826 "About the rules approval of carriage of goods by road" (with amendments and supplements on December 4, 2013); the Resolution of the Government of the Republic of Kazakhstan dated from June 21, 2011, № 682, "About transportation of goods by rail"; Terms and planning technology of the implementation of the transportation processes, operations related to the carriage of goods, drafting documents and drawing up acts, the production of special studies and reviews; Rules of forwarding activities in rail transport; Rules of car operation services (containers); Terms of transportation of dangerous goods Volume I Volume II Volume III (Annex 2 to AIGR); Rules of transportation of liquid cargo in bulk in tank cars and hopper which is in wagons type for transportation of oil bitumen; Rules of transportation of passengers, baggage and cargo by air transport; Rules of cargo transportation by sea of the Republic of Kazakhstan; Tariff Guide KZH: ETT, MTT, TA CIS and etc.

It should be noted that this is not an exhaustive list of legal acts, regulating the relations in the field of logistics. Therefore, in terms of market development of logistics services and Kazakhstan's entry into world's transport-transit space, it is necessary to systematize the legislation in the field of logistics.

According the Chinese scientist Cheng Yu.: "In future the countries of strategic need to build the economic belt of the Silk Road shall firstly discuss the respective issues related to the political aims of integration based on the good neighbor policy, mutual benefit, common development, transparency and

tolerance. That is why the economic belt of the Silk Road and the EAEU shall exist on the principles of cooperation and complementarity instead of confrontation.” (Cheng, 2016).

7. Conclusion

Hence, the logistical approach to the improvement of the customs area of the EAEU requires systematic implementation of the following measures:

- establishment of the modern customs and logistics centers;
- improvement and systematization of legislation in the field of customs logistics and customs logistics infrastructure;
- introduction of the latest information technology tools to ensure the activities of the customs authorities;
- creation of a single interagency automated system for collecting, storing and processing information for the implementation of all kinds of state control over the movement of goods across the customs border.

In summary, Kazakhstan’s transport and transit sphere is developing as far as world trade and commercial relations are developing. In other words, everything that is used in the world trade is used in Kazakhstan. However, there is no reason for satisfaction. Due to geographical location of Kazakhstan, it has a huge potential for logistics and certain advantages. Historically, Kazakhstan is the bridge for transport of good, cultural and scientific exchange. Therefore, the development of transport and transit potential, as well as other areas of logistics and infrastructure will make Kazakhstan one of the leading countries of the world.

References

- Khamidulin, T. (2012). *Nazarbayev offered foreign investors the project "New Silk Road"*, available at: https://tengrinews.kz/kazakhstan_news (accessed 20 December 2016).
- Nazarbayev, N.A. (2012). *Closing speech of President of the Republic of Kazakhstan Nazarbayev N.A. at the 25th session of the Foreign Investors Council*, available at: http://www.akorda.kz/ru/speeches/external_political_affairs/ext_speeches_and_addresses/zaklyuc_hitelnoe-slovo-prezidenta-respubliki-kazakhstan-nazarbaeva-n-a-na-25-m-zasedanii-soveta-inostrannykh-in (accessed 20 December 2016).
- The concept of customs clearance and customs control of imported goods in the places close to the state border of the Russian Federation (approved by the decision of board of Russian Federal Customs Service, dated August 29, 2008, the State Border Commission (as of July 9, 2009), available at: <http://www.customs.ru> (accessed 20 December 2016).
- Sergeev, V.I. (1997). *Menedzhment v biznes-logistike [Management in business logistics]*. Moscow: Filin.
- Law of the Republic of Kazakhstan. (2014). *Transport Strategy of the Republic of Kazakhstan up to 2020*, available at: <http://adilet.zan.kz> (accessed 20 December 2016).
- Statistical data: [Electronic resource]. (2016), available at: <http://kazlogistics.kz> (accessed 20 December 2016).
- Law of the Republic of Kazakhstan dated October 31, 2015 № 379-V «On Public Private Partnership», available at: <http://online.zakon.kz> (accessed 20 December 2016).
- Batalov, R. (2016). *Prioritet – sovместnoe jeffektivnoe razvitie [Priority - the effective development of joint]*, Journal “Silk road revue”, Vol. 10, 25-26.

- Mukhtarova, K.S., Kenzhebayeva A.R., Tumbetova, A.S. (2003) *Jekonomicheskaja bezopasnost' v uslovijah globalizacii: Uchebnoe posobie*. [Economic security in the conditions of globalization: the manual], Almaty: Jurist.
- Urkimbaev, A. (2014). *The role of the third party logistics*, available at: <https://kapital.kz/expert/28988/rol-tretej-storony-v-logistike.html> (accessed 20 December 2016).
- Artymovich, L. (2016). China and Kazakhstan cooperation in the transport sector reached a new level, available at: <https://kapital.kz/economic/47156/rk-i-kitaj-realizuyut-sovmestnye-proekty> (accessed 20 December 2016).
- Shaerman, E. (2016). *Kazakhstan and China - cooperation in the sphere of transport engineering*, available at: <http://www.kazakh-zerno.kz/novosti/agrarnye-novosti-kazahstana/232570-kazakhstan-i-kitaj-sotrudnichestvo-v-sfere-transportnogo-mashinostroeniya> (accessed 20 December 2016).
- Cheng, J. (2016). *Novyj impul's razvitiya Central'noj Azii* [A new impetus to the development of Central Asia], Journal "Silk road revue", Vol. 6, 6-7.