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# **THE CUSTOMS LAW**

## **PART I**

### **GENERAL PROVISIONS**

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

##### **Article 1**

This Law and its by-laws shall regulate the rights and obligations of persons and powers of the customs authorities of the Republic of Montenegro in respect of goods in passenger traffic and trade between the customs territory of the Republic of Montenegro and foreign customs territories.

##### **Article 2**

The Government of the Republic of Montenegro (hereinafter referred to as: the Government)

## Article 5

Certain terms used in this Law shall have the following meanings:

**“person”** shall mean any natural or legal person, including associations of persons, having domicile or seat in the Republic;

**“customs service”** (hereinafter: the service) shall mean the competent authority performing operations laid down by customs and other regulations;

**“Customs Administration of Montenegro”** (hereinafter: the Customs Administration) shall mean the organizational unit for administration of the service;

**“customs office”** shall mean a part of the customs service authorities performing all the activities laid down by customs and other regulations;

**“customs status”** shall mean the status of goods as Montenegrin or non-Montenegrin goods in the customs procedure.

**“domestic goods”** shall mean:

a) goods entirely obtained or produced in the customs territory under requirements laid down in Article 24 of this Law, but not incorporating goods imported from other countries into the customs territory;



“**similar goods**” shall mean goods produced in the same country that, although they are not similar in every respect, have similar characteristics and are made of similar materials, which allow them to perform same functions and to be commercially interchangeable. Factors which should be taken into account when determining whether the goods are similar or not include the quality of goods, their reputation and the existence of a trade mark;

“**goods of the same class or kind**” shall mean goods belonging to a class or range of goods produced by a particular industry, and including identical or similar goods;

“**remission of customs debt**” shall mean a waiver of collection of the importation or exportation debt or its part;

“**repayment**” shall mean full or partial repayment of paid exportation or importation debt.

## **CHAPTER TWO RIGHTS AND OBLIGATIONS OF PERSONS**

### **1. RIGHT OF REPRESENTATION**

#### **Article 6**

Any person whose rights and obligations are decided upon may appoint a representative for undertaking all or some of the actions in the procedure conducted by the customs authorities.

Such representation may be:

- 1) direct, in which case the representative shall act in the name of and on behalf of another person, and
- 2) indirect, in which case the representative shall act in his own name but on behalf of another person.

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 good are being cleared, in accordance with the separate regulation to be issued by the Government.

## **2. APPLICATION OF REGULATIONS ON GENERAL ADMINISTRATIVE PROCEDURE**

### **Article 7**

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

### **Article 8**

Where a person requests that the 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.

The decision shall be made without delay and not later than within a period stipulated by the Law on General Administrative Procedure.

An appeal may be lodged against the first-instance decision issued by the customs office.

The appeal shall not postpone the enforcement of the decision.

In exceptional cases, the enforcement of the decision may be fully or partially postponed if the Customs Administration:

- 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

The customs office decision entirely or partly adopting the request - 4(o) b8(u)-4( or).8(i)3.4(e c)2( re)pe.3(d)  
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The customs service authority shall issue the following information at written request:

- 1) binding information on the classification of goods under the Customs Tariff,
- 2) binding information on the origin of goods.

Binding information in writing on the classification of goods under the Customs Tariff shall have an effect equivalent to that of a decision adopted in the administrative procedure.

Binding information on tariff classification of goods and the origin of goods shall be binding on



- 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 competent authority, 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.

Any person directly or indirectly involved in th



The Government may lay down detailed conditions on the basis of which the customs authority

- 9) waste and scrap products derived from manufacturing operations or used articles, if they were collected therein and are fit only for the recovery of raw materials, and
- 10) goods which are produced therein exclusively from the above mentioned products or from derivatives thereof, at any stage of processing.

#### **Article 25**

Goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last substantial, economically justifiable processing (treatment, final treatment, further treatment) resulting in new products or representing a crucial stage of manufacture.

The following shall not be deemed as the last substantial, economically justifiable processing which results new products or represents a crucial stage of manufacture:

- 1) packing and repacking of goods, irrespective of where the packaging material was manufactured,
- 2) dividing large quantities of goods into smaller 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 produced in such country.

#### **Article 27**

The Government shall prescribe detailed criteria for determining the origin of goods referred to in Article 25, paragraph 1 of this Law, the manner of proving their origin, the manner of issuing certificates of origin, and shall designate competent certification bodies for the certificates of origin of goods.

## **2. PREFERENTIAL ORIGIN OF GOODS**

#### **Article 28**

The rules on origin for goods from countries to which the Republic applies preferential tariff treatment on the basis of its unilateral decision shall be determined in a regulation adopted by the

- 2) they are legally recognized as business partners,
- 3) they are in an employer-employee relationship,
- 4) one of them is a direct or indirect owner, or controls or owns 5% or more of voting shares in both companies,
- 5) one person directly or indirectly supervises the other person,
- 6) they are under direct or indirect supervision of a third party,
- 7) they jointly supervise a third party directly or indirectly, or
- 8) they are members of the same family.

Where one person is the other person's exclusive representative, exclusive dealer or exclusive concessionaire, irrespective of the description of their relationship, those persons shall be considered related.

In determining whether the transaction value is acceptable as set forth in paragraph 1 of this Article, the circumstance that the buyer and seller are related persons referred to in paragraph 2 of this Article shall not represent sole grounds for not accepting the pertinent transaction value.

In conducting the comparison, due account shall be taken of demonstrated differences in commercial levels, of quantity levels, the appropriate amounts determined in Article 38 of this 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 for the benefit of the seller or by agreement with the seller, and their cost shall not be added to the price actually paid or payable in determining the customs value.

### **Article 32**



Where, in application of this Article, it is established that there is more than one transaction value for the identical goods, the lowest of the existing values shall be applied in determining the customs value.

### **Article 33**

Where the customs value of imported goods cannot be determined as set forth in Articles 30 and 32 of this Law, the transaction value of similar goods sold for export to the Republic shall be considered as the customs value if the goods are exported at or about the same time as the goods being valued.

In the implementation of this Article, the transaction value of similar goods sold on the same commercial grounds and in approximately the same quantity as the goods being valued shall be used in determining the customs value.

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or identical or similar imported goods are sold at or about the same time as the goods being

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 selling price for goods produced in the Republic,
- 2)

- 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 territory of the Republic,
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- 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 purchase of imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financial arrangement has been made in writing and, where required, the buyer can demonstrate that:
  - such goods have been sold at the price actually paid or payable,
  - the rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided,
- 4) the right to reproduce imported goods,
- 5) buying commissions,
- 6) import duties or other charges payable in the Republic by reason of the importation or sale of the goods.

the importation and effected within the period laid d-1sh1shn.

### **Article 31**

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 the procedure of determining the customs value calls for conversion of foreign currency

- 1) goods, passengers and members of the crew embarking or disembarking the vessels referred to in paragraph 4, items 1 and 3 of this Article, as well as traffic between such vessels and the coast;
- 2) goods, passengers and members of the crew embarking or disembarking the aircraft referred to in paragraph 4, item 4 of this Article.

Persons referred to in paragraph 5 of this Article shall declare the customs goods at the customs office when entering in order for the customs procedure to be conducted.

## **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



In compliance with a concluded interstate agreement, the goods outside the customs territory of the Republic may be subject to customs control as if the goods had been brought into the territory, under the conditions and in the manner specified in the interstate agreement concerning such goods.

The provision of paragraph 6 of this Article shall not preclude implementation of any regulation concerning passenger traffic, frontier traffic, or postal traffic on condition that customs supervision and customs control possibilities are not thereby jeopardized.

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 the ports, airports, or free ports of foreign countries.

Paragraphs 1 through 6 of this Article shall not apply to goods on board of vessels or aircraft crossing the territorial sea or airspace without having as their destination a port or airport situated in the Republic.

#### **Article 48**

Where, by reason of unforeseeable circumstances or force majeure, the obligations laid down in Article 47 paragraph 6 of this Law cannot be complied with, the person bound by that obligation or any other person acting in his place shall inform without delay the competent customs office of the situation.

Where the unforeseeable circumstances or force majeure do not result in total loss of the goods, the customs authorities shall also be notified immediately of their precise location by the person that was issued an order or any other person acting on his behalf.

The customs office shall determine the measures to be taken in order to permit customs supervision of the goods from paragraph 2 of this Article.

#### **Article 49**

Where, by reason of unforeseeable circumstances or force majeure, a vessel or aircraft, referred to in the Article 47 paragraph 10 of this Law, is forced to stop or temporarily be kept in the customs territory of the Republic whereby the obligations laid down in the Article 47 paragraphs

**CHAPTER TWO**  
**PRESENTATION OF GOODS TO CUSTOMS**

**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.

**CHAPTER THREE**  
**SUMMARY CUSTOMS DOCUMENT FOR DECLARING AND UNLOADING OF THE**  
**GOODS PRESENTED TO CUSTOMS OFFICE**

**Article 53**

All the goods to be declared as referred to in Article 47 paragraph 1 of this Law and for the goods

The customs office may extend the time period for the declaration to be submitted, but not beyond

**Article 58**

Foreign goods presented to customs shall be assigned a customs-approved treatment or use.

**Article 59**

assigned a customs-approved treatment or use are not initiated within the periods determined in accordance with Article 59 of this Law.

The customs office may, at the risk and expense of the person holding the goods, have the goods transferred to any other place under its supervision, until the situation of the goods is regulated.

## **CHAPTER SIX PROVISIONS APPLICABLE TO TRANSIT PROCEDURE**

### **Article 64**

Article 47, with the exception of paragraphs 1, 6 and 7, and Articles 48 through 63 of this Law shall not apply when goods already placed under a transit procedure are brought into the customs territory of the Republic.

Once foreign goods, carried under a transit procedure, reach their destination in the customs territory and are presented to customs office in accordance with provisions governing transit procedure, Articles 52 through 63 of this Law shall apply.

## **CHAPTER SEVEN OTHER PROVISIONS**

### **Article 65**

Where circumstances so require, the customs office may undertake actions aimed at destroying the goods presented to customs, and shall then inform the holder of the goods accordingly.

The costs of destroying the goods shall be borne by the holder of the goods.

### **Article 66**

Where the customs authorities find that the goods have been brought unauthorized into the customs territory of the Republic or have been withheld from customs supervision, they may take any measures necessary, including sale of goods, for the purpose of regulating the status thereof.

## **PART IV**

### **CUSTOMS-APPROVED TREATMENT OR USE OF GOODS**

#### **CHAPTER ONE GENERAL PROVISIONS**

##### **Article 67**

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 or plants, protection of national treasures possessing historical, artistic or archeological value, or protection of intellectual property and other.

The Government shall lay down the treatment of goods, the importation of which is reasonably suspected to violate the rights of intellectual property.

#### **CHAPTER TWO CUSTOMS PROCEDURES**

##### **SECTION 1**

##### **Placing Goods under Customs Procedure**

##### **Article 68**

All goods to be placed under a customs procedure shall be covered by an appropriate customs declaration for that customs procedure.

Domestic goods declared for export, outward processing, transit or customs warehousing procedures shall be subject to customs supervision from the time of acceptance of the customs declaration until such time as they leave the customs territory of the Republic or are destroyed or the customs declaration is invalidated.

The Director General may establish the competence of individual customs offices for the customs clearance of certain goods or for undertaking certain actions related to the goods.

## **Article 69**

The customs declaration shall be made:

a) in writing;

- 2) declare goods in special cases, if the customs office finds it justified.

### **Article 73**

The declarant, at his request, will be permitted to amend one or more of the particulars of the customs declaration, which has already been accepted by the customs office, provided that the amendment shall not have the effect on any other goods other than those originally declared.

Amendments shall not be permitted if the permission 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



- 2) request the declarant to present other documents for the purpose of verifying the accuracy of the particulars in the declaration,
- 3) examine the goods and take samples for analysis of the goods or for further examination.

### **Article 77**

Transport of the goods to the place where they are examined or samples are taken, and any other handling of the goods necessary for the purpose of examination or taking samples shall be carried 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 assistance for the purpose of facilitating such examination or sample taking.

Provided the samples are taken in compliance with the regulations in force, the customs office



### **Article 83**

The customs office may take all the necessary measures, including confiscation and sale of the goods, where:

- 1) the goods cannot be cleared because:
  - it has not been possible to undertake or continue examination of the goods within the period specified by the customs office for reasons attributable to the declarant,
  - all the documents necessary for placing the 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 procedures, 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 Finance Minister 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.

### **3) Other Customs Declarations**

#### **Article 85**

Where the customs declaration is made by means of electronic data transfer, verbally or by any other act, provisions of Articles 70 through 82 of this Law shall apply *mutatis mutandis*.

Where the customs declaration is made by means of electronic data transfer, the customs office may approve not submitting the subsidiary documents



for the purposes other than those laid down for application of the more favorable rate of customs duty is permitted, provided customs import duty is paid.

Articles 96 and 98 of this Law shall apply *mutatis mutandis* to the goods referred to in paragraph 1 of this Article.

### **Article 91**

Goods released for free circulation shall lose the status of domestic goods where:

- 1) the customs declaration for release for free circulation is invalidated after the release;
- 2) the customs import duties payable on the goods are repaid or remitted:
  - under the procedure of processing in the Republic in the form of the repayment system;
  - 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
  - in cases set forth in Article 231 of this Law, where repayment of or exemption from customs duty is conditional upon the goods being exported or re-exported, or being assigned other relevant customs-approved procedure or use.

## **SECTION 3**

### **Suspensive Arrangements and Customs Procedures with Economic Impact**

#### **General Provisions for the Procedures**

### **Article 92**

The term “procedure” as referred to in Articles 93 through 97 of this Law shall refer to the following arrangements:

- external transit,
- customs warehousing,
- inward processing with the application of the suspension system,
- processing under customs control,
- temporary importation.

The term "customs procedure with economic impact" as referred to in Articles 93 through 97 of this Law shall refer to the following arrangements:

- customs warehousing,
- inward processing,
- processing under customs supervision,
- temporary importation,
- outward processing,
- internal transit.

"Import goods" shall mean the goods placed under a suspensive procedure and goods which, under the inward processing procedure in the form of the repayment system, have undergone the formalities for release for free circulation and formalities set out in Article 129 of this Law.

"Goods in unaltered state" shall mean the import goods, which under the inward processing

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 payment of any customs debt which may arise in relation to the goods placed under a suspensive arrangement.

Special provisions on providing security may be prescribed within a suspensive arrangement.

#### **Article 97**

Customs procedure with economic impact shall be discharged when a new, customs-approved treatment or use is assigned to the goods which were placed under such procedure, or to equivalent goods or compensating products following processing.

The customs office shall take all necessary measures applicable to the goods in respect of which a procedure has not been discharged under the conditions prescribed.

#### **Article 98**

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**

#### **1) General provisions**

#### **Article 99**

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

1)



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

- 1) under the external transit procedure 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 wh



### **Article 105**

The customs warehousing procedure may allow storage in a customs warehouse of the following:

- 1) foreign goods, which at that time are not subject to import customs duties and commercial policy measures, and
- 2) domestic goods intended for export, which by being placed in the customs warehouse becomes subject to application of the measures which, in compliance with the specific regulations, are applied to the export of such goods;
- 3) domestic goods intended for export.

Customs warehouse shall mean any place where the goods may be stored under the conditions

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 types of goods, operation of certain businesses or

Without prejudice to the provision laid down in Article 96, the customs office may demand that the holder of the warehouse provide the security that 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

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**

Import goods may undergo the usual forms of handling which are performed for the purpose of their preservation, improvement of their appearance or marketable quality or preparation for distribution or resale.

The forms of handling referred to in paragraph 1 of this Article must be authorized in advance by the customs office.

The Minister of Finance may, on the proposal by the Minister of Agriculture and Forestry, lay down cases where such handling of goods subject to protective measures of agricultural policy shall be prohibited.

#### **Article 116**

Where the goods have undergone usual forms of handling for the purpose of the Article 115 of this Law, the type of goods, customs value and quantity at the time when the customs debt was incurred may, at the request of the declarant, be taken into account in determining the amount of customs debt as laid down in Article 215 paragraph 1 of this Law, as if the goods had not undergone usual forms of handling.

Where import goods are released for free circulation on the basis of entry into the bookkeeping records, the kind of goods, the customs value and the quantity of goods to be taken into account shall be those applicable to the goods at the time when the goods were placed under the customs warehousing procedure, unless the declarant requests the customs value determined at the time when the customs debt was incurred to be accepted.

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- the use of certain goods which are not to be found in the compensating products, but which allow or facilitate the production of those 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 or 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



- 1) to persons established or residing in the Republic, and in case of non-commercial importation the authorization may also be granted to persons who are not established or residing in the Republic,
- 2) where import goods can be identified in a compensating product, save in the case of usage referred to in Article 119, paragraph 2, item 3), indent 4 of this Law, and in the case of



- 1) shall be subject to the import duties where they are released for free circulation in accordance with the detailed conditions prescribed by the Government. Holder of the authorization may ask for the customs duty on those products to be calculated in the manner referred to in Article 125 of this Law.
- 2) if subject to import duties calculated in accordance with the rules applicable to the customs procedure in question or to free zones or free warehouses where they have been placed under a suspensive arrangement or in a free zone or free warehouse. Holder of the authorization may ask for the customs duty on those products to be calculated in the manner prescribed by Article 125 of this Law. Where the amount of import customs duty is calculated in accordance with this Article, the calculated amount shall be at least equal to the amount which would be calculated in ac

## **5) Special provisions relating to the repayment system**

### **Article 128**

The repayment system may apply to all goods.

The repayment system shall not apply for compensating goods which, at the time the declaration for release for free circulation is accepted:

- 1) are subject to quantitative import restrictions,
- 2)

1) exported or

2) placed, with a view of being subsequently re-exported under the internal transit

- a) to persons who are established or residing in the Republic,
- b) where the import goods can be identified in the processed products,
- c) where the goods cannot be restored after processing to their description, contents or state as they were before they were placed under the procedure,
- d) where use of this procedure cannot result in circumvention of the rules concerning origin or quantitative restrictions applicable to the imported goods,
- e) where the use of this procedure helps create or maintain a processing

#### **Article 140**

The procedure for temporary importation shall allow use, with total or partial relief of import duties and exemption from the commercial policy measures, of foreign goods which are intended for re-export without having undergone any change except normal depreciation due to the use made of them.

#### **Article 141**

Authorization for temporary importation shall be granted at the request of the person who uses the goods or arranges for them to be used.

#### **Article 142**

The customs office shall refuse to authorize the use of temporary importation procedure where it is impossible to ensure that the import goods can be identified.

The customs office may authorize the use of temporary importation procedure even where it is





duties calculated pursuant to paragraph 1 of this Article and the amount payable pursuant to Article 146 of this Law.

## **7. OUTWARD PROCESSING**

### **1) General provisions**

#### Article 148

Without prejudice to the provisions of Articles 157 to 162 of this Law, the procedure of outward processing may be allowed for domestic goods that are temporarily exported from the customs territory for processing purposes.



The total or partial relief from import duties provided for in the Article 154 paragraph 1 of this

the amount to be deducted pursuant to paragraph 1 of this Article shall be determined by taking into account import duties which would be applied if the temporary export goods fulfilled the conditions for implementation of the Article 21 of this Law.

This Article shall not apply if an international agreement which is binding for the Republic provides for relief from import duties on certain products.

#### Article 155

If outward processing procedure was authorized for the repair of temporary export goods, the goods may be released for free circulation with total relief from import duties provided it is established to the satisfaction of the customs authorities that the goods were repaired free of weff is,5(x)-

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 this 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 products have been supplied free of charge either because of contractual or statutory obligation arising from a guarantee or because of a manufacturing defect.

#### Article 159

Exchange system shall be authorized only where it is possible to verify that the replacement product fulfills the conditions laid down in Article 158 of this Law.

#### Article 160

In the event of prior importation, the goods shall be temporarily exported within the period of two months from the day of acceptance by the customs authorities of the declaration for release for free circulation of replacement products.

Where exceptional circumstances so warrant, the customs authorities may extend the period in question, at the timely request of the holder of the authorization, as appropriate.

#### 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 laræ rlolt g( )Tj17(3) (altionsReie of theprsa tad eichanbeissR410.6(c)9.ct.



3) under cover of an ATA carnet used as a transit document;

4) by post (including parcel post).

In the case referred to in paragraph 2 item 1) of this Law, the provisions of Articles 101 to 104 shall apply *mutatis mutandis*.

#### Article 166

The detailed conditions under which the goods may move from one point to another within the customs territory, passing through the territory of a third country, without being subject to a

The area covered by a free zone and free warehouse, their perimeter including exit and entry points shall be under supervision by the customs authorities.

Means of transport and persons entering or leaving a free zone or free warehouse shall be under supervision by the customs authorities and may be subject to a customs check.





Foreign goods placed in a free zone or free warehouse, while still situated in a free zone or free warehouse, may:

- 1) be released for free circulation under the conditions prescribed for such procedure and by Article 178 of this Law,
- 2) as set forth in the Article 115 paragraph 1 of this Law, undergo the usual forms of handling, without special authorization by the customs authorities,
- 3) be placed under inward processing procedure under the conditions laid down for that procedure,
- 4) be placed under the procedure for processing under customs supervision under the conditions laid down for that procedure,
- 5) be temporarily imported under the conditions laid down for that procedure,
- 6) be surrendered to the government in accordance with Article 182 of this Law, and
- 7) be destroyed or otherwise rendered unsuitable for any use, provided that the customs authorities are furnished with all the information they judge necessary.

Where goods are placed under one of the procedures referred to in paragraph 1 items 3), 4), or 5) of this Article, the customs authorities may adjust the control arrangements laid down, in so far as is necessary to take account of the operating and customs supervision conditions of the free zones or free warehouses.

#### Article 174

Domestic goods intended for export as set forth in the 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

The goods shall be entered into the stock records as soon as they are brought into the premises of such person.

The stock records must enable the customs auth



Re-exportation shall, where appropriate, involve application of the rules laid down for export of goods, including commercial policy measures.

The government 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 Government 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 the routes, in the manner and within the period set out by the customs authorities.

## **TITLE VI**

Relief from customs duty shall be granted:

1) For goods specified by an international agreement which is binding for the Republic,

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 forwarded by natural persons 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 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,

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 supporting 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







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

The customs authorities may waive the requirement for provision of security where the amount to be secured does not exceed 500 EUR.

#### Article 190

Where the provision of security is optional under the customs rules, such security shall be required at the discretion of the customs authorities in so far as they consider that a customs debt which has been or may be incurred is not certain to be timely paid.

In lieu of the security referred to in paragraph 1 of this Article, the customs authorities may request the person concerned to undertake in writing to comply with obligations he is legally obliged to fulfill.

The security referred to in paragraph 2 of this Article may be required:

- 1) at the time of application of the rules requiring such security to be provided, and
- 2) at any subsequent time when the customs authorities find that the customs debt which has been or may be incurred will not be paid within the prescribed period.

#### Article 191

At the request of the person liable, or who may become liable for a customs debt, the customs authorities may permit comprehensive security to be provided to cover two or more operations in

Where comprehensive security is provided for customs debts which vary in amount during the

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 customs debt in full or within the prescribed period, they may require the debtor to provide additional security, or to replace the original security with a new security.

#### Article 199

The security to cover the customs debt shall not cease to be valid until such time as the customs debt in respect of which it was given is extinguished or can no longer arise.

Once the customs debt is extinguished or can no longer arise, the security shall cease to be valid forthwith.

Once the customs debt, which might be incurred for goods placed under a suspensive arrangement is secured by means of a guarantee, but the customs authorities fail to inform the guarantor that the procedure has been completed within the period of one year from the date of its completion, the security shall cease to be valid with the expiry of that period.

Once the customs debt has been extinguished in part or may arise only in respect of part of the amount which has been secured, security shall be reduced accordingly at the request of the person concerned, unless the amount involved does not justify such action.

#### Article 200

The finance minister may lay down methods of derogation from the provisions of Articles 189 to 199, when this is required in order to comply with obligations undertaken under international agreements.

### ***CHAPTER 2***

#### ***INCURRENCE OF A CUSTOMS DEBT***

#### Article 201

A customs debt on importation shall be incurred through:

- 1) the release of goods for free circulation, or
- 2) the placing of goods under the temporary importation procedure with partial relief from import duties.

A customs debt shall be incurred at the time of acceptance of the customs declaration.

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 territory.

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 shall be:

- 1) the person who unlawfully introduced the goods into the customs territory or introduced them from a free zone or free warehouse into other parts of the customs territory of the Republic,
- 2) the person who participated in the unlawful introduction of the goods and who was aware or should reasonably have been aware that such introduction was unlawful, or
- 3) the person who acquired or held the goods in question although he was aware or should reasonably have been aware at the time of acquiring or receiving the goods that they had been introduced unlawfully into the customs territory of the Republic or had been introduced from a free zone or free warehouse into other parts of that territory.

#### Article 203

A customs debt on importation shall be incurred through an unlawful removal of goods from customs supervision.



Where goods in a free zone or free warehouse disappear and where their disappearance cannot be explained to the satisfaction of the customs authorities, those authorities may regard the goods as having been used under conditions and in a manner which do not comply with the provisions in force.

The customs debt referred to in paragraph 1 of this Article shall be incurred at the time when the goods are consumed or are first used under conditions and in a manner which do not comply with

Where, in accordance with the provisions of the Article 206 paragraph 1 of this Law, no customs debt is incurred in respect of goods released for free circulation with preferential tariff treatment 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 and 204 of this Law, a customo20 4.2i(m)14n7( )Tc.3(20u7( )Tr.2(1)2(e





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 conclude 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.

Where it is not possible to determine the place referred to in paragraph 1 of this Article, the customs debt shall be deemed to have been incurred at the place where the customs authorities conclude that the goods are in a situation in which a customs debt was incurred.

Where a customs procedure is not conducted for the goods in question, the customs debt shall be deemed to have been incurred at the place where the goods:

- 1) were placed under the relevant customs procedure, or
- 2) enter the customs territory under that customs procedure.

Where the circumstances known to the customs authorities enables the customs authorities to conclude that the customs debt was already incurred when the goods were in another place, the customs debt shall be deemed to have been incurred at the place in which the goods were located at the earliest time when existence of the customs debt may be established.

#### Article 217

In so far as an agreement concluded between the Republic and another country provides for the granting of preferential tariff



Provided that payment has been secured, the total amount of duty relating to all the goods released to one and the same person during a period fixed by the customs authorities, which may not exceed 30 days, may be covered by a single entry in the accounts at the end of that period.

The entry in the accounts referred to in paragraph 2 of this Article, shall take place not later than 2 days after the expiry of the period in question.

Where it is provided that goods may be released subject to meeting certain provisions which govern either determination of the amount of the debt or its recovery, entry in the accounts shall take place no later than 2 days following the day on which the amount of the debt or the obligation to pay the duties is determined.

Where the customs debt relates to a provisional anti-dumping or countervailing duty, that duty shall be entered in the accounts not later than 2 months following the effective date of the regulation introducing an anti-dumping or countervailing duty.

Where a customs debt is incurred under conditions other than those referred to in paragraph 1 of this Article, the amount of duty shall be entered in the accounts within 2 days from the date on which the customs authorities are in a position to:

- 1) calculate the amount of duty, and
- 2) determine the debtor.

#### 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 the accounts shall not occur where the decision not to enter the debt in the accounts or to enter it in the accounts in the amount less than the duty actually owed was taken on the basis of provisions invalidated at a later date.

#### Article 222

As soon as it has been entered in the accounts, the amount of duty shall be communicated to the debtor in accordance with appropriate procedures.

Where the amount of duty payable has been entered in the customs declaration, the customs authorities shall not communicate it to the debtor separately but the amount shall rather be deemed to have been communicated to the debtor where the customs authorities have released the goods to the declarant, save in cases referred to in Article 219 paragraph 2 of this Law.

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 expiry of the three-year period, in so far as the provisions in force allow.

## **2. Time limit and procedures for payment of the amount of duty**

### Article 223

The amount of duty communicated to the debtor in accordance with Article 222 of this Law shall be paid within the period of eight days from the date of communication to the debtor in case the debt was covered by a single entry in the accounts within 10 days from the date of expiry of the time limit allowed.

An extension shall be granted automatically where the debtor received the communication too late to enable him to make payment within the period prescribed.

The Government shall lay down detailed conditions under which recovery of the debt may be suspended where an application for remission of duty is made in accordance with Articles 229 to 231 of this Law or where goods are seized with a view to subsequent confiscation in accordance with Article 227 item 3) indent 2 or item 4) of this Law.

### Article 224

Payment shall be made in cash in the currency officially used or by any other means of payment in accordance with the provisions in force.

### Article 225

The customs debt may be paid by a third party instead of the debtor, under conditions and in a manner laid down by the finance minister.

## Article 226

Where the amount of duty has not been paid within the prescribed period:

- 1) the customs authorities shall avail themselves of all options open to them under the legislation in force, including debt enforcement.
- 2) interest on arrears shall be charged over the amount of duty in accordance with a special regulation.

The customs authorities may waive collection of interest on arrears referred to in the paragraph 1 item 2) of this Article:

- 1) where, because of the situation of the debtor, it would be likely to create serious economic or social difficulties;
- 2) if the duty is paid within five days of the expiry of the period prescribed for payment.

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

- the customs declaration is invalidated,

The period referred to in paragraph 4 of this Article shall be extended if the person concerned provides evidence that he was prevented from submitting his application within the said period as a result of unforeseeable circumstances of force majeure.

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 period laid down for submission of the application for invalidation of the customs declaration in accordance with Article 74 of this Law.

#### Article 230

Import duties shall be repaid or remitted in the amount which was entered in the accounts relating to goods placed under the customs procedure in question, where the importer proves that he has



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

#### Article 231

The Government may also determine cases of repayment or remission of import duties or export duties other than those referred to in Articles 228, 229 and 230 of this Law, resulting from circumstances in which no deception or gross negligence may be attributed to the debtor or other participants in the relevant customs procedure, and lay down detailed conditions and procedure enabling the repayment or remission of duties to be granted.

Duties shall be repaid or remitted for the reasons set out in paragraph 1 of this Article where the declarant submits an application to the customs authorities within 12 months from the date on which the amount of those duties was communicated to the debtor.

#### Article 232

The Government shall determine the amount of customs debt for which repayment or remission shall not be granted.

#### Article 233

Where the customs authorities repay the amount of import duties or export duties, including the amount of interest or interest on arrears they charged on payment of such duties, they shall have no obligation to pay the interest.

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**PART VIII**

**PENAL PROVISIONS**

***CHAPTER 1***

***CRIMINAL OFFENCES***

Article 235

Persons avoiding the measures of customs control that are engaged in the transfer of goods across customs borders or that transfer goods across customs boundary line carrying arms or acting in organized groups shall be sentenced to one to five years of imprisonment and fined an amount equal to triple the value of the goods.

Persons that used force in the situation referred to in paragraph 1 of this Article shall be sentenced to imprisonment for two to eight years and fined an amount equal to five times the value of the goods.

Persons who organize groups or networks to commit offences referred to in paragraph 1 of this Article shall be sentenced to imprisonment for two to eight years and fined an amount equal to five times the value of the goods.

Each member of a group referred to in paragraph 3 of this Article shall be sentenced to imprisonment for one to five years and fined 2,500 EUR.

The goods referred to in paragraph 1 of this Article shall be confiscated.

Where the offence referred to in this Article was committed in relation to drugs, arms, nuclear material or dangerous waste, the offender shall be sentenced to imprisonment for two to ten years and fined an amount equal to five times the value of the goods.

Article 236

A person who organizes a network of agents or dealers for distribution of uncleared goods or the

## **CHAPTER 2**

### **CUSTOMS OFFENCES**

#### **1. General provisions**

##### Article 238

All the activities and errors opposing the provisions of this Law and by-laws enacted based on this Law shall be considered as customs offences where specified by this Law, and, as such, shall be subject to penalty, except in the instance of *force majeure*.

By no means shall the payment of penalties applied for customs offences release an offender from the obligation to pay customs and other duties prescribed by the law, for the goods being subject to the offence.

##### Article 239

Proceedings administered in accordance with the provisions of this Law in order to determine



Each person who breaches provisions of TIR carnet (TIR Convention) and its Annexes shall be fined 1,000 EUR.

#### Article 245

A person shall be fined an amount equal to one- to three times the value of the goods being subject to the offence if:

- 1) failing to deliver the goods to the competent customs office, or
- 2) presenting, in the documents submitted when declaring the goods which is delivered to the customs office, the data on quantity, value, kind, origin and quality of goods which differ to those established by customs authorities,

A person who fails to submit declaration simultaneously with the delivery of the goods, shall be fined 200 EUR.

#### Article 246

A person shall be fined 500 EUR if:

- 1) falsely presenting in documents submitted when declaring the goods, the data on goods

A person, who in the event of a transit procedure, fails to present the goods to the destination customs office within the specified time limit, or fails to act in accordance with the instructions issued by the entry customs office, shall be fined 200 to 1,000 EUR.

#### Article 249

A person, who enters the data on kind or quality of the goods in transit documents that is different from those established by customs authorities shall be fined 1,000 EUR.

A person, who enters the data on quantity of the goods in transit documents that is different from those established by customs authorities, shall be fined an amount equal to the value of such goods.

A person, who enters the data on value of the goods in transit documents that is different from those established by customs authorities shall be fined an amount equal to the value of such goods.

#### Article 250

A person who fails to act in accordance with the provisions of Articles 48 and 49 of this Law shall be fined 200 to 500 EUR.

#### Article 251

A person who fails to initiate activities necessary for designation of customs-approved treatment of goods within the time limits set forth in Article 59 of this Law shall be fined 500 EUR.

#### Article 252

A person who, with the approval of customs authorities attempts to place or places in temporary storage the goods that is, in quantity, kind and value, different from those established by customs authorities shall be fined an amount equal to the value of such goods.

#### Article 253

A person who in order not to pay prescribed customs and other duties, in the import customs declaration and documents enclosed to it intentionally declares the kind, quantity, value and quality of the goods that is different from those established by the customs authorities, shall be fined an amount equal to one- to three times the value of the goods being subject to the offence.

#### Article 254

A person who in the export customs declaration and in the documents enclosed to it intentionally

A person who in order not to pay prescribed customs and other duties, in declarations for temporary import of goods, outward and inward processing, processing of goods under customs supervision and exchange system, intentionally declares the kind, quantity, value and quality of the goods that is different from those established by the customs authorities, shall be fined an amount equal to one- to three times the value of the goods being subject to the offence.

#### Article 256

A person who, in import customs declarations for temporary import of goods, outward and inward processing, processing of goods under customs supervision and exchange system, and in documents enclosed to it, which are not used for the calculation of customs and other duties, declares the kind, quantity, value and quality of the goods that is different from those established by the customs authorities, shall be fined 300 to 2,000 EUR.

#### Article 257

A person who fails to enable inspection of the goods within the time limit established by the customs office, where the reasons are attributable to declarant, shall be fined 300 to 2,000 EUR.

#### Article 258

A person who fails to submit customs declaration within the time limits set forth by this Law shall be fined 200 to 500 EUR.

#### Article 259

A person who fails to enable post declaration audit of commercial documents related to import or export of goods, or documents related to subsequent commercial activities involving such goods, shall be fined 1,000 to 5,000 EUR.

#### Article 260

A person who uses the goods released for free circulation under favorable tariff treatment due to

A customs warehouse keeper who moves the goods from one place to another without customs office's approval, who does not keep records of goods, who does not observe prescribed time limits and who does not act in accordance with instructions issued by the customs office in respect of regulations governing storage of goods, shall be fined 100 to 1,000 EUR.

#### Article 262

A person who does not export, or does not export within the time limit established by the customs office, the goods under inward processing procedure, shall be fined 500 to 2,000 EUR.

A person who does not observe time limits set forth by the customs office for procedures with economic impact shall be fined 200 to 1,000 EUR.

A person who, within the specified time limit, does not return from abroad the goods subject to approved outward processing procedure shall be fined 200 to 1,000 EUR.

A person who, within the prescribed time limit does not temporary export the goods subject to standard exchange system, shall be fined 1,000 to 5,000 EUR.

#### Article 263

A person who, within the time limit specified by the customs office, does not declare the goods for which processing procedure with the use of equivalent goods was approved shall be fined 200 to 500 EUR.

#### Article 264

A person who uses the goods subject to some of the procedures with economic impact for the purpose other than that approved, shall be fined an amount equal to one- to three times the value of the goods being subject to the offence.

#### Article 265

A person who fails to deliver the goods cleared for export, or delivers such goods in altered condition to the exit customs office shall be fined 200 to 1,000 EUR.

#### Article 266

A person shall be fined an amount equal to one- to three times the value of the goods being subject to the offence if:

- 1) Obtaining exemption or attempting to get exempted from payment of import duties by presenting of false data;



2) Transferring the goods imported on the basis of customs privilege to other persons before

#### Article 271

A captain of an aircraft, or another responsible person of an aircraft shall be fined an amount equal to one- to five times the value of the goods being subject to the offence if:

- 1) Bringing the goods into the customs territory through the air in violation of this Law and by-laws thereof;
- 2) Transporting the goods without the appropriate manifest;
- 3) At arrival, not having the goods which, in accordance with the manifest and other customs documents, he should have had loaded on the aircraft;
- 4) Transporting the goods from the place of landing without appropriate customs documents;
- 5) Landing at a place other than international airport failing to immediately inform customs office or the Ministry of Internal Affairs agency.
- 6) Loading, unloading or reloading the goods or passengers and their luggage without the customs office approval.

#### Article 272

A person shall be fined an amount equal to one- to five times the value of the goods being subject to the offence if:

- 1) Exporting or importing the banned or restricted goods, save in the case of restricted goods

## Article 284

In respect of this Law, the subject of customs offense is the goods or part of the goods subject to the offence.

Where the fine is determined based on the value of the goods subject to an offence, or based on an amount of unpaid customs duties, the value shall be established in accordance with this Law.

### **3. Protective Measures**

## Article 274

Goods being subject to offences referred to in the Article 240 paragraph 1 items 1), 2), and 3); Article 241; Article 244 paragraphs 3 and 4; Article 245 paragraph 1; Article 247; Article 253; Article 255; Article 261 paragraph 2; Article 267; Article 269; Article 270 paragraph 1 items 1) and 3); Article 271 paragraph 1 items 1), 4), 5) and 6); and Article 272 paragraph 1 items 1), 2), 3), 4), 5) and 7) shall be confiscated.

Means of transportation or carrying, or any other means used to transport or conceal the goods being subject to offences referred to in Article 240 paragraph 1 items 1), 2) and 3); Article 267 paragraph 1 items 1) and 2); Article 269; Article 270 paragraph 1 items 1) and 3); Article 271 paragraph 1 items 1), 4) and 6); and Article 272 paragraph 1 item 1) shall be confiscated, provided the value of goods being subject to the offence exceeds half of the value, determined in accordance with this law, of such transportation, carrying, or other means.

Where the goods being subject to customs offence for which protective measure is prescribed cannot be found, or for whatever reason cannot be confiscated from the person who is in its possession, the value of such goods determined in accordance with this law shall be collected, and the customs procedure for collection of customs and other duties shall be performed.

The goods being subject to customs offence, for which protective measure is not prescribed, and customs duties are paid, shall not be seized.

The goods being subject to customs offence, for which protective measure is not prescribed, and customs duties are not paid, shall be seized until the conclusion of customs procedure.

The customs may immediately sell seized perishable goods if not possible to decide on customs offence within 24 hours.

#### 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



Where it is possible, depositions from the defendant and witnesses shall be taken immediately. If this is not the case, Commission shall summon the defendant and witnesses to the premises of the customs office, at the specified date and time to give deposition personally, or to submit the written one. This shall be done not later than 10 days after the summons. The witnesses shall be considered all persons having any knowledge whatsoever about the offense, and customs officers who have determined that a customs offence has been committed and signed the related minutes.

Minutes of deposition or any testimony or statement must be signed by the offender, by the witnesses if they are present, and by the customs officers who have performed the deposition.

Where an offender is a foreign citizen, the interview shall be conducted in the presence of a translator.

#### Article 284

After concluding the offense proceeding and completing the documentation, the Commission shall decide the case, either verbally or in writing (a ruling).

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) Corresponding documents;
- 3) Statements and testimonies of the offenders and the witnesses;
- 4) Minutes of deposition;
- 5) Minutes of deliberation.

#### Article 285

The ruling shall be made within five days from the day the passing of such ruling is made possible.

#### Article 286

The defendant may lodge an appeal against the ruling of the Commission within the period of 15 days from the day of receiving the ruling or being notified about it.

The appeal shall be decided by the Customs Administration.

Where, by a ruling of the Customs Administration, a person has been relieved from paying the fine or fines pronounced at the level that is lower than the amount paid in accordance with the previous paragraph, the amount or the excess amount paid shall be returned to the appellant.

The Customs Administration shall rule on the lodged appeal within 30 days from the day when such ruling is made possible.

#### Article 287

The provisions of the Law on Offences shall be applicable *mutatis mutandis* on the appeal proceeding before the Customs Administration.

#### Article 288

The customs related offense proceeding may not be initiated where 3 years have elapsed after the custom offense was committed,

Statute of limitations shall be suspended where offense proceeding cannot be conducted according to the regulations.

Statute of limitations shall cease to run upon any procedural action by a competent authority.

After any such cessation, the statute of limitations begins to run again.

In any event, the statute of limitations applicable to the offence occurs after expiry of six years from the day such offence was committed.

#### 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 be applicable 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.

The fee referred to in Article 1 of this Article shall not be charged for the export procedure.

The fee referred to in paragraph 1 of this Article shall correspond to the rate according to the value of goods (*ad valorem*) and in absolute amounts.

The level of and procedure for charging the fee referred to in paragraph 1 of this Article shall be prescribed by the Government, at the rate of 0% to 1% value of the goods as determined according to the provisions of this Law, when the fee is determined by an *ad valorem* method.

## **PART X**

### **SALE OF GOODS AND ALLOCATION OF REVENUES**

#### Article 292

The goods seized in accordance with this Law, namely the goods which according to the provisions of this Law are subject to public sale, shall be sold.

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 exhibiting it at a public state, in a procedure



- 1) for settlement of the costs incurred by sale of goods, specifically: transportation costs, costs of safeguarding the goods, costs of the sales procedure, storage costs, and other costs;
- 2) 50% to the Budget of the Republic;
- 3) 30% to the Customs Administration.

The revenues allocated to the Customs Administration may be used based on the decision of the manager in charge of developing and improving the operation of the service.

## **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.



#### Article 302

The regulations on execution of this Law shall be passed before 1 April 2003.

#### Article 303

On the day this Law starts to apply, the Decree on Customs Operations (“Official Gazette of RM”, Nos. 33/2000 and 50/2001) and the Decree on the Procedure for Obtaining the Right to Exemption from Payment of Customs Duties for Special Cases of Exemption (“Official Gazette of RM”, No. 51/2001) shall cease to apply.

The Decree on Customs Tariff (“Official Gazette of RM”, Nos. 38/00 and 53/00) shall apply until the Law referred to in Article 20 paragraph 1 of the Customs Law is adopted and starts to apply.

#### Article 304

This Law shall come to force eight days after being published in the “Official Gazette of the Republic of Montenegro” and shall apply from 1 April 2003.