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## Problems of organizational-tactical activity of customs authorities in combating economic smuggling on transport

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### Abstract

The article is devoted to research of legal and organizational-tactical bases of activity of customs bodies on revealing, prevention, suppression, disclosure and investigation of economic smuggling on transport. The smuggling of excisable goods and foreign-made cars that belongs to the most tax-intensive goods is the most common. This is largely due to the unsettled activities of law enforcement agencies to identify and investigate customs offenses, the lack of reliable investigative work and an inadequate system of statistical records. Thus, the purpose of this study is to develop organizational and tactical recommendations aimed at increasing the effectiveness of their use in the process of disclosure and investigation of economic smuggling on transport, including the current achievements of the legal sciences, customs and investigation practices. The legislative acts, regulatory documents on the topic of the paper, the fundamental theoretical works of the greatest thinkers in the field under consideration, and the results of practical research by prominent Russian and foreign scientists were theoretical and methodological basis for the study

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## 1. Introduction

Socio-political and economic changes in last years of the modern history of Kazakhstan, along with the democratization of public life, led to the development of economic processes that seriously complicate the normal development of society. Thus, the liberalization of foreign economic activity, which in the early 1990s contributed to the process of opening the Kazakh economy to the world market, inevitably led to the renewal of criminal relations in the sphere of foreign economic activity and customs, which caused a revolution in the sphere of smuggling business.

It is significant that in most cases of smuggling, which is the core of economic crime, the theft of material resources, bribery and other offenses was preceded by. Given the high latency of smuggling, the real picture of crime in this area is much sadder. Export-import, currency and other operations have increasingly been used by organized criminal groups or by commercial criminal organizations for obtaining illegal excess profits. Their actions have become increasingly stable on interregional and international level. Smuggling is caused by a whole complex of economic, political, organizational, legal, moral, social factors. The imbalance of production and its extremely low level, not always a stable environment, weak state power and low authority among the population, the decline of morality and reorientation in values, chaotic legislation, "unjust" redistribution of property - these are the main factors causing crimes of this category.

In this regard, it should be noted that the development of theoretical core activities for the identification and detection of crime were always based on the theory of criminology and the theory of operational search activity. The analysis of theoretical issues is reflected in the works of R.S. Belkin. A.I. Vasilyeva, I.A. Vozgrina, V. K. Gavlo. I.F. Gerasimova, S.P. Golubyatnikov. G.A. Gustova, L.Ya. Drapkina, A.V. Dulova, V.A. Zhbankova, G.G. Zuykova, E.I. Ischenko, M.K. Kaminsky. V.Ya. Koldina, A.N. Kolesnichenko, V.P. Lavrova. A.F. Lubin. THEM. Luzgina, N.N. Lysova. A.G. Markushina, V.A. Obraztsova I.F. Panteleev, P.N. Panchenko, A.R. Ratinova, N.A. Selivanova, V.T. Tom, B.I. Ustinova, V.I. Shikanova, N.P. Yablokova and others.

A system-activity approach takes a special place in identifying and solving a crime. This is due, firstly, to its relative universality; secondly, this approach allows creating such a model, which consists of heterogeneous components, and this is exactly what is required for the analysis of such a multifaceted object such as a crime of smuggling. This approach allows to consider both the crime and the activity of my identification and disclosure as a subsystem within a single system. Such consideration leads to the establishment of common structures, which makes it possible to use the model, within certain limits, as a coordinate grid applied to many situations. As a result, it is possible not only to understand and decipher the situation, to attribute it to a certain class, but also to choose the necessary means of studying situations, to predict the likely direction of its development, the assimilation of which will arm the subject of the investigation with methods of smuggling. Thus, the contradictions that arose between the needs of practice in the new conditions, on one hand, and the lack of in-depth scientific research on the patterns of activity to identify and reveal smuggling and its problems, on the other hand, served as the basis for scientific research on the chosen topic. These objective circumstances and determine the relevance of this study, determine its scientific and applied significance.

## 2. The object and subject of study

From the point of view of the system-activity approach, the object of the present study is the interaction (interconnection, mutual influence) of two types of activity: criminal activity on conception, preparation, execution, disguise of smuggling and activities on detection and disclosure. The subject of the research is the laws of preparation, commission and concealment of smuggling, and laws of knowledge, correct research, evaluation and use of evidentiary information in identifying and disclosing this category of crimes. The purpose of this article, considering modern achievements of legal sciences, customs and judicial practice to develop organizational and scientific-practical recommendations aimed at increasing the efficiency of their use in order to identify and disclose smuggling based on the construction and analysis of a model of criminal activity, includes the following:

- Exploration of the historical and socio-political aspects of the problems of identifying and disclosing smuggling by customs authorities

- Provision of scientific rationale for the choice of means of reflection, information and systematic, as the scientific basis for building a model of criminal activity
- Description of the elemental and phase models of criminal activity related to smuggling in modern conditions on the basis of theoretical knowledge and empirical data
- Identification and formulation of ways to detect signs of smuggling
- Formulation and description of the tactical features of individual operational-tactical actions at the initial stage of identifying and disclosing smuggling
- Identification of the various parties of interaction of law enforcement agencies at revealing and disclosing these crimes
- Ratification of the need to use "customs equipment" in solving problems of identifying and disclosing smuggling
- Formulation and justification of practical suggestions and recommendations for improving the legislative and departmental regulation of activities to identify and disclose smuggling

### **3. Methodology and research methods used**

The methodological basis of this study is the provisions of dialectical materialism, from the content of which the authors highlighted the following basic methodological ideas in the interests of the study - reflection as an objective property of matter. It uses the idea of complex, multiple reflection of information in the interests of activity interaction, when the reflected information is repeatedly recoded, which is just characteristic of the process of identifying and disclosing smuggling; system-activity approach, in accordance with which criminal activity is subjected to criminal activity, as well as activities to identify and disclose contraband, their interaction and interaction. To solve the problems, the following methods were used:

- Historical
- Logical and legal
- Theoretical analysis
- Modeling
- Questioning
- Interviewing

The theoretical basis of the article was the scientific development of the science of criminalistics, criminal, criminal procedure, customs, administrative law, operational-search activity, the general theory of law, criminology and sociology. The scientific novelty lies in the fact that for the first time, on the basis of a system-activity approach, an attempt has been made to comprehensively examine the most pressing theoretical and organizational-tactical problems of identifying and disclosing smuggling at the present stage.

### **4. Study of legal and organizational-tactical fundamentals of customs authorities and analysis of statistical data**

The main part of this article is devoted to the study of the legal and organizational-tactical fundamentals of the customs authorities in identifying, preventing, suppressing, uncovering and investigating economic smuggling on transport, as well as analyzing statistical data that allow to state the fact that smuggling has been internationalized, large criminal offenses with well-established structures abroad have been formed.

Analysis of statistical data [1] allows us to state that smuggling has been internationalized, large criminal structures with well-established ties abroad have formed. Given the high latency of smuggling, export-import, foreign exchange and other operations have become used by organized criminal groups, commercial criminal structures more often to obtain illegal over-income. Their actions have become more and more interregional and international on the stable basis. In recent years, there has been a steady increase in drug smuggling. Smugglers began to use territory of the Republic of Kazakhstan as a transit country in search of new ways to export drugs to Russia and foreign countries, which is facilitated to a large extent by its convenient geographical location. Annually

150 tons of "heavy" drugs are carried through our country from Afghanistan, a third of which settles in the country [2]. The growth of drug smuggling is directly connected with the number of "shuttles makers" who regularly make shopping tours to China, from where an ephedrine is imported to the republic. This is facilitated by the fact that customs clearance apply the principle of minimum sufficiency to citizens of the CIS countries, which allows many travelers to avoid a thorough screening procedure.

The lack of a well-established system of informing supervising prosecutors about the detected smuggling by the customs authorities also does not contribute to a quick response to these crimes, the determination of the relevant investigative authority and his immediate visit to the scene of the incident. As a result, in most cases, inspections are carried out by customs officers who do not have sufficient procedural experience. This contributes to the fact that for this type of crime few couriers are detained and brought to justice, and the organizers of crimes remain beyond the reach of law enforcement agencies and continue to commit new crimes. Measures are also not always applied to the detention of smugglers after their interview, which makes it possible for them to leave Kazakhstan boundaries until all the circumstances of the criminal case have been clarified. As a result - the search for a suspect, giving instructions and other paperwork take place. As a result, when the legal deadlines for the investigation have been expired, the criminal case is dismissed due to the fact that the person has ceased to be "socially dangerous", as he/she left the state boundaries. Moreover, smuggling items, as written in Part 1 of Article 234 of the Criminal Code of the Republic of Kazakhstan are not provided for their confiscation, on the contrary, they are returned to persons from whom they were seized. Many difficulties are caused by the absence in the customs bodies of full-time translators, whose presence would allow us to clarify the essence of the crime at the initial stage of the verifying actions and determine the degree of participation of each person involved in it if they do not speak the language of the proceedings of our state. The foregoing allows us to state that the tasks of criminal proceedings are often not fulfilled, and this encourages smugglers to commit new crimes. Against the backdrop of such processes, the issues of organizational and tactical activity of law enforcement bodies in counteracting economic smuggling on transport are becoming more urgent. Direct detection of smuggling is carried out by specific methods in accordance with the main activities of customs authorities, which includes:

- Customs clearance and control of people crossing the customs border of the Republic of Kazakhstan
- Conducting customs examination of goods and vehicles
- Proceedings in cases of violation of customs regulations
- Checking the financial and economic activities of person moving goods and vehicles across the customs border of the Republic of Kazakhstan
- Checking anonymous letters and calls
- Receiving materials from other customs bodies
- Conducting a survey of various kinds of objects

In each of these types of administrative-customs activities, their unique methods and methods for detecting signs of crime are developed. The study and analysis of criminal cases on smuggling shows that in practice, the customs authorities use the inspection of goods transported by means of vehicles more often. Thus, during the inspection of the car model "SAAB Scania" with a trailer passing through the border of the customs post "Zhaisan" of the Department of Customs Control of Aktyubinsk region of the Republic of Kazakhstan, 220 packages with a white powder of 1 kg each were found in the double bottom of the fuel tank under the wooden flooring in the inner cavity. During the rapid analysis it was found that the substance is heroin. The cost of this cargo on the black market is 30 million US dollars [3]. Under customs inspection we mean the checking of the presence or absence of items not declared or concealed from customs control in vehicles, hand luggage and luggage, as well as in clothes and on the body of an individuals. Inspection of goods and vehicles, as well as personal inspection of citizens traveling across the customs border can be carried out in the areas of customs control, customs inspection premises, in the places of storage of goods, during the unloading and loading. An important condition for the timely detection of this category of crime is the receipt of fairly complete and reliable information on the signs of preparation and smuggling in the process of operational and investigative activities. The detected (established) sign of a crime is a fact that is the result of a criminal act (traces of a crime in a broad word), "which is more or less likely to indicate the event of a crime and its circumstances" [4]. Directly reflected objects are the qualities and actions of subjects, as well as other

elements of the mechanism of criminal activity. A crime subject as an individual is reflected through its properties, the means used and the scheme of actions: actions or omissions through means and procedures of implementation.

Thus, the mandatory element of the act of repelling a criminal event is, basically, actions. But actions, a set or a system of actions, is the way of committing and concealing a crime. Consequently, an indispensable and most significant component of the source data is information about the way the crime was committed. It is on this basis that decisions on the direction of the investigation in its initial period are made. It is the information about the way the crime was committed that determines the choice of means and methods of searching and researching evidence. It is made, in fact, to replenish knowledge of the method of committing and concealing crime, and hence, to know about the subject and other circumstances. The variety of methods of smuggling on transport raises the problem of the need for their systematization in order to identify the signs of these crimes when importing excisable (imported) goods. In the crimes under investigation, the most significant, in our opinion, are the signs of a committed crime that allow us to conclude that the method of committing a crime, that is, knowledge about it, determines the way of knowing the truth in a case - the method of disclosure and investigation. And this is the realization of the formula "from the method of commissioning to the method of disclosure," that is, the application of a rule that has the power to investigate all crimes and therefore can be regarded as a general method of investigation "[5]. It should be noted that unlawful actions in the implementation of operations for the supply of imported consumer goods subject to excise taxes and customs duties (cars, alcoholic beverages, tobacco products, video and audio equipment, etc.) are practiced by both physical and legal persons. The main methods of smuggling excisable goods are:

- Crossing by means of transport the customs border bypassing customs posts and partial or full concealment of cargo from customs control
- Fraudulent use of documents or means of customs identification when transporting goods
- Non-declaring or unreliable declaration of cargo

Consider the possible signs of smuggling on transport, which may indicate a way of committing a crime, and which basically consist in actions. The signs indicating a possible contraband supply can be:

- Various transport documents (vehicle lease agreements, overheads and others), filled with a similar under strike
- Seals with impressions of the manufacturer that do not correspond to the data specified in the shipping documents
- Justified doubts about the authenticity of documents confirming the powers of persons performing the functions of customs escort
- The list of goods indicated in the specification presented during the check, which does not coincide with the goods actually moved (bottle capacity, type of plugs used, size of cigarette packs, type of marking, barcode, etc.)
- Excise marking, carried out in a way enabling re-use of the same brands and use of forged certificates of conformity
- The use of certificates of origin in the form of ST-1 issued by the authorized bodies of the CIS member states for products, trademarks or packaging that do not belong to the State Party to the CIS
- No authenticity of the signature of the heads of customs bodies on the customs declaration with indication of the customs clearance before receiving electronic copies of import documents and others

The concealment from the customs control of the goods transported in the mode of internal customs transit (ICT) and the implementation of false transit can be established:

- According to the accounts of transport companies, i.e. the same vehicles involved in the transportation of goods in the mode of internal customs transit were simultaneously located in different regions
- The chronological discrepancy between the dates for the registration of the arrival of goods in the temporary storage warehouse (TSW) and release for free circulation
- Inconsistency of information on the imported cargo contained in an electronic copy and a set of documents submitted to internal customs
- A negative response upon request to the border customs authorities of the CIS countries about the import of transit cargo to their territory

It is possible to detect the deliberate export of goods from the customs control zone by redirection, first of all, in an operative way, as well as by conducting checks with the analysis of customs documents on the facts of repeated dispatch of goods to customs clearance in another region (to the same company) [6]. In this case, it is necessary to carry out a complex of operational search measures to identify the persons involved in the transaction, to determine the ownership of the vehicle used in the course of the crime, as well as to verify the company - the official customs carrier whose details were forged - to determine the circumstances of the disappearance of forms, possible access to seals, stamps. Documenting these facts requires verification of faxes, telephone messages, letters confirming business agreement with the receiving company in another region; check of this firm on the accounts in the tax inspection; establishment and verification of founders and those whose documents are registered by the firm. Signs of committing an offense while moving cargo across the customs border in the regime of internal customs transit using the procedure for issuing international documents of customs transit:

- The value of the goods indicated in the shipping documents is lower than the cost of TIR freight, which indicates a conclusion of a theoretically unprofitable transaction
- The mismatch of the identification number on the cover of the TIR Carnet and on its subsequent pages, testifies to the resupply of the TIR Carnet and the substitution of the transported goods
- The discrepancy between the seals on the vehicle indicated in the TIR Carnet-the replacement of the goods
- The period of delivery by the transit cargo exceeded the established norms, indicates a possible change in the route for the substitution of the cargo
- The delivery time determined by the marks of customs posts is unrealistically short (less than 300 km per day), in this case the documents can be fictitious
- The state registration plates of the semi-trailer truck do not correspond to the country of registration of the TIR Carnet holder and the country in which the document was issued

In order to establish the customs value of goods and cargos carried by transport, a number of main methods formed on a variety of counting methods and techniques are used. Differences in methods of determining the customs value are explained by the fact that different schemes of deliveries and mutual settlements, as well as various goods and cargos, including unique, single goods, are used in foreign economic activity. In addition, it is necessary to apply a number of methods of determining the customs value of goods carried by transport in the Republic of Kazakhstan (see Fig. 1). For the commission of offenses related to the smuggling of imported vehicles when they are issued and related crimes such as forgery or use of forged documents, forgery, bribery, abuse of office, etc., may indicate the following signs:

- The presence on the market of cars that have not passed customs clearance and a large number of foreign-made cars with state numbers of other regions, foreign state registration cards or even without such
- Illegal trade in packages of documents confirming the customs clearance of foreign-made cars
- Sending a large number of requests from the regional department for control of delivery and customs support (DCD and CS) to various automated checkpoints (AC) to confirm the delivery of vehicles under the procedure of VTT
- Official information of customs authorities on the recognition of certain impressions of personal numbered seals (PNS) on customs declarations counterfeit or withdrawn from circulation
- Responses of customs authorities on requests for discrepancy between the contents of a cargo customs declaration, invoices, the passport of a vehicle (PV), presented at internal customs points, originals stored on border AC
- Availability of copies of customs declarations with the same number in the registration units of the traffic police and in the customs authority that issued the clearance, but for different vehicles or for the same vehicle with discrepancies in the numbers of customs declarations
- Presence in the registration authorities of the traffic police of fictitious evidence of customs clearance or removal from the register for sale

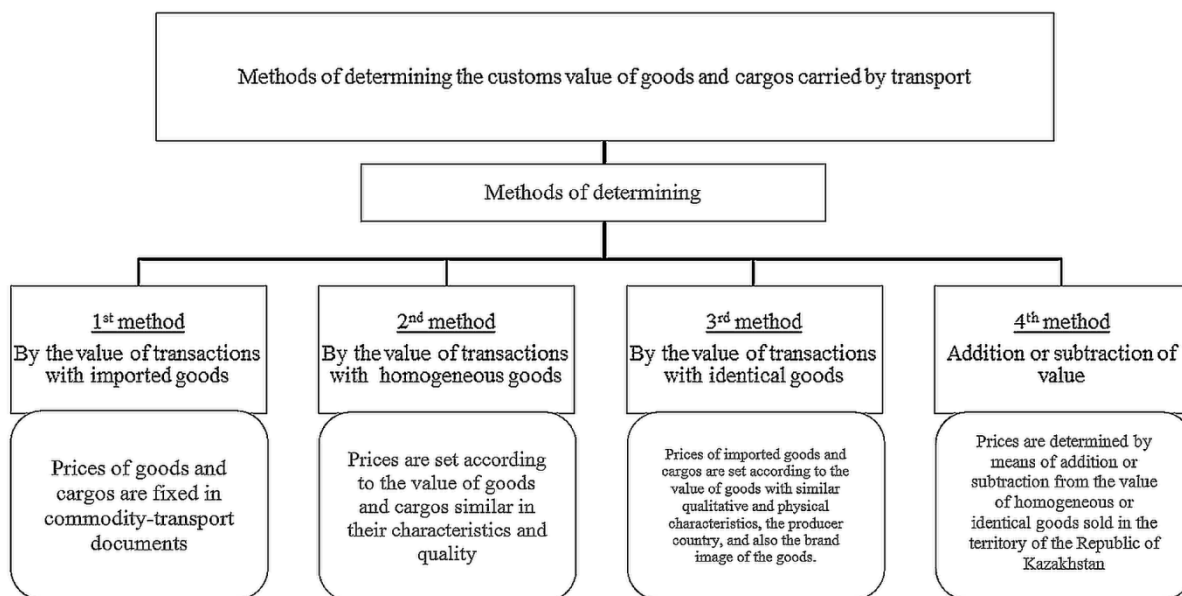


Fig. 1. Classification of methods of determining the customs value of goods and cargos carried by transport in the Republic of Kazakhstan.

- Indication of the divergent information about the year of release of the motor vehicle, the volume of the engine, the brand of the engine in the GTE and the PTS, the certificate of registration
- Discrepancy in the border and customs authorities of information about persons who crossed the border and data on vehicles

In cases where the vehicle is detained by law enforcement agencies when crossing a border outside places designated by the customs authorities in regions where there is no arrangement of a border zone in accordance with international standards, in addition to the protocol, a detention map is drawn up, which is a photocopy of the map of the locality indicating the route of movement of violators. Registration of the card-scheme as a legally binding document is completed with personal signatures of detainees and witnesses, indicating "the scheme is made correctly", the place and time of its compilation. The illegality of customs clearance is identified in the customs authorities during the verification of the confirmation of import confirmation of a foreign-made car. To verify the authenticity of the declared value of a foreign-made car, which serves as the basis for charging payments, it is necessary to conclude an auto expertise bureau that determines the country of origin of the car and the qualitative parameters. When establishing the cost, the prices of catalogues of manufacturers are taken as a basis [7]. The main methods of detecting the above signs of smuggling on transport are:

- To study documents (cargo customs declarations, contracts, certificates, payment documents, etc.) on the reliability of the information specified therein and compliance with the rules for goods imported into Kazakhstan
- To study the means of customs identification (seals, seals, etc.), acts of inspection of goods, following on these documents and in respect of which violations were committed, protocols of detaining offenders and other violations of customs regulations, etc.
- To obtain an expert evaluation of the imported goods in order to identify and fix the discrepancy between the volumes, quantity and assortment of the actually imported goods to the name indicated in the declaration
- To conduct examinations of commodity, handwriting and other expertise on samples located in the points that made the delivery of goods (cargo), warehouses of temporary storage, etc.
- Familiarization with other documents (statutory documents, licenses, etc.)
- A request to law enforcement agencies of the CIS countries about participants in an illegal transaction

It is impossible to accurately set data on counterfeit operations and volumes of contraband, on potential development of unfair competition, currency transactions, and complex of economic violations of certain types of goods and cargos, evasion of payment of customs duties and taxes. Consequently, the total transaction costs resulting from the uncertainty of market processes and the transformation of the social and political sphere can be formed from the three summands entering into the formula:

$$TC_0 = TC_1 + TC_2 + TC_3 \quad (1)$$

where  $TC_0$  — total transaction costs,  $TC_1$  — transaction costs associated with a lack of information on the external environment,  $TC_2$  — transaction costs associated with limited knowledge of the market and semantic problems and  $TC_3$  — transaction costs associated with circumstances of insuperable force.

Any of the previously mentioned can be minimized at the expense of special economic and legal measures. However, it is unattainable to absolutely eliminate the uncertainties of any given species.

## 5. Discussions

In the Criminal Code of the Republic of Kazakhstan, transfer Article 234 of the Criminal Code of the Republic of Kazakhstan (Economic Contraband) from Chapter 8 "Criminal offenses in the sphere of economic activity" in Chapter 10 "Criminal offenses against public safety and public order", combining with Article 286 of the Criminal Code RK (Smuggling of items or items that are withdrawn from circulation, the circulation of which is limited). This change will increase the degree of public danger of smuggling, especially since Part 2 of Article 234 of the Criminal Code of the Republic of Kazakhstan is attributed to corruption crimes, and also removes disputes about the lack of jurisdiction between various bodies of preliminary investigation in case of simultaneous detection of crimes committed in transport, related to the jurisdiction of different bodies.

It is necessary to provide for measures to improve existing forensic accounts by the method of movement, subjects and footprints, which should be based on the principle of video library, which allows using computer technologies to quickly select from the data bank the necessary information on crimes committed on transport.

The authors of the paper came to the main conclusion that now the legislation is being improved in the sphere of counteracting economic smuggling, the national legislation is being updated, the orders on topical issues are being approved, namely, on combating corruption. Also, the urgency of the conclusions is confirmed by the fact that the Customs Union of the five countries of Russia, Kazakhstan, Belarus, Armenia and Kyrgyzstan starts to work at the moment. Therefore, the problems of organizational and tactical activity of customs bodies in countering crimes committed in transport are of particular relevance.

## 6. Conclusion

Smuggling, now acquiring a transnational character, has put forward to politicians, scientists and practitioners a number of complex problems that need to be solved immediately. The exhausting fight against smuggling of each country does not lead to tangible results, while smugglers are structurally strengthened, their activities become more sophisticated, causing enormous material and moral damage to the state, which requires considerable efforts by law enforcement agencies to identify and solve crimes. The urgent need to improve the effectiveness of this activity makes it necessary to look for new approaches to many aspects of the problem of combating this type of crime. In this case, the subject of analysis should be as the provisions of the current, as well as predictable legislation, and practical actions for its implementation. Based on the above, the authors concluded that legislation is required to make changes:

- To supplement the article of the Law "On Operational-Search Activity" with the following provision: "Ensure, through the authorities that carry out operational-search activity, continuous (from the moment of initiation of a criminal case until the verdict enters into force) operational support of the investigation process in which preliminary the consequence is obligatory. At the same time, the current Instruction on the organization of interaction between subdivisions and services of internal affairs bodies in identifying and we offer to consider



two types of this activity in it, namely: operational support in cases filed: a) based on verification of official reports, b) operational search data

- To supplement the sanction of the article of the Criminal Code of the Republic of Kazakhstan with the words "with confiscation of property"; nuclear materials, explosive devices, ammunition, firearms and their main parts, spare parts, materials and equipment that can be used for assembling, rogue weapons or ammunition, weapons of mass destruction, their delivery vehicles, other weapons, other military equipment, as well as materials and equipment that can be used to create weapons of mass destruction, their delivery vehicles, other weapons, other military equipment, for which special rules are established for moving through customs border of the Republic of Kazakhstan
- To improve the criminal record keeping according to the method of movement, subjects and tracks. At the same time, the form of such accounting should be based on the principle of a video library so that using a computer program it is possible to quickly select the necessary information from the data bank
- Considering the specifics of the investigated type of crimes, improve the tactics of the initial investigative actions
- The results of the use of technical means should be considered as a means of securing evidence along with the protocol form of fixation. Such a change in the status of the results of the use of technical means will expand the range of material evidence obtained with their help (including derivatives of material evidence: impressions, impressions, models) and documents, which should include materials, audio and video recordings, technical and electronic control, as well as magnetic, optical and other electronic data carriers received, requested or presented in the manner prescribed by the relevant articles of the Criminal Procedure Code of the Republic of Kazakhstan
- In turn, changing the status of the results of the use of technical means will significantly expand the evidence base, make it possible to establish the same evidentiary facts from various sources, which will contribute to a more complete assessment of their authenticity. Along with this, giving evidence to the results of the use of technical means will make it possible to obtain evidence from the materials of operational-search activity
- Based on a clear delineation of functions, develop a methodology for coordinating and interacting with specialists and services of the Ministry of Internal Affairs, the National Security Committee, the State Revenue Committee, the Financial Police, the prosecutor's office when planning joint short-term and long-term operations
- Create a catalog of maps reflecting the geographic pattern of distribution of smuggling items moved in a certain way. In the interests of the accelerated development of the customs authorities as a law enforcement structure, to organize intensive training for professionals of the operational staff in relevant educational institutions in programs that meet the requirements of customs specifics

Lastly, it is necessary to improve legislation in the area of counteracting economic smuggling, to update national legislation. The authors concluded that the problems of the organizational and tactical activities of the customs authorities in countering crimes committed in transport are relevant in modern realities.

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