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## **TRANSLATION**

TO

## THE MACEDONIAN

## LAW ON CUSTOMS

(As published in Official Gazette of RM no. 21, on May 8, 1998)

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## LAW ON CUSTOMS

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#### I. GENERAL PROVISIONS

#### Article 1

This law shall govern the customs procedure, the rights and obligations of the participants in the customs procedure, as well as the scope, the manner of operation and the organizational setting of the administrative body competent for customs affairs.

#### Article 2

#### **Customs Procedure**

The customs procedure, as provided by this law, shall consist of: declaring goods for trade, warehousing, temporary import and export, transit (transportation), import and export, establishing customs liability, collection, refund and exemption from customs duties. All participants in the procedure shall acquire rights and obligations related to the goods.

#### Article 3

#### **Definitions**

The terms used in this law shall have the following meaning:

- 1. *Party* means any natural or legal person.
- 2. *Customs authorities* means Customs Administration, customshouse, customs outpost, department and unit.
- 3. *Customs liability* means the obligation of the party to pay the import duties (customs liability for import) or the export duties (customs liability for export).
- 4. *Import duty* means the duty payable for import of goods.
- 5. *Import fee* means the fee payable for import of goods; encumbering payable for import of agricultural and food products as provided by law.
- 6. Export duty means the duty payable for export of goods
- 7. Export fee means the fee payable for export of goods; encumbering payable for export of agricultural and food products.
- 8. Customs obligor means the party liable to clear the customs liability.

- 9. *Customs custody* encompasses the measures of the customs authorities for preventing illegal customs procedure and for preserving their authenticity until the goods are released for trade, at which point other provisions shall be applicable to the goods in customs custody.
- 10. Customs control encompasses the following activities of the customs authorities: examination and inspection of the goods, the means of transport, the existence, the authenticity and the accuracy of the documentation, the authenticity and the accuracy of the business books and other records, the personal luggage and goods that the passengers have with them, examination of the passengers and official inquires and other similar activities for the purpose of providing custody for the goods, in compliance with the customs and other relevant regulations.
- 11. Customs cleared use of goods means goods in customs procedure; placing goods in free customs zone or warehouse; re-export of goods from customs area; destruction of goods in customs custody; delivery of goods to customs authorities for free disposal.
- 12. *Customs declaration* means a document in which, in a prescribed form and manner, the party states an intention to place the goods in certain customs procedure.
- 13. *Customs declarant* means the party that presents customs declaration on its behalf or on behalf of the party in whose name it presents the customs declaration (customs representative, shipping agent, intermediary, etc.)
- 14. *Declaration of goods* means a notification in a prescribed form to the customs authorities that goods have arrived in a customs outpost or any other location specified and approved by the customs authorities.
- 15. Release of goodsn oTD.00means a notume4t in the customs authorities fort gooeased andappusfor

- (3) The Government of the Republic of Macedonia shall define the frontiers of the border area.
- (4) The customs officers shall have authority to control the identity of the individuals and to inspect goods and vehicles that enter, exit or circulate through the customs border area.
- (5) Goods at the customs border area must have a document for legal entrance in the customs area of the Republic of Macedonia and the customs liability must be paid.
- (6) Customs authorities may control individuals who enter, exit or move through the customs border area, detain individuals that do not possess the documentation required for entrance on the territory of RM and retain in customs custody the goods for which there is no evidence for legal import and payment of duties and taxes. Such goods shall be deemed smuggled. Vehicles used for transportation of such goods may also be retained.
- (7) Customs officers who have continuously followed individuals who have avoided customs control when crossing the border, shall be authorized to enter and inspect buildings in which such individuals were noticed to have stayed, whereas residential premises shall be inspected with a court order.

## **Application of the Law**

This law shall apply to the entire customs area of the Republic of Macedonia, unless otherwise provided in a separate law or international treaty.

#### Article 7

#### **Customs Goods**

- (1) Customs goods, as provided in this law, shall be:
- any object imported in the customs area, but not yet in trade;
- any object for which customs declaration for export from the customs zone is presented.
  - (2) Customs goods, as provided in this law, shall not be:
- public records;
- parcels with written (printed) materials, that do not include customs goods or other parcels consisting of books;
- commercial correspondence, business books, commercial, legal and financial documentation pertaining to the goods, and
- effective currency, checks, bills of exchange, shares and other securities that are used as

payment instruments.

#### Article 8

## **Application of International Treaties**

This law shall not be applicable to payment of duties for imported goods or implementation of customs procedures, if such payment of duties or implementation of customs procedure is otherwise provided for in an international treaty ratified or joined by the Republic of Macedonia.

## II. SCOPE OF WORK, MANNER OF OPERATION AND ORGANIZATIONAL SETTING OF CUSTOMS AUTHORITIES

#### Article 9

#### **Customs Administration**

- (1) The Customs Administration representing a body within the Ministry of Finance shall be the body responsible for customs affairs.
- (2) Customs Administration shall be a legal entity. The affairs and the tasks of the Customs Administration shall be performed through the customhouses which represent organizational units of the Customs Administration.
  - (3) A Director shall manage the Customs Administration.
- (4) The Director of the Customs Administration shall be appointed and discharged by the Government of Republic of Macedonia.
- (5) The Government of Republic of Macedonia shall also appoint and discharge the Deputy to the Director of the Customs Administration.
- (6) Due to the type, the nature and the complexity of the work and tasks performed by the officers that have special duties and authorities, as well as to the difficulty of the work and the special conditions under which the work is performed, the funds designated for salaries for the performance of such work and tasks shall be increased up to 30%.
- (7) The Director of the Customs Administration shall admit to office and assign to different posts the customs officers as provided by law.

#### Article 10

#### **Authorities of Customs Administration**

- (1) The Customs Administration shall control the goods, the individuals and the vehicles when entering on, in transit or exiting from the territory of Republic of Macedonia.
  - (2) The Customs Administration shall:
- calculate and collect duties, import levies, taxes, excises and other foreign trade payments provided for by law;
- administer administrative proceedings on customs cases;
- undertake foreign currency control in the international transportation and in the customs area foreign trade;
- initiate proceedings for misdemeanors in the customs procedure that are provided for in this or another law;
- prevent misdemeanors in the customs procedure and prevent and discover foreign currency misdemeanors, in compliance with the foreign currency control pursuant to subitem 3 of this paragraph;
- collect on-the-spot fines for misdemeanors provided for in this law;
- investigate, prevent and discover customs misdemeanors and initiate misdemeanor proceedings before the court that has jurisdiction;
- draft customs regulations;
- be responsible for application of the regulations pertaining to foreign trade;
- provide export and import data for statistical purposes;
- organize the customs information system in a manner that will enable exchange, followup and standard format of the information between state agencies in and outside the country, and
- other affairs provided for by law.

## **Rights and Obligations of the Customs Officers**

- (1) All customs officers shall wear official uniforms while inspecting individuals, vehicles and goods in official premises. In any other case of discovering and preventing misdemeanors, if necessary, the customs officers may wear civilian clothes.
- (2) The customs officers shall be authorized to stop, control and inspect individuals and their vehicles in the entire territory of Republic of Macedonia, whereas the manner and the procedure of control and inspection shall be governed by an enactment of the

Government of Republic of Macedonia.

- (3) Each and every customs officer shall, if so required, identify him/herself with an official identification.
- (4) Customs officers who are directly involved in field work or work on international crossings are entitled to wear firearms under terms provided by law.
- (5) Customs officers shall have access to international premises for sorting mail in post offices and express mail offices for the purpose of tracking goods and collection of duties, other payments and the costs of the customs procedure. Post office officers must declare to the customs authorities all parcels that are subject to this law. Under no circumstances may the confidentiality of the mail be violated.
- (6) Customs officers shall have access to railway stations, platforms, wagons, yards and other parts that are under the jurisdiction of railway stations and airport buildings and fields, for the purpose of implementing this law.
- (7) In case of reasonable doubt that a person has hidden drugs and other goods in his/her body, the customs officers may subject such a person to medical or other examinations for the purpose of tracking the hidden drug or the other goods.
- (8) For the purpose of discovering the misdemeanors provided for in this law and smuggled goods, the customs officers may inspect, without a court order, all places and private premises where goods or documents related to the misdemeanors may be stored. The customs officers may temporarily keep such goods and documents.
- (9) Customs officers shall be entitled to request information and documentation that are in disposition of other state agencies and organizations.
- (10) Customs officers shall be entitled to request from the participants in the procedure information and documentation related to the procedures of their offices.
- (11) Customs officers shall be authorized to follow perpetrators of customs misdemeanors, and if the perpetrators are caught at the moment of perpetration of the misdemeanor, the customs officers shall detain such perpetrators in conformity with the requirements of this law.
- (12) Customs officers shall be entitled to control already controlled deliveries of goods, in conformity with the requirements of this or another law.
- (13) Customs officers shall be entitled to request support and protection from police forces and border area military forces in proceeding to investigation, control, fight against smuggling, detecting customs misdemeanors and other acts that are subject to penalties.

- (14) Only customs authorities shall have access to data and information in disposition of the customs officers, except in case of Article 20 of this law.
- (15) Customs officers who work on vehicles for public transportation or inside vehicles for public transportation shall be entitled to free of charge transport in such vehicles and to the same insurance as the passengers that have paid for the transportation with such vehicles.

## **Communication between Customs Administration and Foreign Authorities**

The Customs Administration may, under conditions provided for by this law and international treaties, request information and documentation from the authorities of foreign states on the basis of reciprocity.

#### Article 13

#### Official Uniform and Identity Card

The official uniform, the markings of the ranks and the manner of presentation and use, as well as the form, the contents and the terms for issuing the official identity card for the customs officers, shall be prescribed by the Minister of Finance.

#### Article 14

#### **Use of Firearms**

Customs officers may use firearms when performing their duties in case of:

- self-defense;
- stopping the individuals crossing the border and ignoring the customs officer repeated orders to stop;
- stopping vehicles and animals crossing the border and ignoring the customs officer repeated orders to stop;
- preventing intentional damage to the Customs Administration facilities and assets.

#### Article 15

#### **Application of the Law on General Administrative Proceedings**

(1) Unless otherwise provided by this law, the Law on General Administrative proceedings shall be applied by the customs authorities that administer the customs procedure.

- (2) If the customs authorities fully approve the request of the customs procedure, the approval may be granted on its own request based on the record.
- (3) An appeal may be filed to the Minister of Finance from a decision that is rendered by the customs authority in the administrative proceedings.
  - (4) The appeal shall not postpone the enforcement of the decision.

## **Requiring Information**

Every person is entitled to be informed of the application of the customs regulations pertaining to import and export procedures by the customs authorities. If such information is requested in writing, costs shall be covered by the applicant.

#### Article 17

#### **Certificate for Categorizing Goods According to the Customs Scale of Rates**

- (1) The Customs Administration shall, based on a written request from the participant in the procedure, issue a Certificate for categorizing goods according to the Customs Scale of Rates. The costs for issuing such a certificate shall be covered by the applicant.
- (2) The certificate pertaining to paragraph 1 of this article shall be obligatory for the customs authorities only in respect to the categorizing of the goods according to the nomenclature of the Customs Scale of Rates, in the customs procedure in which the obtainor of the certificate is a participant. Such a Certificate shall be obligatory only for goods on which customs procedure has initiated on the date of issuance of the Certificate for categorizing goods according to the Customs Scale of Rates.
- (3) The obtainor of such a certificate must prove that the declared goods are identical to the goods described in the certificate.
- (4) The certificate pertaining to paragraph 1 of this article shall be valid for one year following the date of issuance, except where it has been confirmed that the certificate was annulled because it was based on incorrect and incomplete facts and information or documentation provided by the party requiring such a certificate.
  - (5) The Certificate shall cease to be valid if:
- it is no longer in compliance with the existing regulation due to changes in the regulation;
- it is no longer in compliance with the customs nomenclature due to changes in the

nomenclature or changes in the international regulation on which the customs nomenclature is based. In such a case, the certificate shall cease to be valid on the day following the date when the changes were officially published; and

(6) The certificate pertaining to paragraph 1 of this article may only be used for determining the amount of the import or export fees and for determining the amount of the export incentives and other refunds related to agricultural policy.

- it is annulled or repealed.

(7) The manner in which the certificate pertaining to paragraph 1 of this article shall be issued, its application for customs clearance, and the amount of the issuing costs shall be prescribed by the Minister of Finance.

#### Article 18

#### **Right to Representation**

Each person may appoint a representative to work with the customs authorities.

#### Article 19

## **Confidentiality of Information**

All information that is confidential by nature or has been obtained on confidential basis shall be guarded as official confidential information. Official confidential information may not be revealed by the customs authorities without permission from the person from whom it was obtained. Exchange of official confidential information shall be allowed in instances permitted by law.

#### Article 20

## **Obligation to Present Documents**

For the purpose of conducting customs procedures each party that is directly or indirectly involved in the affairs related to the goods shall, upon request from the customs authorities, present to the customs authorities for inspection all necessary documentation and explanations and shall provide the necessary assistance for enforcement of the law.

#### Article 21

## **Keeping the Documents**

Parties shall retain the documents pertaining to Article 20 of this law for the purposes of the customs control for a period of five years, regardless of the form of the documents and such keeping period shall begin to run at the end of the year in which:

- declaration for import or export customs clearance for the goods was presented, without exception for the cases listed in sub-item 2 of this paragraph;
- has expired the period of customs custody for imported goods exempted from duties upon release for trade, and for imported goods for which the customs rate was lowered as a result from the purpose of import;
- other customs procedure related to the goods was administered; and
- the goods entered a free zone or customs zone, or exited from such.

#### **Control by Customs Authorities**

The customs authorities shall, under conditions provided by this or any law, undertake all measures necessary for regular application of customs regulations.

#### Article 23

## Goods Subject to High Duties, Excises, Taxes and Banned Goods

Individuals in the territory of Republic of Macedonia carry or keep goods that are subject to high duties, excises, taxes, or banned goods, according to the list that is annually adopted by the Government of the Republic of Macedonia, shall, upon first request from the customs officers, provide authentic evidence that the goods were legally imported, produced or obtained in the Republic of Macedonia. Goods for which such evidence

prescribed by the Government of the Republic of Macedonia. The costs charged by the customs authorities shall be the income of the Budget of the Republic of Macedonia.

## 2. Origin of Goods

the state has exclusive rights to use the sea bed and the earth underneath;

- waste and leftovers of products that are result of production operations or from used products, provided that such waste and leftovers are collected in the state only for the purpose of obtaining raw materials; and
- other goods produced in the state but only from the goods listed in items 1 through 9 of this Article or their derivatives in any production phase.

#### Article 27

#### **Sufficiently Processed Goods**

- (1) Goods produced in more than one state, pursuant to Article 25, paragraph 2, item 2 of this law, shall be deemed to originate from the state where the final substantive and economically justified treatment or processing was performed which resulted in a new product or represented significant phase in the processing process.
- (2) Final substantive and economically justified treatment or processing pertaining to paragraph 1 of this article shall not be:
- packing or re-packing of goods, regardless of where the packing was produced;
- division of bigger quantities into smaller quantities or integration of smaller into bigger quantities;
- sorting, classifying and dividing goods for cutting;
- labeling and marking of goods;
- preservation of goods for transport or storage;
- grouping of goods; and
- live stock imported for slaughtering, and slaughtered within three months following the date of import.

## Republic of Macedonia.

- (3) The price that represents customs value shall:
- include all expenses and other expenditures related to the sale and purchase of the goods incurred prior to entrance of the goods in the customs area;
- exclude all expenses and other payments calculated at the customs area;
- exclude limitations for the buyers pertaining to disposition and use of the goods, except for the statutory limitations, the limitations pertaining to ban on further sale in third countries or limitations that have substantive impact on the value of the goods;
- imply that the sales contract does not provide for terms or obligations the value of which in relation to the goods that are subject to duties cannot be determined;
- imply that the seller shall not receive, directly or indirectly, share of income from further sale or any other disposition or use on behalf of the buyer, except in the cases pertaining to article 32 of this law; and
- imply that the buyer and the seller are not related (in management, in capital or in kinship), or if related that the contracted price shall not be impacted by the commercial, financial or any other relation between the seller and the buyer.
- (4)Customs value of exported goods shall be the value of the goods at the place of exit from the customs area of the Republic of Macedonia increased by the transportation costs to the border, but shall not include export duties, taxes, fees and import levies, as well as duties, taxes, fees and import levies for which the exporter may request reimbursement.

#### Article 29

#### **Application of Rules Pertaining to Identical and Similar Goods**

- (1) Where customs value cannot be established based on Article 28 paragraph 2 of this law, customs value shall be the price contracted for identical goods with equal quality and equal features, purchased for import in the Republic of Macedonia and imported at the same or approximately the same time as the goods that are being cleared through customs.
- (2) If customs value on imported goods cannot be established based on Article 28 paragraph 2 of this law and paragraph 1 of this Article, customs value shall be the price contracted for similar goods purchased for import in the Republic of Macedonia and imported at the same or approximately the same time as the goods that are being cleared through customs.

- (3) Customs value pursuant to paragraphs 1 and 2 of this article shall be the price contracted for identical or similar goods sold under equal conditions (wholesale and retail) and in approximately equal quantities as the goods that are being cleared through customs. If there is no such sales, the price contracted for identical or similar goods sold under different type of sale contract or in other quantities shall apply.
- (4) Where there are several prices contracted for identical or similar goods, customs value of imported goods shall be the lowest contracted price.

## Other Rules Pertaining to Customs Value

- (1) If customs value of imported goods cannot be established based on articles 28 and 29 of this law, it shall be established in the following manner:
- 1. If imported goods i.e. identical or similar imported goods are sold in the Republic of Macedonia in the same condition in which they were imported, customs value of such imported goods shall be established on basis of the price for unit of measurement according to which the imported goods are being sold in such state to parties that are not related to the parties from whom the goods were purchased, in the largest total quantity and at the same or approximately same time as the imported goods that are being cleared through customs, provided that such price be reduced for:
- the usual commissions, trading costs and other earnings related to the sale of identical or similar goods imported in the Republic of Macedonia, and
- duties and import duties, as well as other fees calculated for sale of goods in the Republic of Macedonia.

Where the imported goods, i.e. the identical or similar goods are not being sold in the Republic of Macedonia in the same condition in which they were imported, customs basis for imported goods shall, upon request from the customs obligor, be established based on the price per the unit according to which the imported goods are being sold in the largest total quantity to parties in the Republic of Macedonia that are unrelated to the parties from whom such goods were purchased, provided that such price shall be reduced by the value of the previously performed refining and the expenses pertaining to paragraph 1 of this Article.

- 2. If customs value cannot be established according to paragraph 1 of this Article, it shall be established on basis of calculated value which shall include:
- the value of the material and the expenses used in the production of the imported goods;

- the profit earned from import in Republic of Macedonia of identical or similar goods by manufacturers from the country of export, as goods subject to duties and import costs; the costs pertaining to Article 32 of this law.
- (2) Upon request from the customs obligor, the order in which the provisions pertaining to paragraph 1 items 1 and 2 shall apply may be changed.

## **Limitations When Establishing Customs Value**

- (1) If the customs value of imported goods cannot be established based on Articles 28, 29, 30 of this law, it shall be established in any other appropriate manner in compliance with law and on the basis of the available information.
- (2) The customs value pertaining to paragraph 1 of this Article cannot be established on the basis of:
- the sale price of goods produced in the customs area of the Republic of Macedonia;
- a procedure that allows the customs value to be higher than the two alternative values;

imported goods.

- 5. The proportional part of the raw materials, non-final products and built-in parts purchased abroad, that the buyer obtained free of charge or for a discounted price and were used in the production of the imported goods.
- 6. The proportional part of the value of imported goods that the buyer obtained free of charge or for a discounted price and were used in the production of the imported goods.
- 7. The proportional part of the value of tools, molds, matrices and similar products that the buyer obtained free of charge or for a discounted price and were used in the production of the imported goods.
- 8. Compensation and expenses related to the right to use patents, models, signs and foreign trade marks and manufacturing marks, directly or indirectly paid by the buyer, if the sale was contracted on the basis of such payment;
- 9. The share of the amount obtained with further sale, transfer or use of the imported goods, directly or indirectly paid to the seller, and
- 10. The proportional part of the value of services rendered abroad that the buyer pays separately, but are necessary in the production of the imported goods. The value of the services shall not include expenses for investigations performed abroad.
- (2) As an exception from paragraph 1 item 8 of this Article, customs value shall not be include compensation and expenses if goods are imported with the right to reproduction.

#### Article 33

## **Acceptance of Additional and Special Payments**

- (1) When importing goods for which the obligation pertaining to Article 32 paragraph 1 items 8 through 10 has been contracted, the customs obligor shall state so in the customs declaration.
- (2) The customs obligor shall additionally declare to the customs authorities the sale, transfer or use of the imported goods from which the obligation to pay additional determined amount to the seller arises, within 30 days following the date of such transaction.
- (3) Based on a filed declaration, the customs authorities shall render a decision in which the duties and other import fees that the customs obligor is liable to pay shall be calculated.

# Article 34 Calculation of Total Expenses in the Customs Value for

## **Financial Expenses**

Interest on loans and expenses for securing financial assets abroad (financial expenses) pertaining to payment of imported goods shall not be calculated in the customs value, whereas the sales contract shall comprise the following elements:

- interest shall be separate from the actual payment of the price or prices due for goods purchased for import in the Republic of Macedonia;
- interest shall be contained in the price, but the buyer may prove that the paid price or the price due approximately equates the actual (real) price paid for equal or similar goods purchased without a financial agreement and that the interest rate is within the range of rates intended for such transactions in the country in which the loan was obtained.

#### Article 37

## **Acceptance of Discount and Reduction of Prices**

(1) As a rule, the customs value for goods for which the contract price was not paid

exported.

#### Article 42

#### **Customs Custody**

- (1) Goods shall be in customs custody from the moment of entry in the customs area until placed in an appropriate customs procedure.
- (2) Aircraft and ships arriving in the customs area must be placed in custody of the customs authorities.
- (3) The following shall not be placed in customs custody pursuant to paragraph 2 of this Article:
- domestic and foreign military ships and aircraft, and
- ships and aircraft of the police forces.
- (4) As an exception to paragraph 3 of this Article, goods loaded or unloaded from the ships and aircraft pursuant to paragraph 3 of this Article shall be declared for customs custody. Goods carried by individuals on or off the aircraft and ships pursuant to paragraph 3 of this article shall also be placed in customs custody.
- (5) Goods intended for export, temporary export for the purpose of refining and transit, as provided in article 130 of this law, as well as goods intended for customs warehousing for the purpose of additional export, shall be in customs custody from the moment of receipt of the customs declaration until the moment of leaving the customs area, destruction of the goods or withdrawal of the declaration.

#### Article 43

## Particularities of the Customs Custody Related to the Type of Transportation

The Government of the Republic of Macedonia shall, based on previously obtained opinions of the Minister for Transportation and Connections, determine the particularities of the customs custody related to the type of transportation (road, railway, air, sea and mail).

## 2. Presenting Goods to Customs Authorities for Inspection

#### Article 44

#### **Procedure for Delivered Goods**

(1) Reloading, unloading and the transfer of delivered goods shall be made with

the previous approval of the customs authorities.

- (2) The approval pursuant to paragraph 1 of this Article shall not be necessary in case of force majeure. In such a case the customs authorities should provide notice for the reloading, unloading or transfer as soon as possible.
- (3) The customs authorities may measure, count or visually identify the delivered goods and the vehicle. For the purposes of the inspection of the goods or the vehicle the customs authorities may at any time require that the goods be disassembled or unpacked.
- (4) With permission from the customs authorities, delivered goods may be examined or samples may be taken before their customs destination has been determined.

#### 3. Declaration of Goods

#### Article 45

#### **Declaration of Goods and Party Responsible for Declaring Goods**

- (1) Goods that enter into or exit from the customs area shall be declared at the customhouse.
- (2) Goods that enter into the customs area of the Republic of Macedonia shall be declared by the party that entered such goods in the customs area of the Republic of Macedonia or by the party that undertook an obligation to transport such goods following their entry in the customs area.
- (3) The obligation pertaining to paragraph 2 of this Article shall not apply to goods carried by passengers in the passenger traffic, goods in the local border trade, in the mail traffic and in the trade with goods of law value, if the customs control and custody are otherwise provided for.
- (4) If the party from paragraph 2 of this article cannot fulfil its obligations due to force majeure or other unpredictable circumstances, it shall immediately notify the nearest customs authorities of the reasons for breach of the obligations and shall state the location and the state of the goods.
- (5) The Minister of Finance shall prescribe the manner in which goods shall be declared.

#### 4. Basic Declaration

#### Article 46

#### **Presenting Basic Declaration**

- (1) By presenting goods for inspection to the customs authorities, the party that brought the goods in the customs area shall, in the absence of presenting a customs declaration, be required to present a basic declaration.
- (2) Customs authorities may permit the party from paragraph 1 of this Article present basic declaration additionally, but not latter than the first working day following the day when the goods were delivered.
- (3) For goods that a passenger carries with him/herself and for mail deliveries, the customs authorities shall not necessarily require presentation of a basic declaration, unless the enforcement of the customs custody is placed at risk and if before the expiration of the time limit pertaining to paragraph 2 of this Article the passenger has filed a request for approval of a customs cleared use of the goods.

#### **Contents of the Basic Declaration**

- (1) The basic declaration shall contain information necessary to establish the authenticity of the goods and shall be signed by the person completing such declaration.
- (2) The Minister of Finance shall prescribe the form for the basic declaration. Under conditions approved by the Minister of Finance, commercial and other documents that contain information necessary to establish the authenticity of the goods may also be used as the basic declaration.
- (3) The Minister of Finance may allow use of technical devices for electronic processing of information of the basic declaration in compliance with the conditions pertaining to Article 63 paragraph 2 of this law.

#### Article 48

#### **Confirmation of the Basic Declaration**

Customs authorities shall confirm the receipt of the basic declaration and shall keep one copy for the purpose of additional check if customs declaration for certain customs procedure has been presented within the time limit provided for in Article 50 of this law.

#### Article 49

#### **Determining a Procedure for Goods Presented for Inspection**

For goods presented for inspection the customs authorities shall determine an appropriate customs procedure as provided by law.

## Time Limits Pertaining to Filing a Request for Customs Cleared Use of Goods

- (1) If goods are presented to the customs authorities with a basic declaration, the declarant shall be obliged to present the customs declaration commencing the customs cleared use of the goods, no later than:
- five days following the receipt of the basic declaration when goods are transported with navigable objects, and
- three days following the receipt of the basic declaration when goods are transported by other types of vehicles.
- (2) In case of force majeure, the customs authorities may extend the time limit pertaining to paragraph 1 of this Article, but not to exceed three days.

### 5. Temporary Detention of Goods

#### Article 51

## **Temporary Detention of Delivered Goods**

- (1) Between the entry in the customs zone and the commencement of the customs cleared use of the goods, customs goods may, as soon as they are presented to the customs authorities for inspection, be temporarily placed in customs custody unless the customs declaration is presented within the time limit required pursuant to Article 51 of this law.
- (2) The goods described in paragraph 1 of this Article shall be kept in facilities and under conditions as determined by the customs authorities.
- (3) Customs authorities shall request that the party placing the goods for temporary detention deliver an instrument for securing the collection in case of customs liability.

#### Article 52

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#### Article 523

# Actions of the Customs Authorities When Time Limits of Article 50 of This Law Are not Met

- (1) Customs authorities shall, without delay, undertake all necessary measures prescribed by this law, including confiscation and sale of goods placed for temporary detention, if the owner of the goods does not perform the formalities necessary to initiate the customs procedure within the time limits prescribed by Article 50 of this law.
- (2) Pursuant to the measures pertaining to paragraph 1 of this Article, the customs authorities may transfer the customs goods to another special facility under customs custody. Pursuant to this paragraph the transfer shall be effected at the expense and responsibility of the owner of the goods.
- (3) If, pursuant to paragraph 1 of this Article, the customs authorities sell the goods that are placed for temporary detention, they are required to act in compliance with Article 70 of this law.

#### 6. Other Provisions

#### Article 54

## **Application of the Provisions Pertaining to Goods in Transit**

The provisions pertaining to Articles 41 through 49 shall apply to goods in transit across the customs area of the Republic of Macedonia.

#### Article 55

#### **Destruction of Delivered Customs Goods**

- (1) Customs authorities may destroy goods in customs custody if import, export or transit of such goods is banned under this or any other law, if such goods endanger the population, the environment, the nature or the facilities on the border crossing, if there is no safe way to store or remove such goods. Customs authorities shall notify the owner of the destruction of such goods.
- (2) The owner may destroy the goods under customs custody due to economic or other justified reasons, with prior permission from, and under control of, the customs authorities.
- (3) In the cases pertaining to paragraphs 1 and 2 of this Article, destruction costs shall be paid by the owner of the goods.
  - (4) Products remaining as a result form the destruction shall be considered to be

goods in customs custody for which a separate customs procedure shall be enforced.

Article 56

- (1) A customs declaration shall be presented for all goods in the customs procedure;
- (2) Goods from the Republic of Macedonia declared for export, temporary export, transit or for customs warehousing, shall be placed in the procedure for customs custody from the moment of presentation of the customs declaration until the moment of exit from the customs area of the Republic of Macedonia or until the goods are destroyed.
- (3) As an exception to paragraph 1 of this Article, a written customs declaration shall not be submitted by:
- passengers carrying personal items or items transported in the vehicle in which they came;
- receivers of goods from Article 183 of this law, except those from subitem 1 of the same Article;
- broadcasters of television, film or in otherwise recorded news or photos related profession or programs for direct broadcasting or transfer through the media for public information;
- parties listed under Articles 180 and 181, sub-items 1 through 8 and 10 of this law;
- parties importing or receiving from abroad, or sending abroad objects not considered customs goods pursuant to Article 7, paragraph 2 of this law; and
- parties receiving or sending printed materials relative to culture, education or science, government agencies, trade companies or other legal entities receiving documentation pursuant to international treaties.

#### **Form of Customs Declaration**

- (1) A customs declaration is in a form, the content and the format of which, as well as the manner of completion shall be prescribed by the Minister of Finance. A customs declaration may also be a computer message, electronic signature or remittance for document justification.
- (2) The customs declarant shall present the customs declaration to the appropriate customhouse within the time period provided for Article 50 of this law.

#### Article 60

#### **Customs Declarant**

(1) The owners or declarants working on their behalf and for their own benefit, or

on their behalf and for the benefit of others, or customs representatives working on their behalf and for the benefit of others or on somebody else=s behalf and for the benefit of others, shall declare the goods to the customs authorities.

- (2) A customs representative must be registered to perform representative activities with the court having jurisdiction and such registration shall be recorded at the Customs Administration under a personal identification number.
- (3) Customs representatives representing owners of goods shall conduct all customs procedures. Customs representatives are required to keep a record of all declarations as well as such declarations presented on behalf of third parties.
- (4) Customs representatives and owners of goods shall be jointly liable to the customs authorities for the accuracy of their statements and the declarations, for adhering to the customs regulations, and for other rights and obligations arising from the customs procedure.
- (5) Provisions pertaining to paragraph 1 of this Article shall not be applied to the customs representatives, in case of intentional deceit or negligence on the part of the owner of the goods has been discovered.
- (6) The Minister of Finance shall prescribe in greater detail the manner of record keeping pursuant to paragraph 2 of this Article.

#### 2.1 Receipt of Customs Declaration

#### 2.1.1. Regular Procedure

#### Article 61

#### **Completion of the Customs Declaration**

- (1) The customs declarant shall complete the data necessary for the elected customs procedure in the customs declaration. The customs declaration must be signed, or confirmed with a computer message by the customs authorities.
- (2) The customs declarant shall state in the customs declaration the customs procedure in which the declared goods are to be placed.
- (3) The customs declarant shall include with the customs declaration all documents necessary for enforcement of the required customs procedure by providing evidence that the prescribed veterinary, phytopathological or other prescribed control has been performed.

samples, if such presence is needed to facilitate the inspection of the goods or the taking of samples.

(3) Customs authorities are not required to compensate the declarant for the samples taken from the goods, if the quantity or

customs declaration has been checked, or when the declaration has been accepted without checking the information, if the conditions for the elected customs procedure have been satisfied and if there are no limitations or bans on such goods to prevent the enforcement of the elected customs procedure.

- (2) Where one declaration covers several types of goods, all goods shall be released at the same time.
- (3) Where customs liability has been created, goods may not be released pursuant to paragraph 1 of this Article until such liability is paid or payment is secured pursuant to Article 172 of this law.
- (4) If, in compliance with the prescribed conditions for satisfying certain customs procedure, the customs obligor must present an appropriate security for the collection of the customs liability, goods may not be released until such security is presented to the customs authorities.
- (5) The declarant may not begin to use the goods before they are released pursuant paragraph 1 of this Article.

#### Article 70

## **Special Measures of the Customs Authorities**

Customs authorities may apply special measures, including confiscation and sale of goods if:

- 1. Goods may not be released if:
- it was not possible to commence or proceed with inspection of the goods within the time limit set by the customs authorities, due to reasons caused by the declarant;
- the declarant did not present the required documents for approval of the elected customs procedure;
- the collection or the guaranty that must have been effected or presented for securing the obligation to pay duties was not obtained or presented in the prescribed period; or
- there are bans or restrictions on the goods preventing enforcement of the required procedure.
- 2. Goods are not removed from the temporary warehouse within ten days following their release.

#### Article 71

#### **Sale or Donation of Confiscated Goods**

- (1) Goods confiscated in conformity with the provisions of this law shall be sold. The sale shall be by public auction. As an exception, the Government of the Republic of Macedonia may donate the confiscated goods to state agencies and humanitarian organizations, if such goods are necessary to perform such function or activities; whereas if goods are of historical, archeological, ethnographical, cultural, artistic or scientific value [the Government of the Republic of Macedonia may donate the confiscated goods]<sup>1</sup> to the authorities for protection of monuments.
- (2) The Government of the Republic of Macedonia shall in greater detail prescribe the manner in which the goods under paragraph 1 of this Article shall be sold or disposed of, as well as the allocation of the funds obtained from such a sale.

## 2.1.2. Simplified Procedure

Article 72

entry must be accompanied by the date of entry.

- (3) Except for cases separately provided for in paragraph 1 of this Article, the declarant shall submit the declaration to the customs authorities, even though the simplified procedure has been approved.
- (4) Additional customs declarations and the simplified declarations pertaining to sub-items 1 through 3 of paragraph 1 of this Article shall be unique, inseparable documents, effective immediately following the date of acceptance of the declarations pertaining to paragraph 1, sub-items 1 and 2 of this Article.
- (5) The book keeping record pertaining to sub-item 3 of paragraph 1 of this Article shall have the same effect as the acceptance of the declaration pursuant to Article 59 of this law.

Article 73

accuracy of the information in the declaration, additionally examine the commercial, technical and other documents and information related to such goods or to the following commercial procedures in regard to such goods. Such procedures may be performed on the premises of the declarant or a third party, directly or indirectly involved in the above stated operations or in the premises of any other party that has the above stated information and documents for business purposes. If it is possible, customs authorities shall examine the goods immediately.

#### Article 75

#### **Release of Goods for Trade**

- (1) At the moment of release for trade, customs goods shall acquire the status of domestic goods.
- (2) In order to release the goods for trade the declarant shall perform the necessary actions in regard to the import of goods, whereas the customs obligor shall pay the import fees and undertake other measures of foreign trade with goods.
- (3) Goods released for trade shall lose the status of domestic goods, if the paid duties, prescribed for such goods, have been reimbursed or the payment has been canceled:
- within the procedure for import of goods for production intended for export as a reimbursement of the paid duties or
- in conformity with Article 179, paragraph 8 of this law due to damage of the goods or because the goods do not comply with the provisions of the contract and
- in other cases pertaining to Article 179 of this law because the reimbursement or the cancellation of duties has been agreed on import, or on re-export of the goods or due to acceptance of some other customs procedure.

#### Article 76

#### **Joint Customs Rate**

(1) If the delivery consists of goods that are under different tariff numbers and completion of the declaration by dividing and calculating the duties for each and every tariff number would incur labor and expenses not proportional to the calculated duties, the customs authorities may, upon declarant=s request, allow calculation of duties for the whole delivery by placing under the tariff number such goods for which the customs rate

# General Conditions for Approving a Customs Procedure Having a Commercial Effect

- (1) The general conditions for approving the procedure pertaining to Article 78 of this law shall be:
- that the party filing a request for an approval must provide all the guarantees necessary for proper use of the approved procedure and
- that the party filing a request for approval must satisfy all other prescribed requirements for operation within the specific procedure.
- (2) The conditions under which the decision for approval of the procedure pertaining to paragraph 1 of this Article is issued shall be stated in the decision.
- (3) If the bearer of right does not fulfil its obligations, customs authorities shall withdraw the issued decision.
- (4) The appeal filed against the decision for withdrawing the approval shall not delay its enforcement.

#### Article 80

# Liabilities of the Bearer of Right and Assignment of Such Liabilities to a Third Party

- (1) The party to whom the approval has been issued (hereinafter: the bearer of right) must inform the customs authorities of all actions undertaken after the approval has been issued and which are relevant to the content or the validity of the authorization.
- (2) Customs authorities may request that the bearer of right provide an instrument for securing the payment of duties in the case of a customs liability in regard to the goods.
- (3) The rights and liabilities of the bearer of right may be assigned to a third party who satisfies the conditions prescribed for that particular type of customs procedure.

# Article 81

# **Conclusion of the Procedure Having a Commercial Effect**

- (1) A customs procedure having a commercial effect shall conclude when customs authorities issue another type of a customs approval: for use of the goods that were previously declared under a procedure having a commercial effect or for use of additional goods or for goods produced during the procedure having a commercial effect.
- (2) Customs procedure having a commercial effect shall also conclude when the approval for such a customs procedure has been withdrawn or when the time limit for the

procedure that was determined in the approval has expired.

- (3) In the case of paragraph 1 of this Article, customs authorities shall prescribe the time limit in which the customs declarant must file a new customs declaration for the goods subject to the customs procedure having a commercial effect.
  - (4) The time limit pertaining to paragraph 3 of this Article may not exceed 30 days.
- (5) If the customs declarant does not conclude the customs procedure in conformity with the prescribed conditions or does not file a new customs declaration pursuant to paragraph 4 of this article within the prescribed time limit or does not provide evidence for conclusion of the approved customs procedure having a commercial effect within the prescribed time limit, customs authorities shall act in conformity with Article 71 of this law.

#### Article 82

## **More Detailed Criteria**

The Government of the Republic of Macedonia shall establish more detailed criteria and the manner of effecting the procedure having a commercial effect.

# 2. Customs Storage

#### Article 83

#### **Definition**

- (1) Customs warehouse shall be any location that is approved by the Director of the Customs Administration, is under customs custody and is suitable for storage of customs goods in conformity with the prescribed requirements. Goods entered into the customs warehouse shall not be subject to duties or taxes when they originate from abroad and such goods shall be deemed exported only when they originate from the domestic market.
- (2) Customs authorities may allow storage of goods in other locations that are not primarily intended for customs storage of goods, provided that the requirements for customs custody are satisfied.
- (3) If special requirements are prescribed for storage and handling of particular goods, customs authorities shall permit storage of such goods in the customs warehouse or in some other location, only if such requirements are satisfied.

# **Goods That May Be Stored in Customs Warehouses**

The following may be stored in customs warehouses:

- customs goods that are not subject to duties and are not subject to other measures in foreign trade with goods and
- domestic goods that by being kept in a customs warehouse obtain the status of imported goods.

#### Article 85

# **Types of Warehouses**

- (1) A customs warehouse may be public or private.
- (2) A public customs warehouse shall be the customs warehouse in which goods of any foreign or domestic party may be stored, in conformity with the prescribed requirements.
- (3) A private customs warehouse shall be the customs warehouse intended for storage of goods that belong to the owner of the customs warehouse.

#### Article 86

# **Owner and Depositor**

- (1) The owner of a customs warehouse shall be the party to whom the Head of the Customs Administration issued an approval for operation of the customs warehouse.
- (2) The depositor shall be the party required to deliver the goods for storage into the customs warehouse or the party to whom the rights and the obligations in regard to the storage of the goods have been assigned.
- (3) The owner and the depositor shall be jointly and severally liable to the customs authorities in regard to the stored goods. They shall be jointly and severally liable to pay the customs liability if, for any reason, the goods cannot be presented to the customs authorities, upon their first request.
- (4) In case of violation of the provisions of this law, the Director of the Customs Administration may withdraw the approval for operation of the customs warehouse.

#### Article 87

#### Guarantee

The owner of the customs warehouse must provide an instrument for securing the

payment (guarantee), in conformity with article 172 of this law.

#### Article 88

# **Special Permits for Operation of the Customs Warehouse**

- (1) Customs authorities may, as an exemption, approve the following in the customs warehouse:
- processing of customs goods in the customs warehouse, in accordance with the procedure for temporary import of goods for refining, if the conditions for such a procedure are satisfied and if the customs warehouse is appropriate for such a processing and
- processing of goods in the customs warehouse, in accordance with the procedure for processing in customs custody, if the conditions for such a procedure are satisfied and if the customs warehouse is appropriate for such a processing.
- (2) Customs authorities may issue the approval pertaining to paragraph 1 of this Article only if the requirements for customs custody are satisfied.
- (3) The goods pertaining to paragraph 1 of this Article shall not be subject to the procedure for customs storage.

## Article 89

# **Records Keeping**

- (1) Upon the first request from the customs authorities, the owner of the customs warehouse shall present a detailed list of the goods in the customs warehouse and their location.
- (2) The owner of the customs warehouse must maintain a record of all goods entering or leaving the customs warehouse for a period of five years following the date of ingress or egress of the goods.
- (3) Customs authorities may, at any time, examine the documents and the goods in the customs warehouse.

#### **Time Limits**

- (1) As a rule, goods may be stored in a customs warehouse up to one year.
- (2) For justified reasons, customs authorities may extend the time limit for storage of goods for an additional six month period.
- (3) If, after the expiration of the period for customs storage, the customs declarant does not file a request for extension of the period for customs storage or does not file a customs declaration for another type of a customs procedure, the customs authorities shall apply Article 70 of this law to the goods.

#### Article 91

## **Treatment of Goods in Customs Warehouse**

- (1) Customs goods in a customs warehouse may be subject to the usual procedures and actions, performed in order to preserve, prepare for market or sale of goods or to preserve their quality.
- (2) Customs authorities shall, in advance, approve the procedure, i.e. treatment of the goods pursuant to paragraph 1 of this Article. The conditions under which the above mentioned procedure may be conducted, shall be determined in greater detail for the approval, by the customs authorities.
- (3) The Government of the Republic of Macedonia, pursuant to Article 82 of this law shall determine the list of approved procedures and treatment pertaining to paragraph 2 of this article as well as the cases when the procedures pertaining to paragraph 1 of this Article are prohibited.

# Article 92

# **Removing and Moving Goods from Customs Warehouses**

- (1) Stored customs goods may be temporarily removed from a customs warehouse. The removal as well as the conditions of such removal must be approved by the customs authorities.
- (2) Goods may be subject to procedures and treatment pertaining to Article 95 of this law during the time period in which they are not in the customs warehouse, if provided in the approval pursuant to paragraph 1 of this Article.
- (3) Customs authorities may permit the goods to be moved from one to another customs warehouse.

# **Customs Value of Stored Goods**

- (1) If customs liability is created in the goods in a customs warehouse and the customs value of such goods is based on the price paid or the price that should be paid including the expenses for storage and detention of goods between one and the other storage, such expenses shall not be included in the customs value of the goods, provided that they are shown separately from the price paid or the price that should be paid.
- (2) If the goods were subject to the usual procedures and actions pursuant to Article 91 of this law, upon request from the customs declarant, with the exemption of Article 171 of this law, the nature of the goods, the customs liability and the quantity of goods shall be taken into consideration when determining the amount of the customs liability, as if they were not subject to the usual procedures and actions.

## Article 94

# **Expenses of Storage**

Expenses of storage in a public customs warehouse shall be calculated in accordance with the tariff for such expenses. The tariff for expenses shall be adopted by the owner of the warehouse.

#### Article 95

# **Ship and Aircraft Inventories**

warehouses.

- (3) Goods in the duty free shops shall be supplied from the customs warehouses.
- (4) The Director of the Customs Administration shall issue the approval for establishing a duty free shop if:
- the proponent of the request and the holder of the duty free shop are parties that have a principal place of business in the Republic of Macedonia;
- the holder of the duty free shop submits credible evidence that the requirements for operation of the duty free shop will be followed
- that customs custody is provided and unauthorized parties do not have access to the duty free shop.
- (5) The holder of the duty free shop must deposit a guarantee in conformity with Article 172 of this law.
- (6) Customs authorities shall have access to the duty free shops at any time in order to examine the goods and the documents. Customs authorities may check the identity of the individuals purchasing goods in the duty free shops.
- (7) If the holder [of the duty free shop]<sup>2</sup> does not adhere to the provisions of this law, the Director of the Customs Administration may withdraw the approval issued to the holder and order that the duty free shop be closed.

# 3. Temporary Import of Goods for Finishing, Processing, Repair (Refining)

# Article 97

# **Definition of the Procedure for Refining**

In the temporary import procedure for finishing, processing and repairing - refining (hereinafter: temporary import for refining) the following goods may be used for one or more production operations in the territory of the customs area:

- goods already in trade for which the duties paid and import fees shall be reimbursed, provided that such goods are exported from the customs area as a final product (system of reimbursement of duties draw back system) and
- temporary imported goods remaining property of the foreign party and are not subject to import duties, provided that the final products or the temporary imported goods will be re exported in the prescribed time period (temporary import of goods for refining).

<sup>&</sup>lt;sup>2</sup> Trans. Note: text added by the translator

# Article 98 **System of Reimbursement of Duties**

## **Record of Goods in Trade**

Importers of goods placed in the customs procedure shall submit a list of standards relevant for the production intended for export. Importers must, at any time, be able to present such a list to the customs authorities and to present for inspection all goods in stock.

#### Article 103

# **Releasing Goods for Trade**

Imported goods in an unchanged condition or temporarily imported goods in an unchanged condition or final products may be released for trade in the domestic market, in conformity with the provisions of this or other laws pertaining to the release of goods for trade.

#### Article 104

# **Manner of Establishing Customs Liability**

- (1) If customs liability is created, the amount of such liability shall be established based on the information that was effective on customs goods at the moment of receipt of the declaration for the procedure for temporary import for refining of such goods.
- (2) If the goods under paragraph 1 of this Article were subject to preferential customs treatment within the customs quotas and other limitations at the moment of receipt of the declaration for the procedure for temporary import for refining, such preferential treatment for such goods shall be abided for identical goods at the moment of receipt of the declaration for trading with the goods.

# Article 105

# **Temporary Export of Goods for Refining**

- (1) Some or all final products or imported goods or temporary imported goods for refining in an unchanged condition may be temporarily exported for refining, from the customs area, if so permitted by the customs authorities, in conformity with the procedure prescribed for temporary export of goods for refining.
- (2) In case of an obligation for collection of duties on the re-exported products, the following shall be calculated:

- duties on the final products or the unchanged imported goods and
- duties on the value for the conducted services, including the value of the material used for such purposes and other expenses created outside the customs area in relation to the delivery of the goods, with application of the rates that are effective for imported goods.

# **Securing the Possible Customs Liability**

- (1) If customs authorities approve the temporary import of goods for refining, the bearer of right shall submit an adequate guarantee prior to the release of the goods, in conformity with Article 172 of this law.
- (2) The guarantee pertaining to paragraph 1 of this Article need not be submitted in the cases when the goods would be exempt from duties, released for trade or in the case the guarantee for regular conduct of the approved customs procedure was guaranteed in an other manner.

Article 107

- (5) The bearer of right may require reimbursement of the paid customs, provided that the bearer can prove that the final goods produced from the imported goods that were in trade according to the system of reimbursement of duties:
- were exported or
- that a customs procedure for transit, customs storage, temporary import for refining or export for the purpose of further import in the free and customs zone was approved for such goods and that all requirements for such a procedure or procedures have been satisfied.
- (6) Goods pertaining to paragraph 5, sub-item 2 of this Article shall be deemed customs goods.
- (7) The bearer of right may file a request for reimbursement of duties paid within one year following the date when the conditions for reimbursement of the duties were satisfied.

# 4. Processing in Customs Custody

#### Article 108

# **Procedure for Processing in Customs Custody**

The procedure for processing in customs custody shall enable the bearer of right to use the imported goods in the customs area for the purpose of a processing that will change the nature or the shape of such goods, not for the purpose of subjecting such goods to collection of duties or to other measures of foreign trade, but for the purpose of trading with the products that will be a result of such processing and such products shall be subject to collection of duties, in accordance with the rate prescribed for them (hereinafter: processed productswao7TJ17:aR

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- if the imported goods may be identified with the processed products;
- if it is not possible, in an economically reasonable manner, to return the product, resulting from the processing of the goods, in the condition the goods were prior to processing, thus enabling the goods to regain their previous condition when imported;
- if the regulations pertaining to origin of goods and limitation of the quantity of the imported goods have not been violated for the purposes of the procedure for processing in customs custody and
- if the application of such procedure will help the realization or protection of the production in the country and if the essential interests of the domestic manufacturers who produce the same goods in the Republic of Macedonia (commercial conditions), provided for in the document pertaining to Article 82 of this law, are not endangered.

# **Application of Other Provisions of this Law**

The provisions of this law pertaining to procedures for temporary import of goods for refining that govern the time limits and standards applicable to the procedure for processing in customs custody, in conformity with Articles 101 and 102 of this law.

#### Article 111

# **Determining the Amount of the Customs Liability**

If customs liability is created on unchanged imported goods or semifinished products, under the approved procedure for processing in customs custody, the amount of the customs liability shall be determined based on the elements that are effective for imported goods at the moment of receipt of the declaration for initiation of the procedure for processing under customs custody.

#### Article 112

# **Application of Preferential Customs Rates**

- (1) If preferential customs rates are effective at the moment when the procedure for processing under customs custody was approved, the preferential rates may also apply to products that are identical to the processed products in trade, as the duties for the processed products shall be determined by applying of the preferential customs rates.
- (2) If the preferential customs rates pertaining to paragraph 1 of this Article, of imported goods apply only to customs quantitative limitations, preferential customs rates

the moment of receipt of the declaration for trading with the goods. In such case, the quantity of the imported goods used in processing the product and which were exempted from customs custody, shall be deemed to be within the customs quantitative limitations at the moment of receipt of the declaration for trading with the goods, provided that the quantity of the imported goods used in processing of the product does not burden the customs quantitative limitations set for products identical to the processed products.

# 5. Temporary Import

#### Article 113

#### **Definition**

The bearer of right may, in the temporary import procedure, utilize the imported goods at the customs area with partial or full exemption from duties, if the particular goods are to be re-exported, and not to be altered, except for the usual depreciation resulting from their utilization.

#### Article 114

# **Approval**

- (1) The temporary import of goods shall be approved upon request of the party that utilizes the goods or organizes their utilization.
- (2) If identification of the goods cannot be provided in the course of the procedure, the customs authorities shall not accept the customs declaration for the temporary import of goods.

#### Article 115

#### **Time Period**

- (1) Customs authorities shall determine the time period in which goods must be reexported or a different customs procedure shall be established.
- (2) When determining the time period, customs authorities shall take into consideration the reasons for the goods= temporary export, in which case the time period for temporary export may not exceed 12 months.
- (3) Customs authorities may, for justified reasons, extend the time period pertaining to paragraph 2 of this article in the cases prescribed in the document pertaining to Article 82 of this law.

# **Full or Partial Exemption from Duties**

- (1) The bearer of right may request full exemption from duties for temporary export, in cases when:
- goods, if already in trade, would be exempted from duties according to this law;
- temporary goods are imported for inspection, presentation or test making , if the goods were promlat0achargexeantion, a li

# **Calculation of Partial Duties Exemption**

- (1) Duties on temporary imported goods on which partial exemption from duties is applicable, shall be 3% for each month or part of the month for the duration of the temporary import and partial exemption from the duties that would be payable on such goods if they were in trade on the day when the temporary import of the goods was permitted.
- (2) Duties payable pursuant to paragraph 1 of this Article may not exceed the amount of the fees that would be collected, if the goods were in trade on the day when the temporary import was permitted, without calculating the interest.
- (3) Any favorable conditions of customs collection applicable to the bearer of right, when assigning such right and liability to a third party, shall be determined separately.
- (4) If the assignment pertaining to paragraph 3 of this Article is effected by a partial exemption of duties between two bearers, within the same month, the bearer with the earlier approval shall pay the duties for the whole month.
- (5) For the temporary import of goods for which a complete exemption of duties has not been approved, the bearer of right shall provide the customs authorities with an instrument for securing collection of duties as provided in Article 173 of this law.

#### Article 118

# **Calculation of Customs Liability** (1) Ccustoms

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# 6. Temporary Export for Refining

#### Article 119

#### **Definition**

- (1) The procedure of temporarily export of goods for refining shall enable the bearer of right, to temporary export the domestic goods from the customs area, for refining, and to return and trade with the products resulting from such refining, with partial or full exemption from duties.
- (2) The measures of the macroeconomic policy and other actions applicable on goods that exit the customs area shall apply to temporary exported domestic goods and, if necessary, the export fee shall be calculated.
- (3) According to this law, goods may temporarily be exported for refining, i.e. for performing the production operations pursuant to Article 3, item 18, subitem 1 through 3 of this law.

#### Article 120

#### Limitations

The temporary export of goods for refining cannot apply to the domestic goods:

- the export of which causes a refund or exemption from duties;
- that prior to export were in trade without customs clearance, due to final utilization of the goods until expiration of the conditions determined for such exemption from duties, and
- the export of which causes the receipt of export compensation or another financial

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- (2) Full or partial exemption from duties, provided for in Article 116, paragraph 1 of this law, shall be calculated as follows:
- the amount of the duties, that for the temporary exported goods must have been calculated on the same day, if the goods were imported to the customs area from a country in which some production operations were performed on such goods or from the country in which the last production operation was performed shall be deducted from the amount of the customs calculated for the final products that will be in trade.
- (3) The deducted amount pursuant to paragraph 2 of this Article shall be established according to the quantity and the type of the goods on the day of receipt of the declaration for temporary export of the goods for refining and according to other available information on the day of receipt of the declaration for trading with the final products.
- (4) The value of the temporary exported goods taken into consideration when establishing the value of the duties on final goods shall be the value established in Article 32, item 6, paragraph 1 of this law; or, if the value need not be established in such manner, the value shall be the difference between the duties on final products and production expenses.
- (5) If the production operation is a repair of the temporarily exported goods, such goods may be in trade with full or partial exemption from duties, if the customs authorities are provided with evidence that the repair was free of charge due to the liabilities arising from the warranty. Such benefit may not be obtained if the goods were damaged when they were in trade for the first time.
- (6) In cases when the repair of the temporarily exported goods was not performed free of charge, such goods may be partially exempted from duties. This shall be determined in the following manner: the value of the duties for the final products shall be established on the day of receipt of the declaration for trading with the goods; the expenses of the repair shall be taken into consideration, if such expenses are the only compensation for the repair and the party performing the repair does not impact the expenses.

# **Application of the Preferential Customs Rates**

(1) When the temporarily exported goods satisfy the conditions for being in trade

into consideration, provided that the goods were subject to production depending on the use in the country where the final production was performed.

(2) If the preferential customs rate is taken into consideration for final products, in compliance with the law that governs customs tariffs, and the preferential customs rate is applied on goods that fall under the same customs tariff number as the temporarily exported goods, the amount of the customs liability, pursuant to Article 123, paragraph 2 of this law, shall be subject to the customs rate that would apply if the temporarily exported goods satisfied the conditions required for the preferential customs rate.

#### Article 125

# **System of Replacement**

- (1) The system of replacement enables replacement of the final product with the imported product (hereinafter: the product for replacement), based on the provisions pertaining to Articles 119 through 124 of this law.
- (2) Customs authorities may permit application of the system of replacement in the case of domestic goods intended for repair. Customs authorities may permit application of the system of replacement only if compliance with paragraphs 6 and 7 of this Article is possible.
- (3) Conditions prescribed for final products shall also apply to products for replacement.
- (4) Customs authorities may, under the conditions determined by the Government of the Republic of Macedonia, approve the import of products for replacement prior to the temporary export of goods (previous import).
- (5) In the case of paragraph 4 of this Article, the bearer of right must provide an appropriate instrument for securing collection of the import fee, if the export is not completed in the prescribed time period, which may not exceed two months, and which is calculated from the date of receipt of the declaration for trading with the products for replacement. As an exception, upon request from the bearer of right, the time period may be extended, but may not exceed 6 months.
- (6) Products for replacement must fall under the same customs tariff number and be of the same trade quality and have the same technical characteristics as the temporary exported goods intended for repair.
- (7) If the temporary exported goods have been used prior to the temporary export, the product for replacement must not be new, but used, except if it was obtained free of

charge under a warranty for a production defect.

#### Article 126

# **Customs Liability on Pre - Imported Goods for Replacement**

Pursuant to Article 125, paragraph 4 of this law, if duties on pre-imported goods for replacement are paid as provided in Article 123 of this law, the value that should be deducted shall be established based on the information applicable for temporary export of goods on the date of receipt of the customs declaration for temporary export of goods for refining.

#### Article 127

# **Application of Other Provisions of this Law**

Provisions pertaining to Article 121, paragraphs 2 and 3, subitem 2 of this law shall not apply to the temporary export of goods for refining under the system of replacement.

# 2.1.4. Customs Procedure for Export of Goods

#### Article 128

#### **Definition**

- (1) Export customs procedure shall denote performing activities and measures in foreign trade, as well as collection of customs fees prescribed in order to clear domestic goods through customs so that they may exit the customs area.
- (2) Export customs procedure shall be applicable on all exported goods, except on transit goods and goods exported in compliance with the procedure for temporary export for refining.
- (3) The export of goods may be permitted, provided that the goods, for which the export customs declaration has been submitted, exit the customs area in the same condition as at the moment of receipt of the export customs declaration.
- (4) Goods declared for export shall be in customs custody from the moment of receipt of the customs declaration until the moment of exit from the customs area.
- (5) Provisions, rules and privileges related to export shall be applicable from the date of receipt of the export declaration.

#### **2.1.5.** Transit Customs Procedure

# **Obligation of the Customs Obligor**

(1) The customs obligor shall: (

# **Establishing a Free Zone**

- (1) A free zone shall be established in an airport or at a lake pier that serves public international lines or a commercial-transportation center registered in compliance with the regulations governing the conditions for registration of commercial-transportation centers or on an international highway.
  - (2) The free zone may consist of several separate parts.

#### Article 137

# **Conditions for Establishing a Free Zone**

A free zone may be established if:

- the requirements for space and power supply, as well as the technical and other requirements for performing activities in the free zone are satisfied;
- by establishing a free zone the exporting activities will be performed for a period of at least ten years and if 80 % of the goods produced or the services performed in the free zone are exported;
- the staff is qualified to perform the activities that are of common interest for each and every user of the free zone and
- goods that endanger nature and the working environment are not produced or stored and no services using such goods are performed.

# Article 138

# **Activities That May Be Performed in the Free Zone**

- (1) The following activities may be performed in the free zone: (*i*) production of goods for export and performing services for export; (*ii*) foreign trade, banking and other financial activities; (*iii*) insurance and re-insurance of property and people and (*iv*) tourist services.
- (2) Customs authorities may temporarily limit or prohibit performance of some of the activities of paragraph 1 of this Article, if such an action is necessary for conducting customs custody, provided that at the same time a misdemeanor procedure is being initiated against the user or the founder of the zone, in compliance with this law, or provided that the user or the founder is being accused, on the basis of reasonable doubt, of

having performed a criminal offence in regard to the operation of the free zone.

#### Article 139

#### Founder of a Free Zone

- (1) A free zone may be incorporated by a trading company or other legal entity (hereinafter: founder of the free zone).
- (2) The founder of the free zone shall provide funds for incorporation and initiation of the activities performed in the free zone and shall incorporate such free zone. The Act of incorporation of the free zone shall contain:
- name of the founder of the free zone;
- name of the free zone;
- area of the free zone, and
- activities to be performed in the free zone.
- (3) In addition to the request for approval of incorporation of the free zone, filed with the Ministry of Finance, the founder of the free zone is required to submit the articles of incorporation of the free zone and evidence showing that the requirements of Article 137 of this law have been satisfied.

#### Article 140

# **Approval for Incorporation of a Free Zone**

The Government of the Republic of Macedonia shall approve the incorporation of a free zone within 60 days from the date of filing the request, provided that the requirements prescribed by this law have been satisfied.

# Article 141

## **User and Conditions for Use of the Free Zone**

- (1) The user of the free zone may be any foreign and domestic legal entity or natural person performing commercial activities.
- (2) The founder of the free zone shall establish the conditions for using the area of the free zone, the conditions for performing the activities in such zone, shall organize the internal order and prescribe measures for protection of the natural working environment.
- (3) The founder of the free zone shall provide each party using the free zone with equal conditions for performing its activities in the free zone.
  - (4) The document regulating the conditions of paragraph 1 of this Article shall be

# **Movement of Parties in the Free Zone**

- (1) Entry of a party in the territory of the free zone shall be regulated by the founder of the free zone.
- (2) Customs custody prescribed for crossing the customs frontier shall apply to parties in paragraph 1 of this Article.

## Article 147

# **Submitting a Financial Report**

The free zone shall submit to the Government of the Republic of Macedonia, through the Ministry of Finance, a financial report for its operations in the previous year, before or on March 15 of the current year.

## Article 148

# **Closure of the Free Zone**

(1) The Government of the Republic of Macedonia shall render a decision

# **Definition of the Term ACustoms Zone@**

- (1) Customs Zone shall be a part of the customs area in the territory of the Republic of Macedonia where specific measures of customs custody and fringe benefits regarding customs procedure shall apply.
- (2) Entrance in the customs zone shall be permitted only to customs zone employees and parties entering the customs zone for business.
- (3) Measures of customs custody for crossing the customs frontier shall apply to the parties under paragraph 2 of this Article.

#### Article 151

# **Establishing a Customs Zone**

- (1) A customs zone may be established in a territory of an airport or a lake pier serving public international lines or in commercial transportation centers.
- (2) The territory of the customs zone must be fenced and marked as a customs zone.
- (3) The territory of the customs zone in a lake pier shall consist of docks, i.e. parts of the coast where ships can be anchored.
- (4) If the territory of the customs zone consists of several parts, each part must be separately fenced and marked.

#### Article 152

#### Founder of a Customs Zone

- (1) A customs zone may be incorporated by a trading company or other legal entity that is a bearer of the right to use the land at the pier, the airport or in the commercial-transportation center (hereinafter: founder of the customs zone).
  - (2) The request for incotranspest for inD0n ce bnced aTj/TT2 () The on cente/TT18 ashall be per

Finance, shall approve the incorporation of a customs zone within 60 days from the date of filing the request, provided that the requirements prescribed by this law have been satisfied.

#### Article 154

# **Requirements for Initiation of the Operation of the Customs Zone**

- (1) The founder of the customs zone shall provide premises for operation of the customs authorities on the territory of the customs zone.
- (2) The customs zone may start operating when the customs authorities shall determine that the conditions for customs custody in the territory of the customs zone are satisfied.

#### Article 155

# **Activities That May be Performed in the Customs Zone**

- (1) The following activities may be performed in the customs zone:
- loading, unloading, reloading and storage of goods that are to be imported and have not been cleared through customs, of domestic goods to be exported and have or have not been cleared through customs, goods that cross through the customs zone, and
- the usual preparation of goods for market, such as: sorting, measuring, marking, packing, compiling, separating and making samples.
- (2) The term Adomestic goods to be exported and have not been cleared through customs@ pursuant to paragraph 1 of this Article shall denote domestic goods that must be completed for export or stored for export in the customs zone.
- (3) With exception of the imported goods that are not cleared through customs and are reloaded in the customs zone and the domestic goods that have been cleared through customs and are to be exported, the goods pursuant to paragraph 1 of this Article may be cleared through customs only in the customs zone in which they have been stored.
- (4) In order to provide supplies for the vehicles in international transport performed by parties providing supplies as well as retail trade with food for catering services offered within the customs zone, retail trade shall be permitted in the territory of the customs zone.
- (5) If the goods are brought in the remaining part of the customs area the declarant shall act as with goods brought in on the territory of the customs area of the Republic of Macedonia before their use has been permitted.

(6) Customs authorities may temporarily limit or prohibit performance of some of the activities pursuant to paragraphs 1 through 5 of this Article, if such an action is necessary for conducting customs custody, provided that at the same time a misdemeanor procedure will be initiated against the user or the founder of the zone, in compliance with this law, or provided that the user or the founder is being accused, on the basis of reasonable doubt, of having performed a criminal offence in regard to the operation of the customs zone.

#### Article 156

#### **Users of the Customs Zone**

- (1) User of the customs zone may be any foreign and domestic legal entity or natural person performing commercial activities.
- (2) The user from paragraph 1 of this Article shall perform commercial activities in the customs zone based on an agreement executed between the user and the founder of the customs zone.
- (3) Users of the customs zone may freely deliver goods in compliance with Article 154 of this law under the conditions provided for in Article 158 of this law.

# Article 157

# **Presenting Goods for Inspection**

- (1) Goods that enter the customs zone need not be presented for inspection by the customs authorities and no customs declaration shall be needed for such goods, with the exception of the case pursuant to Article 160, paragraph 2 of this law.
- (2) Regardless of paragraph 1 of this Article, goods must be presented to the customs authorities for inspection and the customs authorities shall apply the procedures provided for in this law if:
- by entrance of the goods in the customs zone, another customs procedure is initiated for the goods, except if the provisions of the procedure determine that the goods need not be presented to the customs authorities for inspection;
- by entrance of the goods in the customs zone, the goods satisfy the requirements for refund or exemption of customs fees and
- it is a case of goods under Article 155, paragraph 2 of this Law.

users of the customs zone shall present or provide the customs authorities with a copy of the transport documentation of the goods entering or exiting the customs zone.

(3) If the customs authorities decide to conduct the inspection pursuant to paragraph 1 of this Article, the users shall provide the customs authorities with access to the goods and the documentation pertaining to such goods, which are subject to inspection.

#### Article 161

# **Rules of Operation**

The rules of this Law pertaining to export and import and transportation of goods shall be valid and apply to users of the free zone and the customs zone, entrance of goods in such zones, presenting goods for inspection in the zones, customs control, inspection of goods, records, activities in the zones, approvals of storage of goods in the zones, exit of goods from the zones, value of the duties and calculation of the customs liability in the zones.

# 4. Re-export, Destruction and Relinquishing Goods to the Customs Authorities

#### Article 162

## **Definition and Conditions**

- (1) Customs goods may be:
- re-exported from the customs area;
- destroyed; and
- relinquished to the customs authorities for disposition.
- (2) When goods are re-exported all activities required for export of goods must be undertaken and the measures of the micro-economic policy must be followed, unless otherwise provided by this Law.
- (3) The customs authorities must be notified prior to the re-export or destruction of goods, and unless the conditions of paragraph 2 of this Article are satisfied, the customs authorities shall ban the re-export or destruction of goods.
- (4) Any destruction shall be undertaken at the expense of the declarant. Waste and remainders from destruction of goods shall be deemed customs goods and must be declared for customs cleared use under this Law.

(5) Goods relinquished to the customs authorities shall be treated as goods banned for import, that the transporter or the declarant did not remove same from the customs zone in the prescribed period.

#### Article 163

## **Treatment of Goods When Entrance Is Prohibited**

- (1) The customs authorities, having detected goods in the customs zone the entrance of which is prohibited, shall render a decision ordering the transporter, assistant or a third party responsible for the goods to return them abroad. The time limit shall be established taking into consideration the factual circumstances of each separate case, but it cannot in any such case exceed five days from the date the decision was delivered. Goods shall be confiscated unless returned abroad within the required time limit.
- (2) Customs authorities shall sell the goods, transfer such goods free of charge to the individuals in Article 71 of this Law or shall destroy the goods in conformity with the existing regulations at the expense of the individual defined in paragraph 1 of this Article.
  - (3) Under this Law goods the entrance of which is prohibited, shall also be:
- goods the import of which is governed by special regulations and the importer does not satisfy the requirements, and
- goods that cause damage to or risk of life and the working environment.

# VI. CALCULATION AND DETERMINATION OF DUTIES

# 1. General

#### Article 164

# **General Rules Pertaining to Customs Liability**

- (1) When importing goods customs liability shall be created through:
- releasing for trade the goods subject to customs clearance, or
- placing the goods in temporary import procedure with partial exemption from duties.
- (2) Customs liability pursuant to paragraph 1 of this Article shall be created as soon as the customs declaration for the prescribed procedure has been accepted.
- (3) The customs obligor of the customs liability pertaining to paragraph 1 of this Article shall be the declarant; in the case of indirect representation, the customs obligor

shall be the party on whose behalf the declarant has filed the customs declaration.

(4) If the customs declaration, for the purpose of the customs procedure pursuant to paragraph 1 of this Article, has been filed on the basis of information implying full or partial non-payment of duties, the party that submitted such information, who knew or shall have known that the information was not truthful, shall be deemed to be the customs obligor in accordance with this Article.

#### Article 165

# **Customs Liability in the Case of Illegal Import of Goods**

- (1) Customs liability when importing goods shall also be created through:
- illegal import from a free zone into the remaining customs area of goods that are subject to customs clearance;
- illegal import in the customs area of goods that are subject to customs clearance;
- illegal import of goods shall be entry of goods contrary to the provisions pursuant to Articles 40, 45 and 156 of this Law.
- (2) The customs liability pursuant to paragraph 1 of this Article shall be created when illegal entry of goods occurs.
- (3) Customs obligors pursuant to paragraph 1 of this Article, liable for paying customs liability, shall be parties that:
- illegally delivered goods into the customs area;
- conspired in the illegal entry of goods and knew or should have known that such entry was illegal;
- acquired or stored such goods, and at the time of the acquisition or storage knew or should have known that such goods had entered in the customs area.

#### Article 166

# **Customs Liability When Releasing Goods from Customs Custody**

- (1) When importing goods customs liability shall also be created by releasing from customs custody the goods subject to customs clearance.
- (2) The customs liability pursuant to paragraph 1 of this Article shall be created at the moment such goods are released from customs custody.
- (3) Customs obligor liable for the customs liability pursuant to paragraph 1 of this Article shall be parties that:
- assume control over the goods that were in customs custody;

- conspired in the release of the goods and knew or should have known that by such an action the goods were released from customs custody;				

- (2) The customs liability pertaining to paragraph 1 of this Article is created as soon as the goods have been used once, contrary to the prescribed conditions.
- (3) In the case pertaining to paragraph 1 of this Article, a customs obligor shall be the party that:
- has used the goods, and
- has participated in the use of goods, provided that it knew or should have known that the goods have been used contrary to the prescribed conditions.
- (4) When the customs liability pertains to lost goods and it is impossible to determine the customs obligor pursuant to paragraph 3 of this Article, the customs obligor shall be the last known owner known by the customs authorities.

## **Cases When Customs Liability Shall not Be Created**

- (1) Customs liability for certain goods shall not be created, if the party proves that the obligations arise from:
- Articles 40, 45 and 134 of this Law;
- temporary storage of such goods, or
- a complete destruction or irretrievable loss of the goods as a result of their nature, unforseen circumstances, vis major or as a result of an approval issued by the customs authorities.
- (2) Under paragraph 1 of this Article, goods are irretrievably lost if they are useless to any other person.
- (3) There is no customs liability on exported goods, when such goods have been released for trade with an exemption from duties, due to their final use, provided that such goods were exported and re-exported with the approval of the customs authorities.
- (4) If, pursuant to paragraph 1 of this Article, it is deemed that the customs liability has not been created in relation to the goods that were released for trade with exemption from duties, due to their final use, the remainder or the waste from the destruction of the goods shall be deemed customs goods.
- (5) If, pursuant to Articles 166 and 167 of this Law, customs liability has been created in relation to goods released for trade at reduced duties rate due to their final use, the value of the duties paid at the release of the goods shall be subtracted from the value of the customs liability. This provision shall also apply in cases when the customs liability has been created for the remainder or the waste from destruction of such goods.

## **Obligation to Pay Export Fees**

- (1) The obligation to pay export fees shall conform with the regulations governing payment of export fees.
- (2) If the regulations pertaining to paragraph 1 of this Article do not contain provisions for creation of the obligation to pay export fees and for the manner of payment of such fees, the obligation to pay export fees shall be created at the moment of the receipt of the customs declaration for:
- export of goods;
- customs storage of goods for export that have already been cleared through customs;
- export of domestic goods intended to enter the free zone as exported goods, pursuant to Article 168, paragraph 2 of this Law;
- temporary export of goods intended for processing.
  - (3) Obligation to pay export fees shall also be created through:
- exit of goods subject to export fees, from the customs area without submission of the customs declaration for such goods;
- failure to satisfy the requirements which should otherwise be satisfied in order for the goods to be exported from the customs area and fully or partially exempted from payment of export duties.
- (4) The obligor liable to pay the export fees from paragraph 2 and paragraph 3, subitem 2 of this article shall be the customs declarant, and if the declarant submitted the declaration on another party=s behalf, that other party shall also be deemed to be an obligor liable for the export fees.
- (5) The obligor liable to pay the export fees from paragraph 3, subitem 2 of this Article shall be the party exporting the goods and the party who conspired in the course of such export, and that knew or should have known that the required customs declaration had not been submitted.

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- (1) The payment of the customs liability may be deferred for a maximum of 60 days following the date when the such deferred payment was approved to the obligors.
- (2) The Minister of Finance shall determine the conditions under which the obligors may defer payment pursuant to paragraph 1 of this Article. Those obligors having received approval to defer payment must provide documentation in the manner prescribed in Article 172, paragraph 2 of this Law.
  - (3) The approval may be withdrawn prior to expiration of the approved time limit.

## **Additional Calculation of Customs Liability**

- (1) The customs authorities shall, in their official capacity or upon an obligor's request, render a decision requiring the obligor to pay the created liability within 30 days following the date when the customs liability was determined, if they find that:
- the customs liability was created by illegal treatment of the customs goods, or
- the customs liability has not been calculated,
- the calculation of the customs liability amounts to a value lower than the one prescribed in this Law.
- (2) The provisions from Article 172 shall apply to the payment of the obligation under paragraph 1.
- (3) If the goods described in paragraph 1 of this Article are still deemed to be customs goods, they may be released for trade only after the obligation of paragraph 1 of this Article has been paid, or after adequate documentation for securing such payment has been provided in accordance with Article 171 of this Law.
- (4) Additional calculation of the customs liability, pursuant to paragraph 1, subitem 1 of this Article, may be assessed within five years following its creation. Additional calculation of the customs liability, pursuant to paragraph 1, lines 2 and 3 of this Article, shall be assessed within one year following its creation.
- (5) If the value of the liability does not exceed the average salary in the Republic of Macedonia, the additional calculation of the customs liability shall not be assessed.

#### Article 176

## **Mandatory Collection**

(1) If the obligor fails to pay the calculated customs liability in the prescribed time period, the customs authorities shall enforce such collection.

delivery of the calculation to the debtor.

(11) If the exemption from duties or the reimbursement were approved by mistake, the obligation to pay such duties may be re-established according to the prescribed requirements.

## Article 180

## **Exemption of Foreign Parties**

The following parties shall be exempted from duties:

- heads of foreign countries and chief representatives of foreign countries on special missions, as well as the members of their mission, on items intended for official or personal use;
- international and interstate organizations with principal offices in the Republic of Macedonia, as well as their representative offices in the Republic of Macedonia, for the period of their appointment, of items intended for official use;
- foreign citizens employed in the organizations stated in subitem 2 of this Article, for such items intended for personal use;
- -diplomatic and consular representative offices of countries in the Republic of Macedonia, for items intended for official use, and
- chiefs of foreign diplomatic representative offices in the Republic of Macedonia and the members of their immediate families, for items intended for personal use.

## Article 181

## **Exemption of Natural Persons**

- citizens of the Republic of Macedonia w	ho live in the bordering areas - for herbal and
	79

- items immediately intended for social and educational work;
- pharmaceutical products for health and veterinarian care, used at international sporting events organized in the Republic of Macedonia.

## **Exemption of Goods**

The following goods shall be exempted from duties:

- equipment and spare parts on the basis of a deposit by a foreign party;
- samples of goods with an insignificant value;
- printed materials such as catalogues, price lists, manuals, brochures and advertising materials;
- items of foreign exhibitors who participate in international fairs and trade exhibitions in the Republic of Macedonia brought or received from abroad for the purposes of ordinary course distribution and sales during the fair, or exhibition;
- products imported for research, analysis or testing, that will be completely used during such researches, analyses or testing, or completely destroyed in a manner that will not leave no usable value;
- tourist documented information, if it is intended for free distribution and the primary aim of which is presentation of the foreign tourist offer; lists of foreign hotels and brochures issued by national tourist agencies, if they are intended for free distribution; tourist advertising material intended for authorized representatives or corespondents of foreign tourist agencies, which is not intended for further distribution;
- trade marks, patents, models and supporting documents, as well as evidence for recognition of the patents and innovations which are submitted to the organizations for protection of the author and the intellectual property;
- feed for animals in transport, materials needed for protection of the livestock in transport.

## Article 184

## **Exemption of Government Institutions**

Government Agencies, the user-units of the Budget of the Republic of Macedonia B upon the concurrence of the relevant Ministry, the Courts and the National Bank of the Republic of Macedonia shall all be exempted from duties on items determined by the Government of the Republic of Macedonia.

The exemption from duties pertaining to Articles 181 through 184 of this Law shall apply only to goods that are not produced in the Republic of Macedonia.

Article 186

**Detailed Provisions** 

- (1) Domestic goods exported from the Republic of Macedonia, and re-imported to the customs area unmodified, within two years after the export, shall be exempted from duties, upon request of the declarant.
- (2) If the goods were imported in the customs area and released for trade before the export, and full or partial exemption from duties was approved for the purpose of their final use, the benefit under paragraph 1 of this Article may be accepted only if the goods are re-imported for the same purpose that completely or partially exempted them from payment of the original import duties.
- (3) If, at the re-import of goods in accordance with paragraph 2 of this Article, a customs liability is created, the initial duties paid for the goods at their first release for trade shall be deducted from the calculated amount of customs liability.
- (4) Exemption from duties under paragraph 1 of this Article shall not be approved for goods exported within the procedure for temporary export of goods for refining, unless the goods remain in the country in which they were exported. Exemption from duties shall not be approved for goods subject to measures of foreign trade.
- (5) The Government of the Republic of Macedonia shall prescribe more detailed criteria for exemption from duties pursuant to this Article.

## VII. SUPERVISION

## Article 189

## **Supervisory Body for Enforcement of the Law**

The Ministry of Finance shall supervise the enforcement of this Law and the regulations enacted pursuant to this Law.

## VIII. VIOLATIONS OF THE CUSTOMS LAW

#### 1. General Provisions

#### Article 190

## **Definition of Violations of the Customs Law**

(1) Failure to perform those activities provided for in this Law or a performance

contrary to the provisions of this Law shall be deemed customs violations. The violations of the Customs Law may constitute misdemeanors or criminal acts.

- (2) Upon request by the customs authorities, the court that has jurisdiction shall initiate a procedure for determination of the responsibility of the perpetrator in regard to the activities under paragraph 1 of this Article and shall pronounce an adequate measure.
- (3) A criminal attempt for an illegal act pursuant to paragraph 1 of this Article shall be subject to punishment with the same severity as for the actual crime.
- (4) Preventive measures, including temporary confiscation of goods or vehicles may be undertaken by the customs authorities initiating the procedure before the court that has jurisdiction within 8 days following the confiscation. If the customs authorities fail to initiate a procedure within the prescribed time limit, the customs authorities shall be required to return the temporarily confiscated goods or vehicles to the party from which they have been confiscated.

#### Article 191

## **Endangering a Customs Officer**

A party who in any way endangers a customs officer while the custom officer is on duty shall be prosecuted for a criminal act in accordance with the law.

## Article 192

## **Safety Measures**

- (1) In addition to the penalty for a misdemeanor, the perpetrator shall be sentenced with a sanction consisting of confiscation of the goods used to perpetrate the misdemeanor, or goods that were subject of the misdemeanor, or that have resulted from the misdemeanor, consistent with the provisions of this Law.
- (2) If for the purpose of perpetrating the misdemeanor, vehicles, aircraft or navigable objects are used, they shall be confiscated and may be sold immediately.
- (3) If, for any reason, the customs authorities cannot confiscate the goods B vehicles, aircraft or navigable objects, from the perpetrator, they shall confiscate an equivalent amount of money.

#### Article 193

## **Action of the Customs Authorities for Misdemeanors**

Customs authorities may collect on-the-spot fines for misdemeanors or initiate a court procedure.

## Article 194

## **Guarantee of Confidentiality of an Informant**

Customs authorities shall not disclose the identity of the party from whom they received information on illegal actions prescribed by this Law.

#### Article 195

## **Compensation for the Received Information**

Customs authorities may establish compensation for any information received in regard to the customs procedure. The identity of the party who provides such information shall be strictly confidential in all circumstances. The amount of the compensation shall be proportionate to the amount of the collected fine.

#### Article 196

## Confession of a Misdemeanor

- (1) The confession by the perpetrator of a customs misdemeanor shall constitute part of the evidence in any court proceedings.
- (2) If there is material evidence, the court procedure, initiated on the basis of a written statement signed by at least two customs officers, shall be at the expense of the perpetrator of such misdemeanor.

## Article197

## **Liability for Misdemeanors Perpetrated by Customs Officers**

Customs officers shall be liable before a court for any perpetrated misdemeanors, and will

guarantee at any time.

#### Article 199

## **Enforcement of a Court Decision**

The Court decision shall be binding for the customs authorities.

#### Article 200

## **Controlled Deliveries**

- (1) For the purpose of detecting recently committed illegal actions related to import, export, transport or retention of goods specified in Article 23 of this Law, customs officers shall be authorized to control the delivery of such goods, and according to this or other law shall not be liable for criminal acts or misdemeanors in the course of such official activities.
- (2) Before enforcing such a delivery, customs officers must notify the appropriate public prosecutor, except when the controlled delivery is made very close to the border crossing area.
- (3) For the purpose of investigating illegal actions, the appropriate public prosecutor shall allow the customs officers to retain, deliver or take over the goods specified in Article 23 of this Law.

## Article 201

## **Relative and Absolute Statutes of Limitations**

(1) The misdemeanor procedure on customs misdemeanors may not be initiated if more that two years have passed following the date when the misdemeanor was perpetrated.

transport, holds, uses or acquires as property on any basis goods for which the party knew or should have known that such goods were used to commit a misdemeanor under this Law, shall be punished with the same penalty prescribed for the perpetrator of such misdemeanor.

#### Article 203

# Collection of Fines Immediately after the Misdemeanor Has Been Perpetrated (On-the-Spot Fine)

- (1) Customs officers may offer the perpetrator of the misdemeanor to pay an onthe-spot fine for the misdemeanor.
- (2) If the perpetrator of the misdemeanor pays the on- the-spot fine, the case shall be closed and the perpetrator shall not be prosecuted under this Law. If the perpetrator does not pay the on-the-spot fine, the customs authorities shall turn the case over to the court having jurisdiction.
  - (3) On-the-spot fines shall be collected by authorized customs officers.

## 2. Punitive Provisions

## Article 204

## **Customs Misdemeanor**

- (1) A triple or quintuple fine of the amount of the avoided customs duty, or two to eight times the value of the goods, if such goods are not subject to duties or if such goods are exempted from duties, shall be levied against a legal entity if:
- 1. It brings in or takes out, or tries to bring in or take out goods in the customs area outside the customs border crossings or at a time when the border crossing is not open (article 40, paragraphs 1, 3 and 4);
- 2. It brings in or takes out, or tries to bring in or take out hidden goods through the customs border crossing (articles 42 and 45);
- 3. Its conduct is contrary to the Article 45, paragraphs 1 and 2 of this Law;
- 4. It fails to present the basic declaration in compliance with Article 46 of this Law;
- 5. Its conduct is contrary to Article 44, paragraphs 1 and 2 of this Law;
- 6. It holds goods temporarily, contrary to Article 51, paragraphs 1 and 2 of this Law;
- 7. It uses the temporarily held goods, contrary to Article 52 of this Law;
- 8. In the declaration it lists the quantities, kind, value or origin of the goods incorrectly or

- if the list of goods is not exhaustive (article 61);
- 9. It presents to the customs authorities documents pertaining to the customs procedure that contain different quality, kind, quantity, value or origin of the goods or other incorrect information (articles 20, 61, 116, 179 through 183);
- 10. It presents to the customs authorities documents pertaining to the export customs procedure that contain different quality, kind, quantity, value or origin of the goods, provided presentation of such documents causes incorrect statement of the information in the customs declaration when exporting such goods (articles 20,61 and 128);
- 11. Its conduct is contrary to Article 69, paragraph 5 of this Law;
- 12. Its conduct is contrary to Article 75, paragraph 2 of this Law, as if releasing goods for trade, although the activities for releasing the goods for trade were not undertaken and the import fees were not paid, nor have other measures of the macroeconomic policy been undertaken;
- 13. It fails to satisfy the requirements under the approval issued for the customs procedure having a commercial effect (Article 79, paragraph 3);
- 14. It fails to satisfy requirements under the Law when opening a customs warehouse (Articles 86 and 87);
- 15. In a customs warehouse it conducts the activities under Article 88 contrary to or without a permit issued by the customs authorities;
- 16. Its conduct is contrary to Article 95 of this Law;
- 17. Its conduct is contrary to Article 96 of this Law;
- 18. Its conduct is contrary to Article 97 of this Law;
- 19. It fails to transport goods on a route designated by the customs authorities (Article 131, paragraph 2);
- 20. Its conduct is contrary to Article 133, paragraphs 1 and 2 of this Law;
- 21. It hinders the customs or other authorities in the supervision of the work in the customs area or the free zone (Articles 135 and 150);
- 22. Its conduct in the free or the customs zone is contrary to Article 138, paragraph 1 and Article 155, paragraphs 1 and 4 of this Law);
- 23. Despite the prohibition by the customs authorities, it performs some of the activities in the free and the customs zone (article 138, paragraph 2 and article 155, paragraph 6);
- 24. Contrary to Article 155, paragraph 5 of this Law, it transports goods from the free and customs zones into another customs area;
- 25. It uses fraud during the course of the customs procedure to obtain an exemption from

payment of import fees or reduction of import fees, or falsely obtains any other such relief (Articles 20, 61, 79, 80, 88, 107, 116, 123, 124, 179 to 183 through 188);

(2) A fine, ranging from twice to five times the amount of the avoided duties, or once to three times the value of the goods, if such goods are not subject to paying duties or if they are exempt from payment of duties, shall be levied against the person responsible for the conduct pertaining to paragraph 1 of this Article.

#### Article 205

## **Customs Misdemeanor**

- (1) A fine two to ten times the amount of the avoided duties, or one to five times the value of the goods, if such goods are not subject to payment of duties or are exempt from duties, shall be levied against a legal entity for:
- 1. Failure to present documents or to provide appropriate explanations to the customs authorities, or failure to provide any other necessary assistance in the performance of the customs proceedings (article 20);
- 2. Failure to keep documents in compliance with this Law (Article 21);
- 3. Failure to present a customs declaration for the commencement of the customs cleared use of the goods within the prescribed time periods (Article 50);
- 4. Hindering the examination of the accuracy and the regularity of the received declaration (articles 65 through 67)
- 5. Removal of all customs marks or failure to adequately protect customs marks from damage or destruction (Article 68);
- 6. Failure to maintain the prescribed records in compliance with Article 72, paragraph 2 of this Law;
- 7. Failure to present such additional customs declaration as provided in Article 72, paragraph 3 of this Law;
- 8. Failure to inform the customs authorities of activities following the issuance of the approval, which are important for the contents, i.e. the validity of the permit (Article 80, paragraph 1 of this Law);
- 9. Failure to conclude the customs procedure required by law (Article 81, paragraph 5);
- 10. Failure to maintain records on goods that are placed in the customs warehouse pursuant to Article 89 of this Law;
- 11. Failure to export, or return the acquired goods in a given time period, within the import or export procedure, and failure to requests another customs procedure for the

- goods (Article 101, paragraph 1);
- 12. Failure to import goods in compliance with the approval for use of equally valuable goods in the prescribed time period (Article 101, paragraph 3);
- 13. Failure to maintain records required for the use of the imported, or temporarily imported goods; failure to maintain records in compliance with the law, or failure to provide the customs authorities, at their request, with information on the standards; or disabling or hindering the inspection (Article 102);
- 14. Failure to comply with the prescribed time periods and the manner of record keeping required under customs custody (Article 110);
- 15. Failure to export the temporarily imported goods or requests another customs procedure (Article 115);
- 16. Failure to use the temporarily imported goods in compliance with the purpose for which complete or partial exemption from duties was allowed (Article 113 and 116);
- 17. Using goods, temporarily exported for the purpose of their refinement, contrary to the law (Article 119, paragraphs 1 and 3);
- 18. Conduct contrary to Article 157, paragraphs 2 and 3 of this Law;
- 19. Failure to present to the customs authorities copies of the transportation documents or disabling the access to the goods and the documentation, relative to such goods (Articles 144 and 160);
- 20. Failure to maintain the prescribed documentation in compliance with Articles 143 and 159 of this Law;
- 21. Destruction of the customs goods without prior notification to the customs authorities (Article 162, paragraphs 3 and 4);
- 22. Failure to remove from the customs area the goods the import of which is banned, within the time period prescribed by the customs authorities (Article 163), and
- 23. Contrary to Article 187 of this Law, alienating the goods, transferring the goods to a third person for use or using them for a purpose other than the one for which they have been exempted from duties; or pledging the exempted goods or otherwise used for the purpose of securing the obligations before the customs liability has been paid.
- (2) A fine ranging from twice to four times the amount of the avoided duties; or one to two times the value of the goods, if such goods are not subject to the payment of duties or are exempt from duties, shall be levied against the responsible person conduct under paragraph 1 of this Article.

## **Customs Misdemeanor of Natural Persons**

- (1) A fine, ranging from one to five times the amount of the avoided customs; or one to three times the value of the goods, if such goods are not subject to the payment of duties or are exempt from duties, shall be levied against a physical person if:
- 1. Such person fails to present the documents or provide the necessary information to the customs authorities, or fails to provide necessary cooperation in the performance of the customs procedures (Article 20);
- 2. Such person presents to the customs authorities documents pertaining to the customs procedure that contain different quality, kind, quantity, value or origin of the goods, or other incorrect information in order to, completely or partially, avoid paying the export fees (articles 20, 61, 116, 179 through 183);
- 3. Such person brings in or removes or tries to bring in or remove goods from the customs area outside a customs border crossing or at a time when the border crossing is closed (Article 40, paragraphs 1, 3 and 4);
- 4. Such person brings in or removes, or tries to bring in or remove hidden goods through the customs border crossing (articles 42 and 45);
- 5. Such person fails to present the goods for inspection by the customs authorities in contravention of Article 45 of this Law;
- 6. Such person fails to present the customs declaration, or request for approval of the customs cleared use of the goods in contravention of Article 46 of this Law;
- 7. Such person fails to present the customs declaration for the approved use of the goods within the prescribed time periods (Article 50);
- 8. Such person hinders or delays the examination of the accuracy and the regularity of the received declaration (articles 65 through 67)
- 9. Such person removes all the customs marks or fails to adequately protect customs marks from damage or destruction (Article 68, paragraph 2);
- 10. Contrary to Article 75, paragraph 2 of this Law, such person treats goods as if released for trade, although procedures for release of such goods for trade were not undertaken and the import fees were not paid;
- 11. Such person uses the goods purchased in a customs warehouse contrary to the purpose and the conditions of the sale (Article 95, paragraph 2);
- 12. Such person fails to use the temporarily imported goods in compliance with the purpose for which complete or partial exemption from duties was allowed (Article 113

and 116);

- 13. Such person fails to remove from the customs area the goods the import of which is banned, within the time period prescribed by the customs authorities (Article 163, paragraph 1);
- 14. Contrary to Article 187 of this Law, such person alienates the goods, transfers such goods to a third party to use or uses them for a purpose other than the purpose for which they have been exempted from duties; or the goods that have been exempted from duties such person pledges, encumbers or otherwise uses for the purpose of securing the obligations before the customs liability has been paid.
- 15. Such person by fraud during the customs procedure achieves or attempts to obtain exemption from payment of import fees or reduction of import fees, or falsely obtains any such relief (Articles 79, 80, 117, 179 through 183 and 188);
- 16. Such person fail to satisfy the requirements of the customs authorities or acts contrary to the regulations of the customs authorities, disregards orders of the customs authorities, as well as threatens or assaults the customs officers.

## Article 207

# Liability of a Bad Faith Owner B Holder of Items that Constitute Misdemeanor

- (1) A legal entity or an individual that as part of their business buys, sells, sells out, receives as a gift, conceals, takes for keeping or transportation, keeps, uses or receives in ownership, on any basis, goods for which the legal entity or the individual knew or reasonably must have known that were used for perpetrating a misdemeanor pursuant to articles 204 and 206 of this law, shall be punished with the same punishment prescribed for the perpetrator of the misdemeanor.
- (2) A fine, ranging from two to ten times the amount of the avoided duties; or one to five times the value of the goods, if such goods are not subject to payment of duties or are exempted from duties, shall be levied against the enterprise or other legal entity for the misdemeanor under paragraph 1 of this Article.
- (3) A fine, ranging from one to five times the amount of the avoided duties; or one to three times the value of the goods, if such goods are not subject to payment of duties or are exempted from duties, shall also be levied against a physical person for the misdemeanor under paragraph 1 of this Article.

(2) Regardless of paragraph 1 of this Article, the means of transportation shall be forfeited even if the value of such goods does not exceed 20% of the value of the means of transportation and if such means of transportation was used for transport of drugs, arms, ammunition or explosives, or if a special compartment was built in the means of transportation immediately upon manufacturing for such purpose.

#### Article 210

# Forfeiture of Goods and the Means of Transportation Which Are not Owned by the Perpetrator of the Misdemeanor

- (1) Goods subject of the misdemeanors listed in Article 208, paragraph 1 of this Law, shall be forfeited even if they are not owned by the perpetrator of the misdemeanor, provided the owner of the goods knew or reasonably should have known that the goods were the subject of any misdemeanors listed in Article 208, paragraph 1 of this Law.
- (2) Provided that the conditions pursuant to Article 209 of this Law are satisfied, the means of transportation, listed in Article 209 of this Law, shall be forfeited even if not owned by the perpetrator of the misdemeanor, provided that the owner knew or reasonably should have known that the means of transportation was used for transport of goods pursuant to Article 204, items 1 through 4 and 24 of this Law and Article 206, items 3 through 7 of this Law, illegally across the customs frontier, or the customs area.
- (3) Paragraphs 1 and 2 of this Article shall not infringe upon the rights of other parties to request compensation from the perpetrator.

## Article 211

## **Seizure of Goods**

- (1) Customs officers shall seize any property subject of misdemeanors, or the means of transportation pursuant to Articles 208 through 210 of this Law, if such officers are officially notified of the misdemeanor or if they captured the perpetrator in action.
- (2) The authorized official agencies for interior affairs shall seize the property that is the subject of misdemeanors, or the means of transportation pursuant to Articles 208 through 210 of this Law, if such officers are officially notified of the misdemeanor or if such officers observe the perpetrator engaging in the proscribed conduct in the bordering area or inside the customs area.
  - (3) Customs officers and the authorized officers of the agencies for interior affairs

may also forfeit the property that is not listed in paragraphs 1 and 2 of this Article, if such property was used or intended for perpetrating a misdemeanor, or was created in the course of the misdemeanor provided by this Law.

## XI. TRANSITIONAL AND CONCLUDING PROVISIONS

## Article 212

# Validity of the Certificates and Measures for Exemption from Duties

(1) The certificates and measures pertaining to exemption from duties that were adopted by the appropriate agency in compliance with the Customs Law R1]"Oficaial aGazett of Republicof Macedonia",not. 20/93, 63/95and m15/97e ahe Ctiepertiodprovided bfr intthe Custom ahe Cdte awhenthis Law.ab caea effective (12)

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Regulations pertaining to the enforcement of this Law shall be enacted before the date when this Law becomes effective.

#### Article 218

## **Time Limit Pertaining to Representation**

- (1) The inspection of the minimum conditions for representation in the customs procedure pursuant to article 60, paragraph 2 of this law may not be initiated before the expiration of 6 months following the date when the requirements of Article 60, paragraph 6 of this Law became effective.
- (2) As an exception to paragraph 1 of this article, parties acting as representatives in the customs procedure, may continue to do so after the effective date of this Law, provided however, that, before this Law becomes effective, they present evidence to the customs authorities that they satisfy the requirements pertaining to representation.

## Article 219

## **Continued Operation of the Customs Administration**

The Customs Administration shall continue to operate as an agency within the Ministry of Finance, as provided for in this Law.

## Article 220

## When Regulations Cease to Be Effective

On the effective date of this Law, the Customs Law ("Official Gazette of Republic of Macedonia", no. 20/93, 63/95 and 15/97), the Law on Customs Administration ("Official Gazette of Republic of Macedonia", no. 25/92) and the Law on Free and Customs Zones ("Official Gazette of SFRY", no. 3/90) shall cease to be effective.

#### Article 221

This Law shall come into effect on the eighth day following the date of publication in the "Official Gazette" of Republic of Macedonia, and shall apply all cases as of January 1, 1999.