

## THE CUSTOMS LAW

### PART I

#### GENERAL PROVISIONS

##### CHAPTER ONE SCOPE OF APPLICATION AND BASIC DEFINITIONS

###### Article 1

This Law shall regulate customs procedure, the rights and obligations of persons participating in customs procedure and rights, obligations and ~~responsibilities~~ of the authorities in charge of customs clearance of goods (hereinafter referred to as customs authorities).

###### Article 2

The customs territory of the Republic of Montenegro (hereinafter referred to as: the customs territory) shall comprise the territory of the Republic of Montenegro (hereinafter referred to as: the Republic), including territorial waters, bays and airspace.

The customs territory shall be enclosed by the customs boundary line which is identical to the state border of the Republic.

#### 1. CUSTOMS CROSSING

###### Article 3

Goods shall be brought into or out of customs territory through customs crossings.

The Government of the Republic of Montenegro (hereinafter referred to as: the Government) shall designate customs crossings and their classification, categorization and working hours.

Circulation of goods liable to phytopathological, veterinary and other prescribed controls shall be permitted only via those customs border crossings designated for circulation of such goods in accordance with special regulations.

Design, construction or reconstruction of the international border crossing in part that is intended for performing of customs supervision and customs procedure shall be subject to the approval of the Director General of the Customs Administration (hereinafter referred to as: Director General).

## 2. CUSTOMS GOODS

Article 4

Deleted.

## 3. BASIC DEFINITIONS

Article 5

Expressions used in this Law shall be interpreted as follows:

- 1) "the person's":
  - Private person,
  -

6) "the decision" is an act, i.e. the official activity by the customs organ related to the customs legislation which involves decision making in an individual case, holding a legal action towards one or more determined or determinable persons;

7) "the customs status" is status of commodities in the customs procedure, being declared as domestic or foreign:

8) "the domestic commodities" are:

a) commodities fully prepared or produced within the customs area, under the conditions stipulated in Article 24 of this Law, excluded

17) "the customs procedures: free marketing of commodities, transit procedure, storage procedure, procedure of upgrading in Montenegro (hereinafter: the active upgrading), procedure of upgrading under customs supervision, procedure of temporary import, procedure of upgrading outside Montenegro (hereinafter: the passive upgrading) and export procedure;

18) "the customs declaration is an activity whereas the person in prescribed form and manner requests for the commodities to enter some of the customs procedures;

19) "the declaration applicant is a person submitting customs declaration in his/her own name



The representative must have headquarters or residence in Montenegro, except in the situations stipulated in the Article 72 Paragraph 3 herein.

A representative shall have the seat or residence in the Republic.

A representative must state who is the person being represented, and whether the representation is direct or indirect, and at the request by the customs authority must submit also a valid document with evidence of his powers to act as a representative.

Persons who fail to state that they are acting in the name or on behalf of another person, or who state that they are acting in the name of and on behalf of another person without producing a relevant document, shall be deemed to be acting in their own name and on their own behalf.

A representative may perform the representation activities when the goods are being cleared, in accordance with the separate regulations to be issued by the Government.

a) The customs agent

Article 6 a

The foreign person participating in customs procedure shall have a customs agent acting in his own name, and on behalf of foreign person.

The authorized enterprise status may be granted for the following persons:

- which had appropriately adhere to customs legislation in previous period,
- which satisfactory keeps business and, where necessary, transport records, providing thus for appropriate customs controls,
- which fulfills the conditions for performing agency activities in customs procedure, as defined by separate regulation,
- which is financially reliable and stable,
- which fulfills appropriate protection and security measures.

The Government's regulation prescribes:

- conditions for granting the authorized enterprise status,
- conditions for granting authorization to use simplified procedures,
- type and scope of favors which may be granted in view of security relevant checks and risk management,
- conditions and procedures under which the status of authorized enterprise may be cancelled.

The authorized enterprise is obligated to inform customs organ on status and other changes which may influence issued verification.

## 2. APPLICATION OF REGULATIONS ON GENERAL ADMINISTRATIVE PROCEDURE

### Article 7

Regulations governing general administrative procedure shall be applied to procedures conducted by the customs authorities, unless otherwise stipulated by this Law.

### Article 8

Where a person requests that customs authorities take a decision, that person shall state all facts and circumstances and submit documents and other evidence required in order to take a decision.

An appeal may be lodged against the first-instance decision to the Ministry of Finance.

The appeal shall not postpone the enforcement of the decision.

The execution of decision can be either fully or partially delayed if customs authority:

a) finds that the decision, against which an appeal or some other legal expedient was lodged, is not in accordance with the customs regulations, or

b) finds that the enforcement of that decision may cause irreparable damage to the person to whom the decision is addressed.

The enforcement of a decision pertaining to the computation of import or export duties shall be postponed provided that the funds in the amount of the disputed debt payable on the importation or exportation are deposited.

In exceptional cases, no request for the deposit of funds shall be made where the customs duty payer furnishes evidence that the payment of the deposit would bring him into a difficult economic or social position.

Article 8 a



Any person importing or exporting goods may request information concerning the application of customs rules from the customs service authorities without being charged.

However, fees may be charged where special costs are incurred by the customs authority as a result of necessary analyses or expert testing of the goods in question, report making or return of the goods to the applicant.

#### Article 12

- 3) where the binding information is revoked or amended in accordance with Article 10 of this Law, and the holder of the information shall be notified of the revocation or amendment of the binding information.

In cases where the binding information on tariff classification is no longer in accordance with the regulation or in line with the information of the Ministry of Finance, the given information shall become invalid as of the day of enforcement or implementation of the regulation adopted or its interpretation.

The binding information regarding the origin of goods shall become invalid:

- 1) where a regulation is amended or an international agreement is concluded and the binding information no longer conforms to the regulations,
- 2) where the binding information no longer conforms to interpretations of the body authorized by the Law to issue interpretations of rules concerning the origin of goods,
- 3) where the binding information is revoked or amended pursuant to Article 10 of this Law, and the holder of the information shall be notified of the revocation or amendment of the information given.

Where a regulation is amended or an international agreement is concluded, and the binding information is no longer in accordance with the regulations or is not in accordance with the interpretation by the ministry, the binding information shall cease to be valid on the date when the adopted regulation, international agreement or interpretation takes effect, or on the date it becomes effective.

The holder of the binding information ceasing to be valid in accordance with paragraph 6, items 1) and 2), and paragraph 8, items 1) and 2) of this Article, may still use that information for a period of up to three months from the date it ceased to be valid, provided that he concluded a binding contract for the purchase or sale of the goods in question, on the basis of the binding information.

In the cases referred to in paragraph 6, items 1) and 2), and paragraph 8, items 1) and 2) of this Article, the regulation or agreement may lay down a period within which the information may be used.

Binding information on the classification of goods under the Customs Tariff or on the origin of goods may be used pursuant to this Article, solely for the purpose of determining the import or export duties or computing the amounts of export fees or refunds related to agricultural policy measures.

### Article 13

The Government shall lay down specific conditions for the issue of binding information in accordance with this Law.

## 5. OTHER PROVISIONS

### Article 14

The customs authorities in the customs territory may, in accordance with the regulations, take and carry out any measure of customs supervision and control they deem necessary to ensure that customs and other regulations are applied.

Customs supervision and control shall be performed selectively, according to the risk analysis with the objective to determine the risk and its intensity, as well as to develop necessary measures for risk estimation according to the established criteria. The customs organ establishes framework for risk management, criteria and priority control areas.

When other authorized organs perform control over the same goods, such control must be performed in direct cooperation with customs organ and, whenever possible, in the same time and at the same place.

Within the control mentioned in Paragraph 2 herein, and when deemed necessary for the purpose of risk alleviation, customs and other authorized organs may exchange data regarding entry, exit, transit, transfer and final use of commodities moving between customs area of Montenegro and other areas, as well as regarding presence of foreign commodities, with international institutions and organs of other states.

When the situation requires facilitating traffic on border crossings or remedying obstacles for performing customs procedures within the customs area, customs organ may make a decision on temporary introduction of simplified procedures for enforcement of customs supervision and control measures.

### Article 15

Any person directly or indirectly involved in the operations for the purpose of trade in goods shall provide the customs authorities at their request with all the requisite documents and information and any requisite assistance for the application of customs rules.

### Article 16

All information which is by nature confidential or which is provided on a confidential basis shall be considered as official secret and it shall not be disclosed by the customs authorities without the express consent of the person or authorities providing it.

The communication of confidential information shall be permitted where the customs authorities may be obliged or authorized to do so pursuant to regulations in force.

### Article 17





## 1. NON-PREFERENTIAL ORIGIN

### Article 23

The non-preferential origin of goods is defined by this Law for the purposes of:

- a) applying the Customs Tariff, with the exceptions set forth in the Article 21 of this Law,
- b) applying other measures established by provisions of separate regulations governing trade in goods, and
- c) the issuing of certificates of origin.

### Article 24

Goods originating in a country shall be those wholly obtained or produced in that country, including that country's territorial waters.

The expression "goods originating in a country" means:

- 1) mineral products extracted from the soil of that country;
- 2)

- 1) packing and repacking of goods, irrespective of where the packaging material was manufactured,
- 2) dividing large quantities of goods into small quantities or putting small quantities together to make large quantities;
- 3) separating, sorting out, sifting, rinsing or cutting of products into pieces;
- 4) labeling and marking of goods;
- 5) treatment necessary to preserve the characteristics of products during transport and storage, and
- 6) simple assembly of parts into the whole product.

#### Article 26

Any processing of goods established to be or involving an established fact that its sole object was to circumvent the provisions of this Law applicable in the Republic to goods from certain countries shall not be deemed authentic, and such goods shall not have the status of the goods

CHAPTER THREE  
VALUE OF GOODS FOR CUSTOMS PURPOSES

Article 29





Law, and costs incurred by the seller in sales where the seller and the buyer are not related, and which are not present in sales where the seller and the buyer are related.

The comparison is to be carried out at the request of the importer and only for comparison purposes in determining the transaction value, and such value cannot represent the transaction value.

#### Article 31

The price actually paid or payable is the total payment made or to be made by the buyer for the benefit of the seller for the imported goods, and includes all payments made or to be made as a condition of sale for the imported goods by the buyer to the seller or by the buyer to a third party to satisfy an obligation to the seller.

The payment may be made by cash money, letters of credit or other negotiable instrument of payment.

The payment may be made directly or indirectly.

Activities undertaken by the buyer on his own account, including also marketing activities not referred to in Article 38 of this Law, for which an adjustment of value is to be made, shall not be considered as an indirect payment to the seller, even when they may be regarded as undertaken





from him, provided that the government of the country concerned is timely notified and does not object the verification.

#### Article 37

The customs value of imported goods that cannot be determined under the provisions of Articles 30 to 36 of this Law shall be determined on the basis of data available in the Republic, applying appropriate methods in accordance with the principles and main provisions of:

- Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade of 1994;
- Article VII of the General Agreement on Tariffs and Trade;
- this Chapter of the Law.

Pursuant to this Article, no customs value shall be determined on the basis of:

1) the costs, to the amount borne by the buyer, not included in the price actually paid or payable for the goods, of the following:

- commissions and brokerage, except buying commission,
- packaging treated as being integral part of the goods in question for customs purposes,
- packing, whether for labor or materials,
- transport of imported goods to the port or the place of introduction into the customs area of Montenegro,
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In determining the customs value, the following shall not be added to the price actually paid or payable:

- 1) charges for the right to reproduce the imported goods,
- 2) payments made by the buyer for the right to distribute or resell the imported goods, if such payments are not a condition for the sale for export to the Republic.

#### Article 39

Provided that they are shown separately from the price actually paid or payable, the following costs shall not be included in the customs value:

- 1) the transport of goods after their introduction into the customs territory,
- 2) construction, mounting, assembling, maintenance or technical assistance, to be undertaken after the importation, e.g. of industrial plants, machinery or equipment,
- 3) interests under a financial arrangement entered into by the buyer and relating to the

## Article 41

The customs value of the goods not sold for export to Montenegro and the customs value of temporarily imported goods shall be determined under Articles 32 through 37 of this Law.

The customs value of the goods damaged before being released to the declarant shall be determined by reducing the relevant contracted price by a percentage in which it was damaged.

The customs office shall estimate the percentage of the damage.

Where a new price, corresponding to the conditions provided in Article 30 of this Law, was contracted during the customs procedure, that price shall represent the new customs value.

If the commodities imported according to ~~the~~ lease or leasing arrangement the customs value cannot be established according to the provisions of Paragraph 1 herein and for which no purchase option is defined within the contract, the customs value shall be the amount of lease fee to be paid for the duration of lease period or leasing, increased, if necessary, according to the Article 38 herein.

If, after marketing the commodities the marketer had decreased real paid price or price to be paid, such decreased price shall be taken into account when determining the customs value, according to the Article 30 herein, providing ~~at~~ the customs organ establishes that:

- 1) the commodities had deficiencies in the time of declaration accepting for marketing;
- 2) the marketer had decreased the price regarding execution of warranty obligation prescribed by the contract on commodity sales signed before the commodity was marketed;
- 3) commodity deficiency was not considered when signing the commodity sales contract.

Price paid or to be paid is, according to the Paragraph 6 herein decreased, and it may be



The expression "data carrier" referred to in paragraph 1 of this Article shall not mean included systems, semiconductors and similar devices or products incorporating such systems or devices.

The expression "data and program instructions" referred to in paragraph 1 of this Article, shall not mean audio, cinematographic or video recordings.

#### Article 44

In the customs procedure, the customs office may request the declarant to produce all the requisite documents and information necessary for determining the customs value as provided for in Articles 30 to 37 of this Law.

No provision of this chapter shall restrict the right of the customs office to establish whether any statement, document or declaration submitted for the determination of the customs value is accurate and correct.

The provisions of this chapter shall be without prejudice to the specific provisions of this Law

PROVISIONS APPLICABLE TO GOODS BROUGHT INTO THE CUSTOMS  
TERRITORY UNTIL THEY ARE ASSIGNED A CUSTOMS-APPROVED TREATMENT  
OR USE

CHAPTER ONE  
ENTRY OF GOODS INTO THE CUSTOMS TERRITORY OF THE REPUBLIC

1. CUSTOMS SUPERVISION

Article 46

The goods brought into the customs territory of the Republic shall, from the time of their entry, be subject to customs supervision and customs control in accordance with regulations.

## 2. DECLARING GOODS

### Article 47

All the goods entering or leaving the customs territory must be declared at the border customs office, or other competent customs office.

The master of any vessel or other responsible person and the commander of any aircraft arriving in the Republic, or person authorized by him, shall, immediately upon arrival and prior to unloading the goods, submit to the customs office the manifest for all the goods transported as cargo on such vessel or aircraft.

The master of any vessel or other responsible person and the commander of any aircraft leaving the Republic, or person authorized by him, ~~shall~~ prior to leaving, submit to the customs office the manifest for all the goods transported as cargo on such vessel or aircraft.

In case of vessels, the form of manifest for international maritime traffic (IMO) must be in accordance with the standards defined by the United Nations Organization, and in case of aircraft, the format of the manifest must be in accordance with the standards defined by the International Air Transport Association (IATA).

Paragraphs 1 through 9 of this Article and Articles 48 through 63 of this Law shall not apply to goods temporarily leaving the customs territory while moving between two points in that territory by sea or air, provided that the transportation is made directly and by regular air or maritime line with no stops outside the customs territory. This provision shall not apply to the goods loaded in

#### Article 50

As laid down in Article 47 of this Law, the goods which have been conveyed to the customs office or other place designated or approved by the customs office shall be presented to the customs office by the person bringing such goods into the customs territory or by the person undertaking responsibility for such goods following the entrance thereof.

#### Article 51

Article 50 of this Law shall not preclude the implementation of regulations concerning the following:

- a) goods brought in by passengers,
- b) goods placed under customs procedure but not presented to customs.

#### Article 52

Once the goods have been presented to customs office, they may be examined or samples may be taken in order that further customs treatment may be determined or that the goods may be used with the customs office permission.

The permission for further customs treatment or use of the goods shall be granted at the request of the person authorized to carry out the approved customs treatment or use of the goods.

The application and short application shall be made on the prescribed form pursuant to Article 69, paragraph 2 of this Law.

The application and short application shall be submitted by:

- 1)

## Article 59

Where the goods are covered by a declaration, the necessary actions for them to be assigned the customs-approved treatment or use shall be completed within the following time period:





Save as otherwise provided in this Law, the goods may, at any time, under the conditions laid down, be assigned any customs-approved treatment or use irrespective of their nature or quantity, origin, destination or consignment.

Paragraph 1 of this Article shall not be applied, if such application is in contradiction with the measures for public morality protection, security, protection of health and life of humans, animals

The form, substance and manner of submitting the customs declaration and other forms used in the customs procedure are proscribed by the Ministry of Finance on the proposal of the customs authorities.

## 1. CUSTOMS DECLARATION IN WRITING

### 1) Regular Procedure

#### Article 70

The customs declaration in writing shall be submitted in the prescribed form and shall be signed and contain all the particulars necessary for implementation of the regulations governing the customs procedure for which the goods are declared

The customs declaration shall be accompanied by all the documents required for implementation of the regulations governing the customs procedure for which the goods are declared.

#### Article 71

The customs organ shall instantly accept declaration submitted in line with the provisions of

Amendments shall not be permitted if the person is requested after the customs office:

- a) has informed the declarant of the intention to examine the goods;
- b) has established that the particulars are incorrect, or
- c) has cleared the goods.

#### Article 74

The customs office shall, at the request of the declarant, invalidate a declaration already accepted where the declarant furnishes the proof that goods were declared by mistake for the customs procedure referred to in that declaration, or that, as a result of special circumstances, the performing of the customs procedure for which the goods are declared is no longer justified.

Where the customs office has informed the declarant of the intention to examine the goods, the request to invalidate the declaration shall not be accepted until after the examination of the goods.

Customs declaration shall not be invalidated after the goods have been released into free circulation, except in the cases specified by the Government.

out by the declarant or under his responsibility. The expenses thus incurred shall be borne by the declarant.

The declarant shall be entitled to be present when the goods are examined or when samples are taken.

Where deemed necessary, the customs office may require the declarant or his representative to be present when the goods are examined or samples are taken in order to provide the necessary

Type and mode of application of the customs means of identification shall be laid down by the Director General.

#### Article 81

Without prejudice to Article 82, where the conditions for placing the goods under the requested customs procedure are met, and where the goods are not subject to any restrictive or prohibitive measures, the customs office shall release the declared goods to the declarant as soon as the particulars from the customs declaration are verified and accepted or accepted without verification.

The customs office shall also release the goods to the declarant in cases where the customs declaration cannot be verified in the reasonable period, and when the goods are not required to be present for verification purposes.

The goods covered by the same customs declaration shall be released at the same time.

For the purposes of paragraph 2 of this Article, where a customs declaration covers several classes of goods, the particulars relating to each class of goods shall be deemed to constitute a separate declaration.

#### Article 82

Where acceptance of the customs declaration gives rise to a customs debt, the customs clearance of the goods under such declaration may be carried out only after the amount of the customs debt has been paid or the security in that amount deposited.

Where, pursuant to the provisions governing the customs procedure for the goods declared, the customs office requires a security to be deposited, such goods shall not be cleared in accordance with the customs procedure carried out until said security has been deposited.

The provision referred to in paragraph 2 of this Article shall not apply to the temporary import procedure where partial exemptions of import customs duties are in place.

#### Article 83

- all the documents necessary for placing goods under the requested customs procedure have not been produced,
  - customs debt has not been paid, or security for its payment has not been provided within the prescribed period,
  - the goods are subject to bans or restrictions,
- 2) the goods have not been removed within the prescribed period after being cleared by the customs authorities.

## 2) Simplified Procedures

### Article 84

In order to simplify the formalities of the procedure, the customs office shall, in cases and in the manner laid down by the Minister of Finance, grant permission for:

- 1) the customs declaration to omit certain particulars and for some documents, specified in Article 70 of this Law, not to be attached thereto,
- 2) a commercial or administrative document accompanying the request for the goods to be placed under the customs procedure to be lodged in place of the customs declaration,
- 3) the goods to be placed under the requested customs procedure on the basis of an entry in the bookkeeping records, in which case the customs office may relieve the declarant of his obligation to present the goods to customs.

A simplified customs declaration, a commercial or administrative document, and entry in the bookkeeping records must contain the particulars necessary for identification of the goods. The entry in the records concerning the goods must include the date when the entry was made.

The declarant shall furnish, within the prescribed period, a supplementary declaration, which may be of general, periodic or recapitulative nature.

The Ministry of Finance may specify the cases in which a supplementary declaration shall not be lodged.

The supplementary customs declaration and the simplified customs declaration shall constitute an indivisible legal instrument subject to regulations in force on the day of acceptance of the simplified customs declaration. The entry in the bookkeeping records shall have the same legal force as acceptance of customs declaration referred to in Article 70 of this Law.

The Government may prescribe special simplified procedures for transit procedure.



Release for free circulation shall confer on foreign goods the status of domestic goods, which entails application of commercial policy measures, performing other specified formalities related to importation of goods, as well as payment of all prescribed duties, taxes and other charges.

#### Article 88

Where import duty is reduced after the acceptance of the customs declaration for release for free



- in respect of the defective goods or goods which fail to comply with the terms of the contract under which the goods have been imported, or

The use of any customs procedure with economic impact shall be conditional upon authorization being issued by the customs office.

#### Article 94

Without prejudice to meeting the additional special conditions governing the procedure in question, the authorization referred to in Article 93 and Article 107, paragraph 1, of this Law shall be granted only:

- 1) to persons providing every guarantee necessary for the proper conduct of the approved procedure;
- 2) where the customs offices can supervise the authorized procedure and control it.

#### Article 95

The authorization shall contain the conditions under which the procedure in question is to be conducted.

The holder of the authorization shall immediately notify the customs office of all facts arising after the authorization was granted, and which may influence its validity or content.

#### Article 96

The customs office may require the holder of the authorization to provide a security for the

The rights and obligations of the holder of a customs procedure with economic impact may, under the conditions laid down by the customs office, be transferred to other persons meeting any conditions laid down for the procedure in question.

## 2. External Transit Procedure

### Article 99

The external transit procedure shall allow ~~move~~ movement from one point to another within the customs territory, and that of:

- 1) foreign goods, which are not subject to payment of customs import duties and other charges or to commercial policy measures;
- 2) domestic goods, which have undergone the export procedure.

Movement of goods referred to in paragraph 1 of this Article shall take place:

- 1) under the external transit ~~pro~~cedure set out by this Law,
- 2) under TIR carnet procedure (as laid down in the TIR Convention) provided that such movement:
  - began or is to end outside the Republic;
  - relates to consignments of goods ~~which~~ must be unloaded in the customs territory and which are conveyed with goods to be unloaded in a third country; or
  - is effected between two points in the country through the territory of a third country;
- 3)

The external transit procedure shall end when the goods and the corresponding transit documents and the documents issued by the customs office of entry in the Republic, are presented to the customs office of destination in accordance with the provisions on the transit procedure.

The customs office shall complete the procedure where it is possible to compare the data kept by the customs office of origin of goods with the one of the destination of goods, and thus determine the procedure to have been completed in the proper manner.

#### Article 102

The holder of the transit procedure shall be the principal and he shall be responsible for:

- 1) the presentation of goods at the customs office of destination in an unaltered state and within the specified period, and with any measures undertaken for the purpose of ensuring identicalness of the goods duly observed, and
- 2) observance of the provisions governing the transit procedure.

Notwithstanding the obligations of the principal, a carrier or recipient of goods who accepts goods and who is aware that they are under the transit procedure shall be responsible for presentation of goods at the customs office of destination in an unaltered state and within the

3) not having committed any serious offense against customs or fiscal regulations.

The security referred to in paragraph 1 of this Article shall not be provided in case of transport by sea, river, air, railway and pipelines.

Notwithstanding paragraph 4 of this Article, the Ministry of Finance may order that the security

The holder of the warehouse shall mean the person authorized by the customs office to operate the customs warehouse.

The user of the warehouse shall mean a person who is bound by the declaration to place the goods under customs warehousing procedure, person to whom the rights and obligations of such person have been transferred.

#### Article 107

The authorization by the customs office is necessary for the operation of customs warehouse, unless the customs office operates the customs warehouse.

Any person wanting to operate the customs warehouse must submit the application in writing containing all the particulars necessary for issuance of the authorization, with special emphasis on the present economic need for warehousing. The authorization shall specify the requirements for operating the customs warehouse.

The authorization for operation of a customs warehouse may be issued only to persons who are established or residing in the Republic.

The authorization shall specify the type of warehouse and conditions of its operation by the owner, types of goods which may be stored, and other obligations of the holder towards the customs office.

The applicant must produce evidence that he meets all the requirements laid down by special regulations pertaining to storage of certain type of goods, operation of certain businesses or handling of goods are stored in such warehouse.

#### Article 108

The holder of the warehouse shall be responsible for:

- 1) ensuring that the goods stored in the customs warehouse are not taken or removed from customs supervision,
- 2) fulfilling all obligations arising from customs warehousing procedure,
- 3) complying with special requirements contained in the authorization for opening of customs warehouse.

#### Article 109

Without prejudice to the provision laid down in Article 108 of this Law, the authorization for public warehouse may determine ~~that~~ the responsibility referred to in Article 108, items 1) and 2) of this Law be transferred solely to the depositor.

The depositor from item 1 of this Article shall be responsible for fulfilling of obligations arising from placing the goods under the customs warehousing procedure.

#### Article 110

The rights and obligations of the holder of the warehouse may, with the agreement of the customs authorities, be transferred to another person.

#### Article 111

Without prejudice to the provision laid down in Article 96, the customs office may demand that the holder of the warehouse provide the security ~~by~~ the obligations set forth in Article 108 of this Law shall be fulfilled.

#### Article 112

The holder of the customs warehouse shall keep stock records of the goods placed under the customs warehousing procedure.

The goods placed under the customs warehousing procedure shall be entered into the stock records as soon as they are brought to the customs warehouse.

As set forth in Article 94 of this Law, the customs office may dispense with stock records kept by the owner of the warehouse, ~~where~~ the responsibility for fulfilling the obligations referred to in Article 108, items 1) and 2) of this Law, lie ~~solely~~ with the depositor, and the goods are stored in the customs warehouse on the basis of a written declaration as a part of a regular procedure, or documents laid down in Article 84, paragraph 1 of this Law.

#### Article 113

Where there are justified economic reasons which do not jeopardize customs supervision, the customs office may allow:

- 1) domestic goods to be stored on the premises of a customs warehouse, except for the goods referred to in the Article 105 paragraph 1, item 2) of this Law,
- 2) foreign goods to be processed on the premises of a customs warehouse under the inward processing procedure in the Republic, subject to the conditions provided for by that procedure, and

- 3) foreign goods to be processed on the premises of a customs warehouse under the procedure for processing under customs supervision, subject to the conditions provided for that procedure.

In the cases referred to in paragraph 1 of this Article, the goods shall not be deemed to have been in the customs warehousing procedure.

The customs office may require the details on the goods referred to in paragraph 1 of this Article to be entered into the stock records as shown in Article 112 of this Law.

#### Article 114

There shall be no limit to the length of time goods may remain under the customs warehousing procedure.

Exceptionally, the customs authorities may set a period in which the depositor shall assign the goods a new customs-approved treatment or use.

The Minister of Finance may, on the proposal by the Minister of Agriculture and Forestry, lay down specific time periods for some of the types of goods referred to in Article 105, paragraph 1, item 2 of this Law, which are under protective measures of agricultural policy.

#### Article 115



While the goods are outside the customs warehouse, they may undergo usual forms of handling referred to in Article 115 of this Law, and on the conditions set out.

#### Article 117

- 2) foreign goods released for free circulation with payment of customs duties, for which repayment or write-off of the customs debt may be granted where the goods are exported from the customs territory in the form of compensating products (repayment system).

The expressions used in the Articles 119 through 132 of this Law shall have the following meanings:

- 1) "suspension system" shall mean the requirements as provided for in paragraph 1, item 1) of this Article;
- 2) "repayment system" shall mean the requirements as provided for in paragraph 1, item 2) of this Article;
- 3) "processing operations" shall mean:
  - the working of goods, including mounting, assembling or fitting them to other goods;
  - the processing of goods;
  - the repair of goods, including restoring them and putting them in order;
  - the use of certain goods which are not to be found in the compensating products, but which allow or facilitate the production of the products, even if they are entirely or partially used up in the process.
- 4) "compensating products" shall mean all products resulting from processing operations;
- 5) "equivalent goods" shall mean domestic goods which are used instead of the import goods for the manufacture of compensating products;
- 6) "rate of yield" shall mean the quantity percentage of products obtained from the processing of a given quantity of import goods.

#### Article 120

Where the conditions laid down in paragraph 2 of this Article are fulfilled, and subject to paragraph 4 of this Article, the customs office shall allow:

- 1) processing with the use of equivalent goods;
- 2) compensating products obtained from equivalent goods to be exported from the Republic before importation of the import goods.

Equivalent goods must be of the same quality and have the same characteristics as the import goods.

However, the Finance Minister may, in agreement with the Minister of Economy, prescribe the cases in which equivalent goods shall not be used, and cases in which equivalent goods do not

Where paragraph 1 of this Article applies, the import goods shall be regarded for customs purposes as equivalent goods and the latter as import goods.

The period shall run from the day on which foreign goods are placed under the inward processing procedure.

The customs office may grant extension of the period on submission of duly substantiated request by the holder of the authorization.

Where applying Article 120, paragraph 1, item 2) of this Law, the customs office shall set out the period within which the foreign goods shall have been declared for specific procedure, and such period shall run from the day on which export declaration for compensating products obtained from the equivalent goods is accepted.

The Finance Minister may specify the specific time periods for certain processing procedures or for specific import goods.

#### Article 123

The customs office shall determine the rate of yield of compensating products obtained from the inward processing of a given quantity of import goods or, where appropriate, the method of determining such rate.

The rate of yield shall be determined on the basis of actual circumstances in which the goods are inward processed or should be processed.

Where circumstances so warrant, and, in particular the case of processing operation carried out under clearly defined technical conditions involving goods of the same characteristics and resulting in the production of compensating products of uniform quality, the customs office may set out standard rates of yield, on the basis of previously established actual data.

#### Article 124

Compensating products and goods in unaltered state must be re-exported, and the customs office may in special justified cases authorize release of goods for free circulation, placing of goods under the procedure of processing under customs control, destruction of goods or their abandonment to the government.

Paragraph 1 of this Article shall apply to the products the inward processing procedure of which has previously been finalized under customs warehousing procedure, temporary import procedure, internal transit procedure or the procedure of placing goods in a free zone or free warehouse.

Where the customs office authorize the inward processing procedure under suspension system, the customs debt on goods which are released for free circulation shall be inclusive of interest on arrears, in compliance with paragraphs 1 and 2 of this Article.

## Article 125

As set forth in Article 126 of this Law, where a customs debt is incurred, the amount of customs debt shall be determined on the basis of the regulations governing determination of the amount of customs duties applicable to the import goods at the time of acceptance of the declaration for placing the goods under inward processing procedure.

Some or all of the compensating products or goods in unaltered state may be temporarily exported for the purpose of further outward processing if the customs office authorizes so, and in accordance with the requirements laid down

Within the repayment system, paragraph 1, item 2), paragraphs 3 and 5 of Article 120, paragraph 3 of Article 122, Articles 124 and 124, paragraph 1, item 3) of Article 125 of this Law shall not be implemented.

#### Article 131

Temporary exportation of the compensating products, carried out in accordance with Article 127

These products shall be named processed products.

#### Article 134

The Government shall determine the cases where the procedure for processing under customs supervision may be allowed.

#### Article 135

Authorization for processing under customs supervision shall be issued at the request in writing of the person who carries out the processing or arranges it to be carried out.

#### Article 136

The authorization for processing under customs supervision shall be granted:

- 1) to persons who are established or residing in the Republic,
- 2) where the import goods can be identified in the processed products,
- 3) where the goods cannot be restored after processing to their description, contents or state as they were before they were placed under the procedure,
- 4) where use of this procedure cannot result in circumvention of the rules concerning origin or quantitative restrictions applicable to the imported goods,
- 5) where the use of this procedure helps create or maintain a processing activity in the Republic without adversely affecting the interests of the manufacturers of similar goods.

#### Article 137

Article 122, paragraphs 1, 2 and 4, and Article 123 of this Law shall apply ~~mutandis~~ to the procedure for processing under customs supervision

#### Article 138

Where, under the procedure for processing under customs supervision, a customs debt is incurred in respect of goods in the unaltered state or of products the processing of which has not reached



applicable to the import goods at the time of acceptance of the declaration relating to placing of the goods under the procedure for processing under customs supervision.

#### Article 139

Where the import goods qualified for preferential tariff treatment under the free trade agreement when they were placed under the procedure for processing under customs supervision and such preferential tariff treatment is applicable also to products identical to the processed products which were released for free circulation, the import duties on the processed products shall be calculated at the rate of customs duty applicable under that preferential treatment.

If the preferential tariff treatment referred to in paragraph 1 of this Article is conditional upon tariff quotas or ceilings, the preferential tariff treatment shall be granted provided that at the time



Where transfer of the rights and obligations referred to in paragraph 3 of this Article is made with partial relief for both persons authorized to use the procedure during the same month, the holder of the initial authorization shall be liable to pay the amount of the import duties for the whole that month.

#### Article 147

Where a customs debt is incurred in respect of the goods placed under the temporary importation procedure, the amount of such debt shall be determined on the basis of the calculation elements applicable on the day of acceptance of the declaration for temporary importation procedure.

Where stipulated by the Government in the rules of application of temporary importation procedure with total relief from import duties, the amount of debt for the goods shall be determined on the basis of the provisions governing this matter which are in force on the day on which the debt has been incurred, in accordance with the Article 212 of this Law.

Where, for reasons other than the placing of goods under temporary importation procedure with partial relief from import duties, a customs debt is incurred in respect of goods placed under the

“Rate of yield” is the quantity or percentage of compensating products obtained from the processing of a given quantity of import goods.

#### Article 149

Outward processing shall not be allowed for the domestic goods:

- 1) the export of which incurs entitlement to the refund or exemption from payment of customs duties;
- 2) which was before export released for free circulation without charging the customs duties for utilization for specific purposes;
- 3) the export of which incurs the entitlement to export refund.

Exemptions from the ban referred to in paragraph 1 item 2) of this Law may be prescribed by the Government.

#### 2) Grant of authorization

#### Article 150

The customs authorities shall grant the authorization at the request of the person who organizes the outward processing.

Notwithstanding paragraph 1 of this Article, the authorization for the outward processing shall be granted to a person other than the person who organizes the outward processing when the processing concerns the goods of domestic origin and the production activity involves integration of such goods in the foreign goods which shall be imported in the Republic as compensating products, provided the use of such procedure improves sale of exported domestic goods and if the import of new product does not prejudice essential interests of domestic manufacturers of such products or the products similar to the imported new product.

#### Article 151

The authorization for outward processing shall be granted:

- 1) to persons with domicile and residence in the Republic;
- 2) where it appears possible to establish that the compensating products have been produced from the temporarily exported goods;
- 3)



1 item b) indent 1 of this Law, or, if the value cannot be determined in that way, the difference between the customs value of compensating goods and the processing costs determined in a non-arbitrary manner.

Where temporary export goods were, prior to being placed under outward processing procedure, released for free circulation at a reduced rate of customs duties on account of their end-use, and

#### 4) Outward processing with use of the exchange system

##### Article 157

In accordance with the Article 157 to 162 of this Law, under the outward processing procedure, exchange system shall allow imported product (hereinafter referred to as replacement product) to replace a compensating product.

The customs authorities may allow the standard exchange system to be used where the processing operation involves the repair of domestic goods.

Save for Article 162 of this Law, the provisions applicable to compensating products shall also apply to replacement products.

The customs authorities may, under certain conditions, allow the replacement goods to be imported prior to temporary export of goods (prior importation).

In the event as set forth in the paragraph 4 of Article, security shall be provided to cover the amount of the import duties on replacement product.

##### Article 158

Replacement products shall have the same tariff classification, be of the same quality and possess the same technical characteristics as the goods temporarily exported for repair.

Where the temporary export goods have been used prior to export, the replacement products must also be used.

The customs authorities may grant derogations from the rule where the replacement product<sup>2.8</sup>(

#### Article 161

In the event of prior importation and where Article 154 of this Law applies, the amount to be deducted shall be determined on the basis of calculation elements applicable to the temporary export goods on the day of acceptance of the declaration placing the goods under outward processing procedure.

#### 5) Other provisions

#### Article 162

Provisions of Article 150 paragraph 2 and Article 151 paragraph 1 item 2) of this Law shall not apply in the context of the standard exchange system.

Commercial policy measures shall apply to the procedures provided for within the framework of outward processing operations.

#### 8. Export

#### Article 163

The export procedure shall allow domestic goods to leave the customs territory.

Export procedure shall entail the application of all export related measures, including the application of the commercial policy measures and, where appropriate, payment of export duties.



## 6. Internal transit

### Article 165

The internal transit procedure shall, under the conditions laid dow

Free zones and free warehouses shall be parts of the customs territory and premises in that territory separated from the rest of it in which:

Domestic goods which are stored in a free zone or free warehouse shall be entered into the stock records.

The goods entering a free zone or free warehouse directly by sea, air, or land, as referred to in Article 47, paragraph 6 of this Law, shall be submitted to the customs authorities based on the transportation document.

The domestic goods shall be stored in a free zone or warehouse based on the invoice or other document containing the information required for keeping stock records in a free zone or free warehouse.

The customs authorities may require that goods which present a danger or are likely to spoil other goods or which, for other reasons, require special facilities be placed in premises specially

All industrial, commercial or service activities may be conducted in a free zone or free warehouse, under the conditions prescribed by law and upon prior consent of the customs authorities.

Domestic goods intended for export as set forth in Article 168 item 2) of this Law, may, in a free zone or free warehouse, undergo only the forms of handling which are prescribed for such goods by Article 115 of this Law.

#### Article 175

Goods placed in a free zone or free warehouse, which are not subject to Articles 173 and 174 of this Law shall not be consumed or used during the period they remain in a free zone or free warehouse.

#### Article 176

Person who carries out an activity of the storage, working or processing, or sale or purchase of goods in a free zone or free warehouse shall, for the purpose of customs supervision, keep stock

the goods leave a free zone by sea or air without being placed under internal transit or other appropriate customs procedure.

#### Article 178

Where a customs debt is incurred in respect of foreign goods which are brought into other parts of the customs territory from a free zone or free warehouse, the customs value of such goods shall be determined on the basis of a price actually paid or payable.

Costs of warehousing and preserving goods while they remain in a free zone or free warehouse shall not be included in the customs value where they are shown separately from the price actually paid or payable for the goods.

Where the goods have undergone the forms of handling set forth in the Article 115 paragraph 1 of this Law, the declarant may request that the amount of customs debt be determined on the basis of the nature of goods, the customs value, and quantity of goods which would have been taken into account in accordance with Article 215 of this Law if the goods had not undergone such handling.

Derogations from paragraph 3 of this Article shall be laid down by the Government.

#### Article 179

Domestic goods referred to in Article 168, item b) of this Law, may be assigned other treatment or use where by virtue of their being brought into a free zone or free warehouse they fulfill conditions laid down for export of such goods.

Where domestic goods referred to in Article 167, item b) of this Article are not exported within the period referred to in Article 172 of this Law or are returned to another part of the customs territory, the customs authorities shall take the measures prescribed in the cases where the goods fail to comply with the specific conditions.

#### Article 180

Where the goods are brought into or returned to another part of the customs territory from a free zone or free warehouse or where the goods are placed under a customs procedure, the certificate referred to in Article 171, paragraph 4 of this Law may be used as a proof of domestic or foreign status of such goods.

Where it is impossible to prove by the certificate or other means that the goods have domestic or foreign status, they shall be considered to be:

1. domestic, for the purpose of applying export duties, obtaining export licenses (certificates) and export measures laid down under the commercial policy, or
2. foreign in all other cases.

#### Article 181

The customs authorities shall supervise whether the rules governing export or re-export are observed where the goods are exported or re-exported from a free zone or free warehouse.

#### 6. Duty free shops

##### Article 181a

The duty free shops may be opened on the airports and navy ports opened for the international

The Ministry of Finance shall lay down the cases where the foreign goods placed under a suspensive arrangement shall not be subject to commercial policy measures on exportation from the Republic.

The customs authorities shall be notified in advance of the intention to re-export or destroy the goods.

The customs authorities shall ~~prohibit~~ re-export where the formalities or measures referred to in paragraph 2 of this Article so provide.

The Ministry of Finance shall adopt a regulation governing the cases and the manner in which the goods may be abandoned to the government.

Destruction or abandonment of the goods shall not entail any costs to the government.

Any waste or scraps resulting from destruction shall be assigned a customs-approved treatment or use prescribed for foreign goods.

Waste or scraps shall remain under customs supervision in compliance with Article 46, paragraph 2 of this Law.

## TITLE V

### GOODS LEAVING THE CUSTOMS TERRITORY

#### Article 183

Goods leaving the customs territory of the Republic shall be under customs supervision and may be subject to checks in accordance with the provisions in force.

Goods shall leave the territory of the Republic ~~by~~ routes, in the manner and within the period set out by the customs authorities.

## TITLE VI

### PRIVILEGED OPERATIONS



- 2) For goods of non-commercial nature which are brought in by travelers from abroad, and which are of prescribed kind, value and quantity,
- 3) for goods contained in the consignments which are sent from abroad to natural persons in the Republic free of charge, provided that these consignments are not of commercial nature and comply with the provisions governing their kind, quantity and value,
- 4) for medals and awards obtained at the ~~internal~~ international events, and presents received in respect of international relations,
- 5) for goods satisfying basic human needs, such as food, medications, clothes, bed linen, toiletries, and similar, which are imported by registered humanitarian organizations for the purpose of their distribution free of charge to the vulnerable categories of people and victims of natural and other catastrophes,
- 5a) goods sent to the Red Cross of Montenegro as humanitarian aid and donations for performing of humanitarian activities.
- 6) to humanitarian organizations, associations of blind and deaf or hearing-impaired persons, persons suffering from muscular or neuromuscular disorders – for specific aids, equipment, and instruments, spare parts and supplies for these persons, which are not manufactured in the country,
- 7) for trade marks, patents, models, and ~~suppl~~ documents, application forms for patents or innovations which are sent to copyright and industrial right agencies,
- 8) for the following items:
  - a) Application forms and documents which are received by the public authorities for the purpose of performing activities for which they are competent.
  - b) Items representing evidence in court or other proceedings before public authorities,



The Government shall prescribe the procedure for exercising the rights to relief from customs duty.

## **CHAPTER 2**

### **RETURNED GOODS**

#### Article 185

Domestic goods, which having been exported from the customs territory, are returned to that territory within a period of two years and released for free circulation shall be granted relief from customs duties at the request of the declarant.

At the request of the declarant the 2-year period may be extended where required so by special circumstances.

Where re-imported goods, prior to their exportation from the customs territory had been released for free circulation at a reduced customs duty on account of their end-use, exemption from customs duty shall be granted only where they are re-imported for the same purpose.

Where the goods are not re-imported for the same purpose, the amount of customs duty shall be reduced by the amount of the duty paid on their first release for free circulation.

Where the amount of the previously paid customs duty is higher than the amount of duty payable on re-importation, refund shall not be granted.

Relief from import duties provided for in paragraph 1 of this Article shall not be granted in the case of:

- a) goods exported from the customs territory under the outward processing procedure unless those goods remain in the state in which they were exported,
- b) goods which have been subject to measures involving their exportation to another country, unless the Government prescribes the circumstances in which and detailed conditions under which relief may be granted.

#### Article 186

The relief from import duties provided for in paragraph 1 of this Article shall not be granted in the case of:

Articles 185 and 186 of this Law shall apply ~~mutatis mutandis~~ to compensating products previously exported or re-exported subsequent to an inward processing procedure.

The amount of customs duty shall be determined on the basis of the rules applicable under inward processing procedure, the date of re-export being regarded as the date of release for free circulation.

### **CHAPTER 3**

#### ***PRODUCTS OF SEA-FISHING AND OTHER PRODUCTS TAKEN FROM THE SEA***

##### **Article 188**

Without prejudice to Article 24 paragraph 2 indents 6 and 7, the following shall be exempt from import duties when they are released for free circulation:

- (a) products of sea-fishing and other products ~~taken~~ from the territorial sea of a third country by vessels registered or recorded in Montenegro and flying the flag of that state;
- (b) products obtained from products referred to (a) on board factory-ships fulfilling the conditions laid down in that item.

### **PART VII**

#### **CUSTOMS DEBT AND COMPUTATION OF CUSTOMS DUTIES**

### **CHAPTER 1**

#### ***SECURITY TO COVER CUSTOMS DEBT***

##### **Article 189**

Where, in accordance with customs rules, the ~~customs~~ authorities require security to be provided in order to ensure payment of a customs debt, such security shall be provided by the person who is liable, or who may become liable for that debt.

The customs authorities may require only one security to be provided in respect of one customs debt.

The customs authorities may authorize the security to be provided by a person other than the person from whom it is required.



Where comprehensive security is provided for customs debts which vary in amount during the secured period, the amount of such security shall be set at a level enabling the customs debts in question to be covered at all times.

The finance minister may also lay down other types of security and cash deposits in a currency which is not the legal tender if they ensure collection of the customs debt.

#### Article 198

Where the customs authorities establish that the security provided does not ensure payment of the

The debtor shall be the declarant, while in the event of indirect representation; the debtor shall be the person on whose behalf the customs declaration is made.

If the customs declaration is drawn up on the basis of incorrect information which leads to all or part of the duties legally owed not being calculated and collected, the person who provided the information required to draw up the customs declaration and who knew, or who ought reasonably to have known that such information was false, shall also be considered debtor.

#### Article 202

A customs debt on importation shall be incurred also through:

- 1) the unlawful introduction of goods into the customs territory,
- 2) the unlawful introduction of goods from a free zone or free warehouse into other parts of the customs territory.

For the purpose of this Article, unlawful introduction means any introduction of goods in violation of the provisions of Articles 47 to 51 and Article 177 paragraph 1 item 2 of this Law.

The customs debt shall be incurred at the moment when the goods are unlawfully introduced into



The customs debt referred to in paragraph 1 of this Article shall be incurred at the time when the goods are removed from customs supervision.

Where the amount of the customs debt cannot be precisely established, it shall be established by the customs authorities on the basis of a tariff classification for the goods in question, having the highest rate of duty within the corresponding tariff classification.

The debtors liable for the customs debt referred to in paragraph 1 of this Article shall be:

- 1) the person who removed the goods from customs supervision,
- 2)



on account of their end-use, waste and scraps resulting from the destruction of such goods shall be deemed to be foreign goods.

#### Article 208

Where, in accordance with Articles 203 or 204 of this Law, a customs debt is incurred in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use,

he produces evidence that the other conditions for the application of the exemption have been satisfied.

#### Article 214

Where several persons are liable for payment of a customs debt, they shall be jointly and severally liable for that debt.

#### Article 215

Save as otherwise provided by this Law, the amount of the import or export duty applicable to the goods concerned shall be determined on the basis of the rules of assessment of the amount of the customs duty which were in force for those goods on the date when the customs debt was incurred.

Where it is not possible to determine precisely when the customs debt was incurred, the time to be taken into account in determining the basis for computation of the customs debt shall be the time when the customs authorities include that the goods are in a situation in which a customs debt is incurred.

Where the circumstances known to the customs authorities enable them to establish that the customs debt was incurred prior to the time referred to in paragraph 2 of this Article, the amount of import or export duty payable shall be determined according to the basis which was applicable for the goods in question at the earliest time when existence of the customs debt may be established from the information available.

#### Article 216

A customs debt shall be incurred at the place where the circumstances from which it arises occur.

In so far as an agreement concluded between th

#### Article 219

If customs debt had occurred by accepting customs declaration for another customs procedure not related to temporary import with partial deduction of such payment of levies or other document with the same legal action, the amount of such customs debt is entered into accounting records as soon as the calculation of customs debt amount is finished.

Exceptionally from paragraph 1 herein, when the customs debt occurs by accepting commercial or official document or entering the commodities in the accounting records of verification holder in the sense of simplified procedure from the Article 84 paragraph 1 items 2) or 3) herein, the total amount of levies regarding all commodities released for the same person within the timeframe prescribed by the customs organ, which cannot exceed 31 day, is to be calculated all at once.

#### Article 220

The time limits for entry in the accounts laid down in Article 219 of this Law may be extended for 14 days maximum, where special circumstances prevent the customs authorities from making an entry in the accounts within the said time limits.

#### Article 221

Where the amount of duties resulting from a customs debt has not been entered in the accounts in accordance with Articles 219 and 220 of this Law or has been entered in the accounts at a level lower than the amount owed, the amount of duty to be recovered or which remains to be recovered shall be entered in the accounts within two days from the date on which the customs authorities establish, calculate the actual amount of the debt and determine the debtor (subsequent entry in the accounts).

The time limits referred to in paragraph 1 of Article may be extended in accordance with Article 220 of this Law.

Except in cases referred to in Article 218 paragraphs 2, 3 and 5 of this Law, subsequent entry in

Where the amount of duty entered in the customs declaration is not the same as that calculated by the customs authorities, the customs authorities shall communicate the amount of duty to the debtor in accordance with appropriate procedures.

Communication to the debtor shall not take place after the expiry of a three-year period from the date on which the customs debt was incurred.

Where as a result of an act that could give rise to criminal proceedings, the customs authorities were unable to determine the exact amount of the debt, the communication may be made after the

#### Article 223 c

Payment of levies may be postponed for up to 30 days. Deadline shall be determined as follows:  
a) if payment had been postponed according to the Article 219 paragraph 1 herein, the deadline is calculated from the first non-working day from the day of calculation of levies by the customs organ, and

b) if the payment had been postponed according to the Article 219 paragraph 2 herein, the deadline is calculated to:

- twenty-third day from the date of expiry of deadline for declaration submitting if deadline for



Recovery of a customs debt under the enforcement procedure shall be made on the basis of a final decision issued by the customs authorities and the customs declaration under which customs clearance was completed.

The debtor's orders for payment of the customs debt and the enforcement decision referred to in paragraph 3 of this Article shall be executed ~~to~~ ~~all~~ other obligations for which the debtor is liable, by organizations authorized ~~to~~ carry out payment operations.

The Government may lay down the amount of customs duties and interests the payment of which shall not be enforced.

## **CHAPTER 4**

### **EXTINCTION OF CUSTOMS DEBT**

#### Article 227

A customs debt shall be extinguished:

- 1) by payment of the amount of duty,
- 2) by remission of the amount of duty,
- 3) where, in respect of goods declared for customs procedure ~~either~~ the obligation to pay duties:
  - the customs declaration is invalidated,
  - the goods, before their release or seizure, were simultaneously or subsequently confiscated, destroyed on the instructions of the customs authorities, destroyed or surrendered to the government in accordance with Article 182 of this Law, or destroyed or irretrievably lost as a result of their nature or of unforeseeable circumstances of force majeure;
- 4) where the goods, in respect of which a customs debt is incurred in accordance with Article 202 of this Law, are seized ~~due~~ to their unlawful introduction and are simultaneously or subsequently confiscated.

A customs debt shall be extinguished in accordance ~~with~~ the provisions in force relating to the time-barring of a customs debt or non-recovery of such a debt in the event of the legally established insolvency of the debtor.

In the event of seizure or confiscation, the customs debt shall nonetheless be deemed not to have



The customs authorities shall repay or remit the duties by virtue of their office, if they discover within the period of three years from the date on which the amount of duties was communicated to the debtor, that the situations described in paragraph 1 of this Article exist.

#### Article 229

The amount of import duties or export duties ~~shall~~ be repaid where a customs declaration is invalidated and the duties have been paid.

Repayment shall be granted upon submission of an application by the person concerned within

The customs authorities may extend this period in case of exceptionally justified and timely

PART VIII

PENALTY PROVISIONS

Article 235

Private person shall be fined for misdemeanor mentioned in paragraph 1 herein in the form of

12)

Responsible person within the juridical persons also be fined for misdemeanor mentioned in paragraph 1 herein in the form of financial penalty ranging from five- to twenty-fold amount of minimal wage in Montenegro.

Private person shall be fined for misdemeanor mentioned in paragraph 1 herein in the form of financial penalty ranging from five- to twenty-fold amount of minimal wage in Montenegro.

Article 243 1831.1414 TD -.





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Article 264

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Article 265

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Article 266

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Article 267

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Article 268

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Article 269

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Article 270

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Article 271

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Article 272

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Article 273

Natural person, both domestic and foreign, who fails to declare to the customs office the goods he brings into the customs territory, import of which is not banned, intended for his personal use, for personal use of his immediate family and household members, shall be fined an amount equal the value of the goods being subject to the offence.

Where the value of goods referred to in paragraph 1 of this Article does not exceed 50,000 EUR, the customs officer shall collect 9,000 EUR fine, as well as import customs duties.

#### Article 273 a

Juridical person, responsible person within the juridical person, entrepreneur or private person in possession of commodities or buying, selling, handing over, taking as a gift, hiding, taking for safekeeping or transport or for any other purpose of the commodities for which he knows or should have known that it was a subject of misdemeanor mentioned in Articles 240, 241 and 242 herein shall be fined as if the misdemeanor was committed by him, with the same fine prescribed for perpetrator.

### 3. Protective measures

#### Article 274

For misdemeanor mentioned in Article 240 and paragraph 1 items 2) and 7) herein, together with fine, protective measure of object confiscation shall also be enforced.

For misdemeanor mentioned in Article 241 paragraph 1 item 12) herein, together with fine, protective measure of object confiscation may also be enforced.

Subject of customs misdemeanor, for which the protective measure was prescribed by paragraph 1 herein shall temporary be confiscated and put under custom supervision until the end of misdemeanor procedure.

Subject of customs misdemeanor, for which no protective measure of object confiscation was enforced, and which did not go through customs procedure, shall be seized until the end of customs procedure.

Customs office may instantly sell short duration commodities, if there is no possibility for the decision on misdemeanor to be made within 24 hours.

#### Article 275

Transportation, transmission and other assets used for the commodities subject to misdemeanor mentioned in Article 240 herein transport or concealing shall be confiscated if value of such commodities exceed one-third of value of such transportation, transmission or other asset established according to the provisions of this Law.

Transportation, transmission or other assets mentioned in paragraph 1 herein with installed special space for concealing commodities, which had been used for transport of commodities subject to misdemeanor, shall be confiscated regardless of commodities value.

#### Article 276

Where it was determined, after the customs offence proceedings performed, that the customs offence was not committed, the owner of the goods placed under customs supervision in respect of Article 275 of this Law shall have the right to compensation of damages, on the expense of the budget of the Republic.

#### Article 277

Deleted.

#### Article 278

Where the protective measure of confiscation of goods being subject to customs offence was adopted, the customs office may, upon the request of a person who has committed the offence, return the goods where justifiable, provided that such person pays the value of goods, customs duties and other charges.

#### Article 279

The customs office that performed customs offence proceedings in the first instance may allow the fine and the value of goods to be paid in installments, within a period that cannot exceed 12 months.

### 4. Customs Offence Proceedings

#### Article 280

Customs offence proceedings of the first instance shall be administered and decided by the Offence Commission (hereinafter: Commission) of the Customs office, comprising of the president and two members. The President and members of the Commission may have deputies.

The Commission may authorize any particular member to carry out specific activities during the course of proceedings.

The Director shall appoint the president and members of the Commission.

#### Article 281

Where customs offence proceedings initiated against the persons residing out of the customs district, and all requirements for administering the proceeding and decision making were met, the proceeding shall be deemed urgent and decision shall be adopted within 48 hours from the

Minutes in writing shall be made on the offence committed.

Minutes in writing shall be submitted and filed with the competent customs office, and shall be signed by the customs officer.

Provisions of this Article shall apply, where some other law has been violated, if such minutes in writing are required by the customs office.

In order to prevent, determine and reduce violations of customs legislature, Customs authorities may perform any control deemed necessary in companies, their warehouses, and other places of business, as well as in places where business books and accounts may be kept.

#### Article 283

Minutes referred to in Article 282 paragraph 3 of this Law must contain:

- 1)

The documentation shall be considered complete if including:

- 1) Duly registered minutes of the offence determination as provided by Article 283 of this Law;
- 2)

#### Article 289

The Commission shall suspend the proceeding:

- 1) if whereabouts of the defendant is not known, in case of the absconding defendant or if the defendant is abroad for unspecified period of time or if he is not reachable to the authorities for some other reason;
- 2) if defendant develops temporary mental illness or mental disorder;

The suspended proceeding shall resume when conditions, which caused it, cease to exist.

The decision on a suspension of the proceeding shall also determine the outcome with regard to the object of the offense.

#### Article 290

The provisions of the Law on Offences shall apply on the customs offense proceedings, save this Law provides otherwise.

### PART IX

### FEE FOR CUSTOMS SERVICES

#### Article 291

The Customs Administration shall, for the services provided within the customs proceeding, charge a fee at the level corresponding to the service provided.

Amount of fee referred to in paragraph 1 of this Article cannot be higher than actual costs of Customs Administration for the services provided within the customs proceeding and cannot represent ind(s)6.7(c)-5.8( f )-5(o)-5.9(tee)9.9tn th55.1(o)7.3( (ecis49(c)9.9((s pr9(s fo(o)-icpr)7.1(cis

Customs offices shall be free to sell easily degradable goods and animals detained in accordance with Article 275 of this Law.

#### Article 293

Customs office shall sell the seized goods by selling it at a public state, in a procedure prescribed by the regulations.

The Government may cede without compensation the seized goods that is of historical, archeological, ethnographic, cultural, artistic, scientific value, if intended for humanitarian purposes, to state authorities, cultural institutions in charge of protection of cultural goods in the Republic, humanitarian organizations and other beneficiaries of humanitarian aid.

If such goods cannot be sold or used for medical, veterinary, phytopathological, security and other reasons prescribed by this Law, it shall be destroyed under customs supervision and control, in accordance with relevant regulations.

The costs of such destruction shall be borne by the owner or importer of goods at the time of seizure, and, if they are unknown or inaccessible, the costs of destruction shall be borne by the customs office.

#### Article 294

Deleted.

### PART XI

### TRANSITIONAL AND FINAL PROVISIONS

#### Article 295

The Government is authorized to adopt all by-laws related to application and implementation of this Law.

The Ministry of Finance and the customs service are responsible and authorized to propose and forward such by-laws to the Government.

The Ministry of Finance and the customs service are also responsible to ensure that all by-laws forwarded to the government are in compliance with this Law, requirements of the World Trade Organization, and World Customs Organization.

#### Article 295a

Until common market is formed, the Government may prescribe a special procedure for dealing with the goods and passengers, point of entry and exit of goods across the border between the



Member States of the state union Serbia and Montenegro, and also release from payment of customs duties for the goods the origin of which is the Republic of Serbia.

#### Article 296

The entitlements from the rulings concerning the release from payment of customs duties or other customs reliefs passed by competent authorities are not completely consumed or are only partly used until the day this Law starts to apply, may be used within the terms specified in such documents.

If, for the goods imported with customs exemption, it was envisaged in the regulations which shall cease to apply on the day this Law starts to apply that within a certain period such goods may not be alienated, given to be used by a third person, or used for purposes other than those for which customs exemption was granted, relevant provisions of such regulations concerning the period within which the goods may not be disposed of freely shall continue to apply after the day

The request for opening of customs warehouse in accordance with this Law may be submitted prior to the day this Law starts to apply and in this case the ruling shall apply from the day this Law starts to apply.

If the owners of premises referred to in paragraph 1 of this Article fail to submit the request for opening of customs warehouse in accordance with this Law, or the customs office determines that the owner does not meet the requirements that are prescribed by this Law with regard to founding and carrying out the business operation of a customs warehouse, the customs office shall pass the ruling to terminate the business operation of such customs warehouse.

#### Article 301

Consignment stocks, central warehouses, and specialized warehouses for foreign goods and goods of domestic production, which are opened according to the provisions of former