

## ***PART 3***

### ***ORIGIN OF GOODS***

#### **Heading 1**

#### **Non-Preferential Origin of Goods**

##### ***Article 13***

Non-preferential origin of goods is determined based on the criteria referred to in Articles 24 and 25 of the Customs Law and specific criteria laid down under this Heading.

#### **1. Section**

#### **Origin-Changing Processing or Treatment**

##### ***Article 14***

- (1) This Section addresses textile and textile products classified under Customs Tariff Schedule Section XI and some other products, other than textile and textile products, types of processing and treatment procedures which, according to the criteria from Article 25 of the Customs Law, are assigned the origin of the country in which the processing or treatment took place.
- (2) The term "country" may denote a third country, state union, or the Republic of Montenegro (hereinafter: Montenegro).

##### ***Article 15***

- (1) If, according to Article 25 of the Customs Law, origin is established of the textile and textile products classified in Customs Tariff Schedule Section XI, it shall be deemed that the textile or textile products originate from the country in which the complete processing procedure took place.
- (2) The "complete processing procedure" referred to in paragraph 1 of this Article shall be deemed to be processing or treatment due to which the obtained product is classified under the Customs Tariff Schedule tariff number other than the Customs Tariff Schedule tariff number for all materials with no origin that were used within the processing procedure.
- (3) When establishing origin of the products referred to in Addendum 4 to this Decree, the "complete processing procedure" shall be deemed to be only the procedure mentioned in column III of this Addendum, regardless whether the

Customs Tariff Schedule tariff number was changed in the processing procedure of these products, in accordance with paragraph 2 of this Article.

- (4) The manner in which the rules referred to in Addendum 4 should be applied is defined in introductory notes in Addendum 3 to this Decree.
- (5) In accordance with this Article, the goods shall not acquire the origin, even though the Customs Tariff Schedule tariff number has been changed due to the processing procedure (minimum or inadequate treatment):
1. Procedures, needed for preservation of the goods in the unchanged condition in the course of transportation and storing (ventilation, dispersing, drying, removal of decayed parts, etc);
  2. Simple dust removing, straining, or separating, sorting, classifying (including sets compiling), washing, cutting;
  3. – Replacement of packaging and disassembly or assembly of packages;
    - Simple packing in boxes, bags, cases; placement onto the cardboard or wood, etc, and other simple procedures of packing the goods intended for sale;
  4. Labeling and marking the goods or their packaging;
  5. Simple assembly of parts of the goods into the complete product;
  6. Combination of two or more procedures referred in items 1 through 5 of this paragraph.

#### ***Article 16***

- (1) In case of the obtained products, as referred to in Addendum 5 to this Decree, the processing or treatment referred to in Column III of this Addendum shall be deemed to be the processing or treatment that enables acquiring of origin in accordance with Article 25 of the Customs Law.
- (2) The manner in which the rules referred to in Addendum 5 are to be applied is defined in the Introductory Notes from Addendum 3 to this Decree.

#### ***Article 17*** ***(Common Provisions for All Products)***

In case when the descriptions from Addendums 4 and 5 to this Decree define that a product acquires the origin if the value of the material with no origin that is used does not exceed a certain percentage of the ex-factory price of the obtained products, when calculating the percentage of participation of the used material, the following terms shall mean as follows:

1. "Value" – the value for customs purposes at the time of importation of the material with no origin, or, if such value is unknown or impossible to establish,

the first demonstrable price paid for the material in the country in which the processing is taking place;

2. "Ex-factory price" – the ex-factory price of the obtained product reduced by all local duties that are or are not returnable when exporting the obtained product;
3. "Value acquired based on assembly procedure" means added value due to assembly, including final procedures and testing procedures, as well as procedure of mounting all the parts according to the origin from the country in which all said procedures are implemented, including the profit and general costs incurred in such country due to these procedures.

## **2. Section**

### **Specific Rules for Spare Parts**

#### ***Article 18***

(1) The accessories, spare parts, and tools, that are procured together with the equipment, machine, appliance or vehicle, and that are integral part of the standard equipment, shall be deemed to be of the same origin as the equipment, machine, appliance, or vehicle.

(2) The essential spare parts for the equipment, machines, appliances, or vehicles, that are being placed in free circulation or exported earlier than the equipment, machines, appliances, or vehicles, shall be deemed to be of the same origin as the equipment, machine, appliance or vehicle, only if the requirements referred to in Article 19 of this Decree are duly met.

#### ***Article 19***

(1) The presumption referred to in Article 18 paragraph 2 of this Decree shall be taken into account only if:

1. that is necessary due to the export to the country of destination, or
2. inclusion of the essential spare part into the equipment, machines, appliances, or vehicles, in the production process would not prevent such equipment, machine, appliance, or vehicle from acquiring domestic origin or origin of the country in which the production process is taking place.

(2) The equipment, machines, appliances, or vehicles, referred to in Article 18 of this Decree shall include the goods classified under Customs Tariff Sections XVI, XVII, and XVIII.

(3) The essential spare parts referred to in paragraph 1 of this Article shall include the parts:

1. Without which proper functioning of the goods referred to in paragraph 1 of this Article, that have been previously placed in free circulation or exported, would be impossible,
2. Which are typical for the goods referred to in paragraph 2 of this Article, and
3. Which are intended for standard maintenance of the goods referred to in paragraph 2 of this Article and for replacement of the identical spare parts that have been damaged or are unusable.

#### ***Article 20***

#### ***(Demonstrating the Origin in Case Referred to in Article 18 of this Decree)***

- (1) A person applying for the certificate of origin for spare parts in accordance with Article 18 of this Decree shall enclose to the application:
  1. The statement that the spare parts to which the certificate refers are intended for standard maintenance of the equipment, machines, appliances or vehicles,
  2. Precise information about the equipment, machine, appliance, or vehicle for which the spare part is intended, and
  3. Information about the certificate of origin, that has been issued for the equipment, machine, appliance or vehicle for the maintenance, with regard to the spare part for which new certificate of origin is being requested
- (2) The information referred to in paragraph 1 of this Article must be indicated in the certificate of origin for the imported essential spare parts.
- (3) With regard to the verification of the requirements referred to in Articles 18 and 19 of this Decree, the competent authority may request that the applicant submits additional evidence of his indications, such as invoices or copies of invoices related to the equipment, machines, appliances or vehicles, contracts or other documents demonstrating that the procurement of a certain spare part was carried out within the standard maintenance process.

### **3. Section**

#### **Using the Certificate of Origin**

#### ***Article 21***

- (1) The origin of goods, when importing the goods, shall be demonstrated by presentation of suitable certificate of origin for the goods.
- (2) The certificate of non-preferential origin of goods shall:

1. Be issued by the competent authority or organization duly authorized by the issuing country.
  2. Contain all information necessary for identification of the goods to which it refers, and above all:
    - Number of packages, their types and marks, namely the numbers indicated on the package,
    - Type of goods,
    - Gross and net weight of the goods, and, if this is not possible, information about the number and volume of the goods, particularly when this is more appropriate considering the type of goods,
    - Name or the company and head office of the person procuring the goods, and
  3. Indisputably demonstrate that the goods to which it refers originates from a certain country.
- (3) The customs authority may accept the certificate referred to in paragraph 2 of this Article that is issued in a third country only if the requirements referred to in paragraph 2 of this Article are duly met.
- (4) The Government shall stipulate the types of goods for whose importation it shall be necessary to present certificate of origin in accordance with this Article.

**Article 22**  
***(Procedure for Issue of Certificate of Domestic Origin – Non-Preferential Origin)***

- (1) Certificate of origin shall be issued based on a written application that corresponds to the sample from Addendum 6 to this Decree.
- (2) The applicant shall be responsible for the truthfulness and accuracy of information indicated in the application for issuance of the certificate of origin, and shall be under obligation to, upon the request of the competent authority, supply additional information and documents demonstrating the indications from his application.

**Article 23**

- (1) The certificates referred to in paragraph 1 Article 22 of this Decree shall be issued by the Chamber of Commerce of Montenegro (hereinafter: Chamber of Commerce) at the template corresponding to the sample from Addendum 6 to this Decree. The certificate of origin shall be in Serbian, English, or French.
- (2) The Chamber of Commerce shall issue certificate of domestic origin only if the requirements for issuance of certificate of origin are duly met, and when the goods to which the certificate refers complies with the criteria for acquiring the domestic origin.

#### **Article 24**

- (1) In due consideration of circumstances, if the applicant in a certain period of time repeatedly exports the identical goods, the Chamber of Commerce may decide to issue the certificate of origin, where the applicant need not necessarily submit a separate application but is under obligation to ensure that stipulated criteria and requirements are duly met.
- (2) Certificate of origin shall be issued in one copy. Upon the request of the applicant, or when it is necessary for circulation of the goods concerned, more than one copy of the same certificate of origin may be issued. Each subsequent copy must have due indication that it is a copy. Any further entries must be made at the template corresponding to the sample from Addendum 6 to this Decree.

#### **Article 25**

- (1) The application and certificate of origin referred to in Article 24 of this Decree shall be filled-in by the typewriter (computer), or by hand in capital letters.
- (2) The certificate of origin shall contain a serial number by way of which it may be identified. The certificate and the application shall have the same serial number. The Chamber of Commerce shall assign numbers to the certificates of origin in compliance with the order in which they are issued.

#### **Article 26**

##### ***(Retrospectively Issued Certificates of Origin)***

- (1) As an exception, the certificate of origin may be issued after the exportation of the goods to which it refers is completed, if it has not been issued at the time of exportation due to unintentional errors or omissions, etc.
- (2) In his application to be retrospectively issued the certificate of origin, the exporter must indicate the place and the date of exportation of the products to which the certificate of origin refers and describe reasons for his application.
- (3) The Chamber of Commerce may issue the certificate of goods retrospectively only after duly checking that the information indicated in the application of the exporter complies with the information indicated in the corresponding document.
- (4) The certificates of origin that were issued retrospectively must have, in the column "Remarks" one of the following indications:

"ISSUED RETROSPECTIVELY",

"IZDATO NAKNADNO",

"DÉLIVRÉ A POSTERIORI".

**Article 27**  
***(Issuing Duplicates of the Certificate of Origin)***

(1) In case the certificate of origin has been stolen, lost, or destroyed, the exporter may apply with the Chamber of Commerce to be issued the duplicate based on the available export documents.

The column "Remarks" in the duplicate of the certificate of origin must contain one of the following indications: "DUPLICATE", "DUPLIKAT", "DUPLICATA".

(2) The term of validity of the duplicate, on which the issue date of the first certificate of origin must be duly indicated, shall commence on such date.

**Article 28**  
***(Issue of the Certificate of Origin Based on the Previously Issued Certificate)***

If the goods for which a certificate of non-preferential origin has been issued is under customs surveillance, or if it is so necessary due to forwarding all or some of the products within or outside the customs territory, it shall be possible to, upon the request of the beneficiary of the right, amend the original evidence of the origin of goods with one or more than one certificate of origin. The certificate of origin shall be issued by the customs authority responsible for customs surveillance over the goods concerned.

**Article 29**

The Chamber of Commerce shall keep the original copies of the applications for issue of the certificates of origin and other documentation based on which it has issued the certificate of origin for the period of three years following expiry of the year in which the certificate has been issued.

**Heading 2**

**Preferential Origin of Goods**

**1. Section**

**Article 30**  
***(Definitions)***

For the purposes of this Heading, the following terms shall mean as follows:

- a) "Manufacturing" – any kind of treatment of processing, including assembly or specific procedures;

- b) "Material" – any ingredient, integral part or part, etc, which is used in manufacturing of the product;
- c) "Product" – the product being manufactured, even if intended for further use in other manufacturing processes;
- d) "Goods" – material or products;
- e) "Customs value" – the value, established in accordance with Articles 29-44 of the Customs Law and Section 4 of this Decree, if in compliance with the Agreement from 1994 on implementation of Article VII of the General Agreement on Customs and Trade;
- f) "Ex-factory price" – in Addendum 76 of this Decree means the price, payable for the product ex factory to the producer in whose company the final treatment or processing is taking place, provided the price includes the value of all the material used reduced by any internal fees that shall be or may be returned when exporting the obtained product;
- g) "Value of the material" in Addendum 76 of this Decree – means customs value when importing the used material with no origin, or, if the origin is unknown or cannot be established, the first demonstrable price, paid for the material in the country of manufacturing in the sense of Article 36 of this Decree. When establishing the value of the used materials with the origin, the provisions of this item shall apply *mutatis mutandis*;
- h) "Headings" and "tariff numbers" – headings and tariff numbers (four-digit codes), from the Customs Tariff Schedule, constituting the "Harmonized Commodity Description and Coding System", in this Decree referred to as the "Harmonized System" or "HS";
- i) "Classified" refers to classification of products or material within the certain tariff number;
- j) "Consignment" – the products, consigned by the exporter to a single recipient, either at the same time or comprised in a single shipping document with which the exporter is delivering these products to the recipient, or, in absence of such document, the products comprised in a single invoice.

**Article 31**  
**(Criteria for Establishment of Preferential Origin)**

When it is necessary to establish origin of goods in order to establish whether preferential treatment of individual goods is justified, such origin shall be established according to the provisions of this Heading or the intonation agreements defining such treatment.



**Article 32**  
**(Demonstrating the Preferential Origin of Goods)**

- (1) Preferential origin of goods shall be demonstrated by presenting the evidence of the origin of goods, whose usage is in accordance with the national regulations or in Section 2 of this Heading, or by international agreements governing the preferential customs treatment.
- (2) If provided by the international agreement governing the preferential customs treatment that it is possible to allow to certain beneficiaries of right to demonstrate the origin of goods through a more simple procedure, the Customs Administration shall issue, based on written request, an approval to simplify this procedure.
- (3) When issuing the approval referred to in paragraph 2 of this Article, the Customs Procedure shall primarily pay attention to the following:
  1. The applicant's guarantee regarding proper implementation of the simplified procedure,
  2. The applicant's dependability regarding implementation of customs procedures.

**Article 33**

- (1) The FORM A template, which demonstrates domestic origin of goods with the purpose of ensuring preferential treatment of goods based on preferential schemes, shall be endorsed by the customs authority, provided the stipulated requirements have been met.
- (2) Other evidence of domestic origin of goods, used for the purposes of acquiring preferential customs treatment (for example, certificate of circulation of goods EUR.1), shall be endorsed by customs authorities, provided no other authority has been given the responsibility by the international agreements governing the preferential customs treatment.

**Article 34**

- (1) The procurer of goods in internal trade (hereinafter: domestic procurer) must, at the request of the buyer, issue evidence of origin of goods – statement of the procurer, if issue of the certificate on preferential origin of goods will be requested for the goods being obtained through exportation, regardless whether the goods will be exported in altered condition or processed, further treated, or mounted into other goods.
- (2) The statement of the procurer may be issued for each individual deal (short-term statement), or for a period which must not exceed 12 months (long-term statement).
- (3) The statement of the procurer referred to in paragraph 1 of this Article must correspond to the contents of the sample from Addendum 7 to this Decree.

### **Article 35**

Applications for issue of certificate on preferential origin of goods and the documentation, the competent authorities shall keep for at least three years from expiry of the year in which the certificate was issued.

## **2. Section**

### **General Preferential Tariff Schedule (Article 28 paragraph 2 of the Customs Law)**

#### **1. Subsection**

#### **Definition of the Term "Products with Origin"**

### **Article 36**

(1) For the purposes of implementing the regulations governing the measures of customs treatment used by Montenegro in favor of certain countries, group of countries or territories (hereinafter: beneficiary countries), the following products shall be included in the products with origin of the countries - beneficiaries of the preferential tariff (hereinafter: beneficiary country):

- a) The products completely produced in such a country, in compliance with Article 37 of this Decree;
- b) The products, produced in such a country with the manufacturing in which other material that are not included under item a) of this paragraph has been used, provided such material have been sufficiently treated or processed in accordance with Article 38 of this Decree.

(2) For the purposes of implementing the provisions of this Decree, the products with origin from Montenegro, in accordance with paragraph 3 of this Article, that have been exported in the beneficiary country and have been treated or processed in it more than provided by Article 39 of this Decree, shall be deemed to be products with origin in the beneficiary country.

(3) Provisions of paragraph 1 of this Article shall apply *mutatis mutandis* for the purposes of establishing origin of goods, produced in Montenegro.

### **Article 37**

(1) The products completely produced in the beneficiary country include:

- a) Mineral products obtained from the ground or seabed;

- b) Produced plant products;
  - c) Live animals bred and raised there;
  - d) Products obtained from raised live animals;
  - e) Products obtained through hunting and fishing;
  - f) Products from sea fishing and other sea products, obtained with their vessels outside the territorial sea of the beneficiary country;
  - g) Products, manufactured on their processing ships, exclusively from the products mentioned under item f) of this paragraph;
  - h) Selected used items, suitable for recycling of raw materials;
  - i) Waste and residue in production undersea, carried out there;
  - j) Products, obtained from the seabed or from undersea outside their territorial sea, provided they have exclusive right to treat the seabed or undersea;
  - k) The goods, produced there exclusively from the products mentioned under items a) through j) of this paragraph.
- (2) The terms "their vessels" and "their processing ships" referred to in items f) and g) paragraph 1 of this Article shall be used only for the vessels and processing ships:
- a) That are registered or are recorded in the beneficiary country;
  - b) That sail under the flag of the beneficiary country;
  - c) That are at least 50 per cent owned by the citizens of the beneficiary country or a company with head office in such country, with the director or directors, president of the board of directors, and majority of board members, being citizens of the beneficiary country, and, moreover, if, in case of companies, persons or stock companies, at least half of capital belongs to such country or public authorities or citizens of such country;
  - d) Whose master and officers are citizens of the beneficiary country; and
  - e) Whose at least 75 per cent crew members are citizens of the beneficiary country.
- (3) The term "beneficiary country" refers to the territorial sea of such country.
- (4) The vessels, sailing on open sea, including the processing ships in which the catch of fish is treated or processed, shall be deemed to be a part of the territory of the beneficiary country or Montenegro, provided the requirements referred to in paragraph 2 of this Article have been duly met.

**Article 38**  
**(Sufficiently Treated or Processed Products)**

- (1) In the sense of Article 36 of this Decree, it shall be deemed that the products have not been completely obtained in the beneficiary country, or have not been sufficiently treated or processed, if the requirements listed in Addendum 76 to this Decree have not been duly met.
- (2) The requirements listed in Addendum 76 shall apply to all products to which this section refers, treatment or processing procedures that must be carried out on the material with no origin, used in manufacturing of these products and related exclusively to such materials.
- (3) If a product, which has acquired the origin based on fulfillment of the requirements listed in Addendum 76, is used in manufacturing or other product, then the requirements applied to the product in which such is included shall not apply to such product and the materials with no origin which might have been used in its manufacturing shall not be taken into account.

**Article 39**  
**(Insufficient Treatment or Processing Procedures)**

- (1) Notwithstanding provision of paragraph 2 of this Article, it shall be deemed that the following treatment or processing procedures are insufficient for the product to acquire the status of the product with origin, regardless whether the requirements referred to in Article 38 of this Decree have been met or not:
  - a) Procedures for preservation of goods in good condition during transportation or storing;
  - b) Assembly and disassembly of consignments;
  - c) Rinsing, cleaning, removal of dust, oxides, oil, paint and other covering materials;
  - d) Textile ironing;
  - e) Simple painting and polishing procedures;
  - f) Polishing, bleaching, in part or in whole; wheat and rice polishing and glazing;
  - g) Sugar bleaching procedures or sugar-cubes shaping procedures;
  - h) Removal of skin, stones; and peeling of fruit, nuts and vegetables;
  - i) Grinding, simple crushing or simple cutting;
  - j) Sieving, selecting, classifying, ensuring compliance (including composing sets of products);
  - k) Simple pouring in bottles, tins, flasks, bags, boxes, cases, fixing onto the cardboard or plates, etc, and other simple packing procedures;

- l) Attaching marks, labels, logos and other similar signs for designation of the products and their packaging;
  - m) Simple mixing of products, regardless whether they are of different kind or not;
  - n) Simple assembly of parts of products into a complete product, or disassembly of a product into the parts;
  - o) Combination of two or more than two procedures described in items a) through n) of this paragraph;
  - p) Slaughtering of animals.
- (2) When establishing whether treatment or processing procedures, carried out on individual products, can be considered insufficient in accordance with paragraph 1 of this Article, all procedures carried out on such a product in the beneficiary country or Montenegro shall be taken into account.

**Article 40**  
**(Qualification Unit)**

- (1) Qualification unit for implementation of the provisions from this Section is a certain product considered to be a base unit in classification of goods according to the Customs tariff schedule.

Consequently:

- a) When a product, consisting of a group of items or consisting of a product, is classified according to the requirements of the Customs tariff schedule under a single tariff number, then such whole means a qualification unit,
  - b) When a consignment consists of a certain number of identical products classified under a single Customs Tariff Schedule tariff number, when implementing the provisions of this group, each product should be treated separately.
- (2) When, due to classification of goods, in accordance with the basic rule 5 for classification of goods according to Customs Tariff Schedule, the packaging is included in the product, the packaging shall also be included in establishing of origin.

**Article 41**  
**(permissible exceptions)**

- (1) Notwithstanding provisions of Article 38 of this Decree, the materials without origin may be used when manufacturing the said product provided that their joint value shall not exceed 10 % of the ex-works product price. If the rule in the list

enclosed in Addendum 76 should state one or more percent as the maximum value of material without origin to be used, then such percentage may not be exceeded based on the application of this paragraph.

- (2) Provisions of paragraph 1 of this Article shall not be used for the products classified into Chapters 50 through 63 of the Customs Tariff.

**Article 42**  
**(equipment, spare parts and tools)**

Equipment, spare parts and tools shipped together with parts of equipment, machinery, appliances or vehicles representing part of regular equipment and included in the price or not charged separately, shall be included as part of such equipment, machinery, appliances or vehicles.

**Article 43**  
**(sets)**

In accordance with the basic rule no. 3 for classification in accordance with the Customs Tariff, the sets shall mean sets with the origin from the beneficiary country, if all its parts have origin. Event though the set may be composed of parts that have origin and the parts that do not, it shall be deemed that the set as a whole has the origin of the beneficiary country provided that the value of the product without origin does not exceed 15 percent of the ex works price for the set.

**Article 44**  
**(neutral elements)**

In order to determine whether the product may be included among the products with the origin from the beneficiary country, it is not necessary to establish the origin for the following elements, which may have been used at the time of manufacturing thereof:

- a) energy and fuel;
- b) appliances and equipment;
- c) machinery and tools;
- d) goods not included or not intended to be included in the final composition of the product.

**Article 45**  
**(territorial principle)**

- (1) The requirements for obtaining the status of goods with origin referred to in Article 36 of this Decree must be met in Montenegro or the beneficiary country without discontinuation.

(2) If the products with origin, exported from Montenegro or the beneficiary country into other country should be returned, then they shall be deemed to be products without origin, unless the following may be doubtlessly proved to the customs service authorities or the competent authorities of the beneficiary country:

- a) that the products being returned are the same products that were exported, and
- b) that they did not undergo, while in the other country or during export, any processes, except for those necessary for them to be preserved in good condition.

**Article 46**  
**(direct transport)**

(1) The products with the origin from the beneficiary country shall be transported directly to Montenegro from the beneficiary country in accordance with Article 36, paragraph 1 of this Decree. The products originating from Montenegro are transported into the beneficiary country directly, in accordance with Article 36, paragraphs 2 and 3 of this Decree. The direct transport in accordance with this Article shall be deemed to mean the transport:

- a) of the products whose transport does not take place in the territory of any other country,
- b) of the products constituting one indivisible shipment, being transported through other territory than the territory of the beneficiary country, should it so happen, with the reloading or temporary storage in such territories, provided that the goods in the country of transit or storage remained under supervision of the customs service authorities and that they did not undergo any other procedures except for unloading, reloading or any other procedures intended for preserving the goods in good condition;
- c) of the products being transported through the pipeline without discontinuation through the territory that is not the territory of the exporting beneficiary country or Montenegro.

(2) The following evidence of meeting the requirements specified in item b), paragraph 1 of this Article should be submitted to the customs service authority:

- a) a shipping document, issued in the exporting country of use, covering the transport from exporting country through the country of transit; or
- b) a certificate issued by the customs service authority and the countries of transit that:
  - contains the exact description of the products,
  - states the dates of unloading and reloading of the products, and if applicable, the names of ships or other means of transport used, and
  - establishes the conditions leading to the products being detained in the country of transit, or

- c) if there are no such documents, then other documents reliably proving the circumstances of transport.

**Article 47**  
**(exhibitions)**

- (1) For the products with origin being forwarded from the beneficiary country to an exhibition in the other country not referred to in Article 36, paragraph 1 of this Decree, and sold after the exhibition with the intention to be imported into Montenegro, the concessions referred to in Article 36 of this Decree shall hold, provided that the products meet the requirements of this Section, enabling the identification thereof as products with the origin from the beneficiary country, and that the following can be demonstrated in a trustworthy manner to the customs service authorities:
  - a) that the exporter forwarded these products directly from the beneficiary country to the country where the exhibition is held, and exhibited them at the exhibition;
  - b) that the exporter sold or in some other manner disposed of the products to a person in Montenegro;
  - c) that the products during the exhibition or immediately following it were shipped to Montenegro in the same condition as when they were shipped to the exhibition, and
  - d) that the products from the time they were shipped to the exhibition were not used to any other purpose but the purpose of being exhibited.
- (2) The Certificate of Origin Form A shall be submitted to the customs service authorities in the usual manner. The Certificate shall contain the name and address of the exhibition. If necessary, further documented proof of the terms of their being exhibited may be requested.
- (3) Paragraph 1 of this Article shall be applied to all trade, industrial, agricultural and crafts exhibitions, fairs and similar public events or shows, not organized for private purposes in stores or business premises in order to sell foreign products, and during which such products remain under customs supervision.



## **Subsection 2**

### **Certificate of Origin**

#### ***Article 48***

- (1) The customs concessions referred to in Article 36 of this Decree shall hold for the products with origin from the beneficiary country at the time of import into Montenegro if the following is submitted:
  - a) Certificate of Origin Form A, the sample of which is in Addendum 7c enclosed to this Decree, or
  - b) in the instances specified in Article 53, paragraph 1 of this Decree, the statements the texts thereof are supplied in the Addendum 8 to this Decree, provided by the exporter on the invoice, bill of lading, shipping document or other trade document, that with adequate accuracy describes such products, so it is possible to identify them (hereinafter referred to as: "statement on the invoice").
- (2) Domestic origin of goods referred to in Article 36 paragraph 2 of this Decree shall be proved in the following manner:
  - a) by issuing certificates of trade EUR.1, whose sample is given in Addendum 9 enclosed to this Decree, or
  - b) by drafting a statement on the invoice referred to in Article 53 of this Decree.
- (3) The exporter or his authorized representative shall enter into the column 2 of the certificate of trade in goods EUR.1 the name of the beneficiary country and "Republic of Montenegro", in one of the languages specified in Addendum 9 enclosed to this Decree.
- (4) The certificate of trade in goods EUR.1 is subject to provisions of this Section, applied for issuing, using and additional verification of the certificate of origin of goods Form A, and, excluding the provisions concerning the issuing, for statements on the invoice.
- (5) At the request by the customs service authorities, the exporter applying for the certificate of trade in goods EUR.1 referred to in paragraph 2 of this Article, shall be at any time prepared to submit all the relevant documents proving the status of the products with origin, as well as meeting other requirements referred to in this Section.

## **a) Certificate of Origin - Form A**

### ***Article 49 (procedure for issuing the Certificate of Origin Form A)***

- (1) The products with origin in accordance with this section are entitled at the time of import into Montenegro to make use of preferential tariffs in accordance with Article 36 of this Decree under the terms specified in Articles 45 and 46 of this Decree, provided the certificate of origin of goods Form A is submitted, issued by the customs service authority, or other organizations or bodies duly authorized by the beneficiary country (hereinafter referred to as: authorized bodies), and provided that:
  - the beneficiary country has provided the data referred to in Article 62 of this Decree to the competent authorities of Montenegro, and
  - the beneficiary country cooperates with the customs service authorities in such a manner that the customs service authorities may verify the truth and accuracy of documents or information concerning the true origin of relevant products.
- (2) The certificate of origin Form A may be issued only for the purpose of being used as evidence and proof, required with regard to preferential customs treatment referred to in Article 36 of this Decree.
- (3) The certificate of origin Form A is issued following the written application by an exporter or his authorized representative and it is filled in one of the languages specified in Addendum 7c of this Decree.
- (4) The exporter or his authorized representative shall submit the request with all the relevant documents enclosed, demonstrating that the products intended for export meet the requirements for issuing the certificate of origin Form A.
- (5) The customs service authorities shall verify and check whether the certificates of origin Form A have been issued by the bodies of the beneficiary country authorized for such activities, when the exported products may be considered as products with origin from this country, in accordance with Articles 36 through 47 of this Decree and meeting other requirements referred to in this Section. The certificate is given to the exporters' disposal after the actual export has been completed or confirmed.
- (6) The customs service authorities at the time of establishing the justification of the issuing evidence shall cooperate with the authorized bodies of the beneficiary country, entitled within the beneficiary country to ask for any proof and perform any control of the exporter's business books or any other control that seems necessary in order to verify the meeting of requirements, specified in paragraph 5 of this Article.
- (7) The customs service authorities shall cooperate with the authorized bodies of the beneficiary country that are responsible in that country for ensuring the correct filling in of the applications and certificate of the origin of goods.

- (8) The customs service authorities shall check the column 2 on the certificate of the origin of goods Form A, which is not mandatory. The filling in of the column 12 is mandatory, and in the space provided for entering the country of import, the note which in Serbian means "The Republic of Montenegro" should be entered in one of the languages specified in Addendum 7c enclosed to this Decree.
- (9) The customs service authorities shall verify the entering of the date of the issuing of the certificate of origin of goods Form A, which must be stated in the column 11 of the certificate, as well as the signature in that column, intended for the competent authority of the beneficiary country, authorized for issuing the certificates, which must be filled in by hand.

**Article 50**  
***(obligations of the beneficiary country)***

The certificate of the origin of goods Form A represents a documented evidence of the implementation of the regulations referred to in Article 36 paragraph 1 of this Decree. The customs service authorities shall cooperate with the competent organizations or authorities of the beneficiary country, responsible for that when ensuring that all the measures necessary to check the origin of goods and control of other information in the certificate.

**Article 51**  
***(retrospective issuing)***

- (1) Notwithstanding the provision of Article 49 paragraph 5 of this Decree, the customs service authorities shall accept the certificate of origin of goods Form A which the competent state authorities exceptionally issued following the carrying out of the export of relevant products:
- a) if it was not issued at the time of export due to errors or unintentional omissions or other exceptional circumstances, or
  - b) if the customs service authorities have found that the competent state authorities of the beneficiary country in a satisfactory manner proved that the certificate of the origin of goods Form A has been issued, but it has not been received at the time of export due to technical reasons.
- (2) The customs service authorities shall verify whether the competent state authorities in the instance of issuing the certificate of the origin of goods Form A issue such certificates only following the completed check whether the data in the exporter's application correspond to the data in the relevant act. With the purpose of implementing paragraph 1 of this Article the exporter shall in his application state the place, date of the export of the product referred to in the relevant certificate of the origin of goods Form A , as well as grounds for his application.
- (3) The certificates of the origin of goods Form A issued retrospectively date shall bear in the column "Notes" one of the following statements: "IZDATO NAKNADNO", "ISSUED RETROSPECTIVELY", "DÉLIVRÉ A POSTERIORI".

**Article 52**  
**(issuing duplicates of evidence)**

- (1) In case of theft, loss or destruction of the Certificate of Origin Form A the exporter may request from the relevant competent state authorities of the beneficiary country to issue a duplicate based on the export documents they have possession of. The duplicate of the certificate of origin of goods Form A issued in such a manner must contain in the column "Notes" one of the following: "DUPLIKAT", "DUPLICATE", "DUPLICATA".
- (2) The duplicate which must bear the date of issuance of the original certificate of origin Form A shall be in effect as of that date.

**b) Statement on the invoice**

**Article 53**

- (1) The statement on the invoice referred to in Article 48 paragraph 1 item b) of this Decree may be provided by:
  - a) the authorized exporter in accordance with Article 54 of this Decree, or any exporter from the beneficiary country or from Montenegro, for each shipment, consisting of one or more packages, containing products with origin, whose total value does not exceed the amount of EUR 6,000, provided that Article 49 paragraph 1 of this Decree is complied with.
- (2) The statement on the invoice may be provided if the products referred to therein may be considered to be products with the origin from Montenegro or from a beneficiary country and also as meeting other requirements referred to in this Section.
- (3) The exporter providing the statement on the invoice must at all times, at the request of the customs service authorities or competent state authorities of the beneficiary exporting country, be prepared to submit all the documents proving the status of the origin of the relevant goods, as well as meet other requirements referred to in this Section.
- (4) The statement, whose text is printed in Addendum 8 enclosed to this Decree, by the beneficiary shall be typed or printed on the invoice, notification of shipping, or other trade documents in one of the languages specified in the said Addendum. If it is handwritten, then it shall be written in ink and in capital letters.
- (5) The statements on the invoice shall bear the original signature of the exporter, but the authorized exporter in accordance with Article 54 of this Decree is not required to sign such statements provided that he submits to the customs service authorities his written guarantee that he accepts full responsibility for any statement on the invoice, in reference to which he can be identified as if he had placed his signature on the document.
- (6) In cases referred to in item b) paragraph 1 of this Article, the following special terms are required for using the statement on the invoice:

- a) one statement on the invoice is to be entered for each individual shipment;
  - b) in the event that the products contained in the shipment have already undergone retrospective checking in the exporting country related to the establishing of the status of the goods with origin, the exporter may enter this fact as a note in the document providing the statement on the invoice.
- (7) Item a) paragraph 6 of this Article does not remove the obligation of the exporter to meet any other formalities prescribed by customs or postal regulations.

**Article 54**  
**(authorized exporter)**

- (1) The customs service authority of Montenegro may authorize any exporter (hereinafter referred to as: "authorized exporter") who frequently exports products with the origin from Montenegro, in accordance with Article 36 paragraph 2 of this Decree, to provide statements on the invoice regardless of the value of the products it refers to. The exporter applying for such authorization must in a satisfactory way provide to the customs service authorities all the guarantees necessary to check the status of the origin of such products and also meet other requirements referred to in this Section concerning providing statement on the invoice.
- (2) The customs service authority may approve the status of the authorized exporter regarding any conditions that are needed according to the customs service authority's opinion.
- (3) The customs service authority shall provide the authorized exporter with the file number of the customs authorization, which must be contained in the statement on the invoice.
- (4) The customs service authority shall monitor the manner of using the authorization.
- (5) The customs service authority may withdraw the authorization if the authorized exporter fails to provide the guarantees referred to in paragraph 1 of this Article, fails to meet the requirements referred to in paragraph 2 of this Article, or in some other manner improperly utilize the authorization.

**Article 55**

- (1) The certificate of origin (the certificate of origin of goods Form A or statements on the invoice) shall be valid for 10 months from the date of issuing in the exporting beneficiary country, and such documents should at the time of import into Montenegro be submitted to the customs service authorities within the said time limit, in accordance with the current regulations, subject to Article 49 of this Decree.
- (2) The evidence of origin submitted to the customs service authorities following the expiry of the time limit for submitting the documents referred to in paragraph 1 of this Article, may be accepted in order to apply the preferential customs treatment

in accordance with Article 36 of this Decree, if it was not possible, due to exceptional circumstances, for them to be submitted by the specified latest time limit. In other cases of the late submission the customs service authority shall accept the evidence of origin if the products were submitted prior to the latest date. At the time of submitting evidence of origin referred to in paragraph 1 of this Article, the products involved in the evidence procedure shall be considered as products with the origin from the beneficiary country, stated in the relevant evidence procedure.

- (3) The customs service authority may demand the translation of the evidence of origin and may demand that the import declaration be accompanied by a statement with which the importers confirm that the products meet the necessary requirements specified in this Section.

**Article 56**  
**(import in parts)**

- (1) When, at the request by the importer and on the terms specified by the customs service authority, the products dismantled or unassembled as referred to in paragraph 1) of Rule 2 for the implementation of the Customs Tariff, classified under sections XVI and XVII or tariff headings 7308 or 9406 of the Customs Tariff, are imported in parts, then for such products at the time of first partial import to the customs authorities only one document of evidence of origin is to be submitted.
- (2) At the request of the importer, and bearing in mind the requirements specified by the customs service authority, it is possible to submit to the customs service authorities' one certificate of origin at the time of importing the first shipment, in the instance of the goods:
  - a) being imported within frequent and regular trade flows of significant commercial value;
  - b) being subject to the same sales contracts, contractual parties thereof have seats in the exporting beneficiary country or in Montenegro;;
  - c) being classified under the same tariff heading of the Customs Tariff;
  - d) being acquired at all times by the same exporter and intended at all times for the same importer, as well as that the import formalities are always carried out with the same customs service authority.
- (3) The procedure referred to in paragraph 2 of this Article is applied for such quantities and periods as established by the customs service authority. Such period may at no time be longer than three months.

**Article 57**  
**(exceptions with certificates of origin)**

- (1) The products being shipped as small packages mailed by natural persons to other natural persons, or being part of personal luggage of passengers, shall be deemed to be products with origin for which the concessions of preferential customs

treatment shall apply in accordance with Article 36 of this Decree, without it being necessary to submit the certificate of origin Form A or the statement on the invoice, provided that such products are not imported with the commercial purpose and that the statement was provided that they comply with the requirements of this section and there is no doubt in the accuracy of such a statement.

- (2) Occasional imports, in the instance only of products intended for the personal use of recipients or passengers or their families, shall not be deemed to be import with commercial purpose if it is evident from the nature and quantity of the products that they are not intended for sale. The total value of the products referred to in this paragraph shall not exceed EUR 500.00, in the instance of small packages, or EUR 1,000.00 when such products are part of the personal luggage of the passenger.

**Article 58**  
**(accompanying documents)**

Documents referred to in Article 49 paragraph 4 and Article 53 paragraph 3 of this Decree, being applied for the purpose of proving that the products covered by the certificate of origin Form A, the certificate of trade in goods EUR.1, or statement on the invoice may be considered to be products with the origin from Montenegro or the beneficiary country, and meet other requirements referred to in this section, may be the following:

- a) direct proof of actions undertaken by the exporter or supplier with the purpose of acquiring the relevant goods, as contained for instance in his business books or internal bookkeeping;
- b) documents showing the status of the origin of materials used, issued or drafted in Montenegro or the beneficiary country, where they are used in accordance with the domestic regulations;
- c) documents demonstrating the procedure of treatment or processing materials in Montenegro or the beneficiary country, issued or drafted in Montenegro or the beneficiary country, where they are applied in accordance with the domestic regulations;
- d) certificates of origin or statement on the invoices, demonstrating the status of the origin of materials used, issued or drafted in Montenegro or the beneficiary country, in compliance with this section.

**Article 59**  
**(keeping evidence of origin and accompanying documents)**

- (1) The exporter applying for the certificate of origin of goods shall keep the documents referred to in Article 49 paragraph 4 for at least three years.
- (2) The exporter providing the statement on the invoice shall keep the copy of this statement for at least three years, as well as documents referred to in Article 53 paragraph 3 of this Decree.

- (3) The customs service authority or the authorities of the importing country authorized to issue evidence of origin shall keep the applications referred to in Article 48 paragraph 4 of this Decree for the period of at least three years.
- (4) The customs service authority of the importing country shall for a period of at least three years keep the certificates of origin and the statements on the invoices submitted to them.

**Article 60**  
**(cummulations with the products of domestic origin)**

- (1) When implementing Article 36 paragraphs 2 and 3 of this Decree the customs service authority shall check whether the competent authorities in the beneficiary state, authorized for such activities, at the time of issuing the certificate of the origin of goods Form A for the products in whose manufacturing were used the materials with the origin from Montenegro, did take into account the data from the certificate of the trade in goods EUR.1 or, as applicable, statements on the invoice.
- (2) The customs service authority shall check whether the certificate of origin of goods issued in accordance with paragraph 1 of this Article contains in column 4 the note entered in one of the languages that the certificate was written in. The note in Serbian reads: "Kumulacija CG".

**Article 61**

- (1) If minor differences have been found to exist between the data in the certificate of origin Form A, certificate of trade in goods EUR.1, or in the statement on the invoice, and the data in the documents submitted to the customs service authority, provided in order to meet importing formalities for products, it does not *ipso facto* mean the invalidity of the said means of evidence, if it should be duly found that this document corresponds to the products submitted.
- (2) Obvious errors like e.g. printing errors in the certificate of origin of goods Form A, certificate of trade in goods EUR.1, or in the statement on the invoice, may not constitute the grounds for refusal, if such errors do not create doubt in the accuracy of the data in such a document.

**Subsection 3**

**Article 62**  
**(notifying competent authorities)**

- (1) The customs administration, in cooperation with the Ministry of Foreign Affairs of Montenegro, shall be responsible for the manner of supplying official information from the competent organizations or bodies of the beneficiary countries, as regards the names and addresses of competent organizations or bodies of the beneficiary countries authorized for issuing certificates of origin of goods Form A, along with the samples of seal marks used by these bodies when issuing



certificates, as well as names and addresses of the competent organizations or bodies of the beneficiary countries authorized for verifying the certificates of the origin of goods Form A and the statements on the invoice.

- (2) The Minister of Finances of Montenegro shall publish in the Official Gazette of the Republic of Montenegro the date to be the starting date for a certain beneficiary country to have met the requirements referred to in paragraph 1 of this Article.
- (3) The Ministry of Foreign Affairs of Montenegro officially notifies the beneficiary countries of the samples of the seals used by the customs service authorities for issuing the EUR.1, and of the address of the competent customs service authority authorized for verifying the certificates of origin.
- (4) The customs service authority and duly authorized organization or state authorities of the beneficiary countries shall mutually report any change in the data contained in the official notification referred to in paragraph 1 of this Article. When placing the goods into free circulation the importer or his authorized representative may ask the customs service authority for advice concerning the seals used by a specific beneficiary country.

#### ***Article 63***

The customs service authority shall cooperate with the competent state authorities of the beneficiary country at the time of cooperation and assistance with the procedures of retrospective verification of the certificates of origin of goods Form A, statements on the invoice, or certificates of trade in goods EUR.1, issued by or entering the beneficiary country or Montenegro, and also concerning the verification of the data and information in such documents.

#### ***Article 64***

For the purpose of implementing Article 36 of this Decree for granting preferential treatment, the customs service authority shall cooperate with the competent and duly authorized bodies of the beneficiary country when checking the manner of, or ensuring of, the meeting of the requirements concerning the rules of the origin of goods, filling in and issuing the evidence of origin Form A, requirements for using the statement on the invoice, and other requirements related to the forms of administrative cooperation.

#### ***Article 65***

- (1) The certificates of origin of goods Form A and the statements on the invoice shall be verified retrospectively by way of a random sample, or when the customs service authority justifiably questions the authenticity of the documents, the status of origin of relevant products or meeting other requirements referred to in this chapter.
- (2) In the instances referred to in paragraph 1 of this Article the customs service authority shall return the certificate of origin of goods Form A and the invoice, if it was submitted, to the competent and duly authorized bodies of the exporting beneficiary country, and, if applicable, state the grounds for examination. As the

addition to the request for verification, each received document or information indicating the data on the evidence of origin to be erroneous must be submitted. If these authorities reach a decision to temporarily cease granting preferential customs treatment in accordance with Article 36 of this Decree while waiting for the results of the verification, they shall offer to the importer the conditional release of goods regarding safety measures that they deem to be necessary.

- (3) If the request for retrospective verification has been drafted in accordance with paragraph 1 of this Article, such a verification should be carried out and the findings communicated to the customs service authorities of Montenegro within the time period of six months at the latest. The result must be such that it is possible to establish whether the said certificate of origin relates to the products actually exported, or whether these products may be considered to be products with origin from the beneficiary country or from Montenegro.
- (4) When the certificates of origin of goods Form A are issued based on Article 60 of this Decree, the reply must contain copies of the certificate of trade in goods EUR.1, or when applicable, the statement on the invoice.
- (5) If, as referred to in paragraph 3 of this Article, no reply is received within the time period of six months, or if the reply fails to contain enough information for establishing the accuracy of the necessary documents or the true origin of the product, the authority having demanded the verification will submit the second notification to the competent and duly authorized bodies. If following this second notification the authorities demanding the verification should not receive the results of the verification within four months, or if these results fail to provide the credibility of the relevant documents or the true origin of the product, the competent authority may refuse to grant the right to preferential treatment.
- (6) If the procedure of retrospective verification or any other available data should indicate that the provisions of this chapter have been breached, the beneficiary country shall, at the personal initiative or at the request by the customs service authorities of Montenegro, carry out the necessary examinations, or ensure that examinations are carried out in order to establish and prevent such offenses. The representatives of Montenegro may for such purposes cooperate in the examination procedure.
- (7) The customs service authority in cooperation with the competent and duly authorized bodies of the beneficiary exporting country shall check whether these authorities for the purpose of carrying out retrospective verifications of certificates of origin Form A keep the copies of evidence as well as all the exporting documents related to them for at least three years.

### ***Article 66***

- (1) If the customs concessions for importing goods, referred to in the regulation specifying the measures of preferential customs treatment for a country or territory, are granted or have been re-instated, such concessions adopted unilaterally by Montenegro for the benefit of certain countries, groups of countries or territories, then such preferential customs treatment may be used for the same products provided they were exported from the beneficiary country or territory on the date or following the date referred to in Article 62 paragraph 2 of this Decree.

- (2) Paragraph 1 of this Article shall apply to the individual beneficiary country starting from the date specified in Article 62 of this Decree.

### **Chapter 3**

#### ***Article 67 (prevention of abuse)***

If the customs service authority should find that the processing or treatment specified in a particular country, as referred to in Article 25 paragraph 1 of the Customs Law, has been carried out with the intention to evade the regulations related to goods, originating from this country, under no conditions it shall be considered that the goods have acquired, due to such treatment or processing, the origin of the country in which the treatment or processing has been carried out.

## **PART 4**

### **CUSTOMS VALUATION OF GOODS**

#### **Chapter 1**

##### **Article 68**

- (1) Value of goods for customs purposes (hereinafter: customs value) is the transaction value in accordance with Article 30 of the Customs Law. It is deemed to be, when the goods for export are sold to be imported in the customs territory, the agreed, actually paid, or payable price, which meets the conditions referred to in Article 30 para 1 of the Customs Law and which is to be determined in accordance with Article 38 of the Customs Law.
- (2) If it impossible to determine customs value in accordance with Article 30 of the Customs Law, customs value shall be determined in accordance with the steps provided in Article 31 to 37 of the Customs Law.
- (3) For the purposes of determining, in accordance with Article 30 of the Customs Law, the customs value of the goods whose price was agreed at the time that is the proper time for valuation and such price has not been paid, the price normally taken into account shall be the price which should be paid in order to meet the obligation.

##### **Article 69 (Definitions)**

- (1) For the purpose of this chapter, the terms shall mean as follows:
  1. "Derived goods" – the goods that are produced in agriculture, the goods that are produced or derived through excavation;
  2. "Identical goods" – the goods which have been derived in the same country and which are in all aspects identical, including physical properties, quality

and product reputation. Any minor discrepancies in appearance of the goods shall have no impact on deeming the goods identical, if the goods are so deemed in accordance with this definition of the identical goods;

3. "Similar goods" – the goods derived in the same country and having, although they are not identical in all aspects, equal properties and equal material composition, which provide for serving the same function and serving as a substitute for the requirements of trade. When determining whether some goods are identical or not, the quality and reputation of the goods, as well as the existence of the trademark should be, *inter alia*, taken into account;
4. "Goods of a kind or group of products" – the goods belonging to the same group or cluster of goods, produced by an industry or an industrial sector, including the identical or similar goods;
5. "Identical good" or "Similar goods" – not including the goods containing the technologies, development services, plans, drawings and sketches, for which the adjustment in accordance with Article 38 para 1 item 2 of the Custom Law has not been made because the services have been provided in Montenegro.

#### **Article 70**

##### **(Division of value in the event of partial shipments or in partial loss or damage of a shipment)**

- (1) When a part of a larger shipment is, within a sole transaction with the purchased goods, declared for placement in free circulation, it is, in accordance with Article 30 para 1 of the Customs Law, actually paid or payable price, such part of the total price which corresponds to the difference between the quantity of declared goods and total quantity of purchased goods.
- (2) Proportionate division of the actually paid or payable price should be made before placement in free circulation, when the goods, which is the subject of evaluation, is partially lost or damaged.

#### **Article 71**

##### **(Taking into account duties payable in foreign countries)**

When actually paid or payable price for the goods whose value is being determined includes the amount of national duties of the country of origin or country of export, such amount shall not be included in the customs value of the goods, if the customs authority is supplied evidence that the goods were or shall be exempted from such duties in favor of the buyer.

#### **Article 72**

- (1) In application of Article 30 of the Customs Law it shall be deemed that the goods are sold for export to be imported in customs territory, if such goods are declared for placement in free circulation in Montenegro. In the event the goods have been repeatedly sold before determination of the customs value, only the last sale before entry of the goods to the customs territory may be taken into account, namely the last sale in the customs territory that was made before the goods that were subject to valuation have been placed in free circulation.

- (2) For the purposes of applying para 1 of this Article, Articles 64, 96 to 99 of this Decree shall be applied.
- (3) If, between the sale and placement in free circulation, the goods are used abroad, it shall not be required to use the transaction value as the customs value.
- (4) The buyer need not meet any conditions other than to be a party to the purchase/sale contract.

### **Article 73**

When checking whether there are any restrictions as referred to in Article 30 para 1 item 1 of the Customs Law, the sale/purchase deal in question should be considered.

### **Article 74**

- (1) If, when determining customs value in accordance with Article 30 para 2 item 2 of the Customs Law, the customs authority finds that the sale/purchase deal or the price of imported goods is subject to the conditions or liabilities whose value is impossible to determine for the imported goods, such value shall be deemed to be indirect payment of the buyer to the seller and thus, a part of the actually paid or payable price.
- (2) Para 1 of this Article shall not apply if the conditions and liabilities are with regard to:
  - a. Business activities carried out by the buyer for his own account, including the business activities related to further sale of the imported goods, in accordance with Article 75 of this Decree, with the exception of those for which the adjustment is made in accordance with Article 38, or Article 21, of the Customs Law even though they incur gain for the seller or were subject to the agreement between the buyer and the seller. When determining the customs value, the costs of such business activities shall not be included in the actually paid or payable price.
  - b. Value of the services which in accordance with Article 38 of the Customs Law needs to be added to the actually paid or payable price.
- (3) The conditions whose value is impossible to determine and the liabilities arising from the sale/purchase deal shall be primarily deemed the event when:
  - a. The seller determines the price for the imported goods under the condition that the buyer buys certain quantity of other goods;
  - b. The price of the imported goods is subject to the price or prices at which the buyer sells other goods to the seller of the imported goods;
  - c. The price of the imported goods is determined based on a mode of payment unrelated to the imported goods.

### **Article 75**

#### **(Business activities carried out by the buyer for his account)**

- (1) Business activities referred to in Article 74 para 2 item a) of this Decree are all business activities related to advertising and promotion of the sale of goods, and all business activities related to the security and guarantee for these goods.
- (2) Business activities referred to in para 1 of this Article which the buyer carries out on his own shall be deemed all business activities which were

carried out for his account, even though they are the obligation of the buyer which was agreed with the seller of the imported goods.

#### **Article 76**

The agreed, actually paid, or payable price may be also taken into account when determining the customs value in the events referred to in Article 30 para 1 item 3 of the Customs Law, if it is possible to adjust the price in accordance with Article 38 para 1 item 4 of the Customs Law.

#### **Article 77**

##### **(Interrelatedness between the buyer and the seller)**

- (1) For the purposes of Article 30 para 2 item 5 of the Customs Law, supervision of other person shall be deemed such relationship between the person in which one person has such control over the business of other person that the latter may not freely determine prices or make calculations.
- (2) License sale agreements per se shall not constitute the mutual interrelatedness.

#### **Article 78**

##### **(Use of the transaction value of the identical or similar goods)**

- (1) For determination of customs value in accordance with Articles 32 and 33 of the Customs Law, the transaction value of the identical or similar goods from the sale/purchase contract shall be used, at the equal commercial level and for the quantity of goods which is approximately equivalent to the quantity of goods for which the customs value is being determined. In the absence of such sale/purchase deal, transaction value of the identical or similar goods that were sold at the other commercial level and/or in other quantity shall be taken into account, in following sequence:
  - a. Same commercial level but in different quantity;
  - b. Different commercial level but in approximately same quantity;
  - c. Different commercial level and different quantity.
- (2) The transaction value that is determined in accordance with para 1 of this Article should be adjusted for the difference arising from the commercial levels of sale/purchase and/or quantity, if it is possible to make accurate and precise corrections in the presented documents, regardless whether the value is increased or increased by such corrections.

#### **Article 79**

- (1) In application of Articles 32 and 33 of the Customs Law and Article 78 of this Decree, the transaction value of the goods that is prepared by a third party shall be taken into account only if the transaction values for the identical or similar goods that was prepared by the same person for the goods for which the customs value is being determined are not available to the customs authority.
- (2) Transaction value of the imported identical or similar goods shall be deemed to be the customs value which, in accordance with Article 30 of the Customs Law, was already accepted and which includes the

corrections in accordance with Article 38 para 1 item 1 indents 4, 5, and 6 of the Customs Law, and para 2 Article 78 of this Decree.

**Article 80**  
(Deductive method for customs valuation)

- (1) In application of Article 35 of the Customs Law, "price per unit, at which the imported goods are sold in the largest total quantity" shall be deemed to be such price at which the largest number of units of such goods is sold in the first sale after being imported in the customs territory, between the unrelated persons.
- (2) For determination of the price per unit in accordance with Article 35 of the Customs Law, the events of sale in Montenegro to persons who, directly or indirectly, for free or at reduced prices, supply the goods or provide the services referred to in Article 38 para 1 item 2 of the Customs Law relating to production or sale of the imported goods, may not be used.
- (3) The time of the first sale after importation is, in accordance with paragraph 2 of this Article, the day of carrying out the sale of imported goods or imported identical or similar goods in such quantity that it is possible to determine the price per unit.

**Article 81**  
(Method of the calculated value)

- (1) Customs value shall, in accordance with Article 36 of the Customs Law (calculated value) normally be determined only based on the data that are available to a person with domicile or permanent residence in Montenegro.
- (2) If, in addition to the data presented by the producer or the declarant in his name, other data is used for determination of customs value, the customs authority shall, taking into account Article 16 of the Customs Law, notify the declarant, at his request, about the data that was used and the source of data.
- (3) The value of the material and costs in accordance with Article 36 of the Customs Law shall also be deemed to be the costs referred to in Article 38 paragraph 1 item 1 of the Customs Law.
- (4) The value of costs and expenses referred to in Article 36 of the Customs Law shall also be deemed to be the costs and expenses for the goods and services referred to in Article 38 paragraph 1 item 2 of the Customs Law which the buyer supplied or provided directly or indirectly in connection with the production of the imported goods. The value of services referred to in Article 38 paragraph 1 item 2 indent 4 of the Customs Law that are provided in the customs territory shall be considered only if they are debited to the producer.
- (5) In accordance with Article 36 paragraph 1 item 2 of the Customs Law, the value of costs shall be deemed to be direct and indirect costs for production and sale of goods for export, other than taken into account as referred to in Article 36 paragraph 1 item 1 of the Customs Law.

**Article 82**  
(Customs valuation in accordance with Article 37 of the Customs Law)

- (1) The customs values that are determined in accordance with Article 37 of the Customs Law must rely, to the greatest extent possible, on previously determined customs values.
- (2) Evaluation methods that are applied in accordance with Article 37 of the Customs Law must correspond to the methods referred to in Articles 30, 31, 32, 33, 35, and 36 of the Customs Law. The mentioned methods may be applied in the events corresponding to the conditions referred to in Article 37 of the Customs Law.

**Article 83  
(Commissions)**

- (1) In accordance with Article 38 paragraph 1 item 1 indent 1 of the Customs Law, the customs value shall include all payments made by the buyer to the intermediaries in connection with the sale/purchase of the goods, if such payments were not included in the paid or payable price.
- (2) Commissions for purchase which are paid by the buyer for the intermediation in purchase of the goods shall not be included in the customs value if they are presented separately. Commission for purchase shall constitute the payments by the buyer to his agent for agency services abroad in purchase of the goods whose value is being determined.

**Article 84  
(Packaging)**

If the packaging is intended to be used in ensuing events of importation as well, the proportionately allocated costs shall be included in the customs value in proportion to the at the request of the declarant.

**Article 85  
(Place of entry to the customs territory)**

The place of entry in the customs territory shall be deemed:

- a) customs border crossing – in road and railroad transportation;
- b) port of unloading – in marine transportation;
- c) first destination airport – in transportation of the goods by air;
- d) place at which the goods cross the land border of the customs territory – for the goods which is being transported in other manner.

**Article 86  
(Costs of Transport and Insurance)**

- (1) If the agreed delivery is “fco destination in the customs territory” and if the amount of the transportation costs from the point of entry into the customs territory to the point of delivery cannot be learned from the contract and other documents submitted, the customs value shall include total transportation costs.



- (2) If the goods were purchased at a uniform price "fco destination in the customs territory", which is adequate to the price at the point of entry, the costs related to the transportation within the customs territory shall not be subtracted from this price. The deduction shall be taken into account only in the case that it has been proved to the customs service authority that the price "fco point of entry in the customs territory" would be lower than the uniform price "fco destination in the customs territory".
- (3) If the transportation is free of charge or performed by the buyer's own vehicles, the customs value shall include all the costs from the point of entry into the customs territory, defined on the basis of usually applicable rate for equal manner of transportation. The declarant shall submit evidence of the costs thus calculated.
- (4) The customs value shall not include the insurance costs for the imported goods.
- (5) The customs value shall include full postal fees for the goods transported in postal traffic to the destination. The customs value shall not include possible additional postal fees, calculated in the customs territory.
- (6) The customs value of the goods whose import is not commercial shall not include the fees referred to in paragraph 5 of this Article.
- (7) Paragraphs 5 and 6 of this Article do not refer to the express postal services.

**Article 87**  
**(Goods Provided by the Buyer to the Seller)**

- (1) Pursuant to Article 38, paragraph 1, item 2, indents 1, 2, and 3 of the Customs Law, the buyer may provide the seller with the goods indirectly or directly. These goods, except for the goods referred to in Article 38, paragraph 1, item 2, indent 3 of the Customs Law, must be used in the manufacturing of the imported goods and contained or used up in them.
- (2) The goods referred to in Article 38, paragraph 1, item 2, indent 1 of the Customs Law, provided by the buyer, may be purchased in any foreign country, including the country of the seller.
- (3) The goods referred to in Article 38, paragraph 1, item 2, indent 1 of the Customs Law shall be deemed to be the goods under Article 38, paragraph 1, item 2, indent 3 of the Customs Law, provided that such goods have not been bought abroad; this applies to disposable material as well.

**Article 88**  
**(Costs for Tools, Molds, Matrices, etc)**

The proportionate part of the value of tools, molds, matrices and similar products, used in the production of the goods imported, which constitutes part of the customs value pursuant to Article 38, paragraph 1, item 2, indent 3 of the Customs Law, shall

be the amount of the depreciated value of such products used in the production of the imported goods.

**Article 89  
(Licensing Provisions)**

- (1) The fees and costs referred to in Article 38, paragraph 1, item 3 of the Customs Law (hereinafter: licenses) shall be calculated prior to all payments for the right of use concerning the following:
  - a) the production of the goods imported (primarily patents, samples, models and technological know-how);
  - b) reselling the imported goods for exportation (primarily trademarks and service marks and protected models);
  - c) the use and selling of the imported goods (primarily copyright and technological procedures inherently included in the imported goods).
  
- (2) If the customs value of the imported goods is determined pursuant to Article 30 of the Customs Law, the licenses and actually paid prices or payable prices for the imported goods shall be included only if such payment:
  - a) refers to the goods whose value is being determined, and
  - b) represents the condition for selling the imported goods.
  
- (3) If the imported goods are only a part of, or accessories to, the goods produced in the customs territory, the license may be added to the actually paid price to be paid for the imported goods only if the license refers to the imported goods.
  
- (4) If the goods are imported in a disassembled state or if the goods undergo insignificant treatment prior to selling, e.g. disassembling and repackaging, that shall not exclude the fact that the license refers to the imported goods.
  
- (5) If the licenses partly refer to the imported goods, and partly to other parts and additional equipment to be added to the goods following importation, the licenses shall be allotted solely on the basis of objective facts and facts that can be determined.
  
- (6) The license for the right to use a trademark shall be added to the actually paid price or payable price for the imported goods only when:
  - a) the license refers to the goods resold after importation in an unchanged condition or only insignificantly treated or processed,
  - b) the goods are sold with the trademark, placed prior to the importation or following it, or the buyer has no possibility to purchase these goods from other suppliers, not related to the seller.

- (7) If the buyer makes payment for the license to a third party, the requirements referred to in paragraph 2 of this Article shall be deemed as met only if the seller or the person related to him requires from the buyer to make the payment to he third person.
- (8) If the method of calculating the license depends on the price of the imported goods, it shall be deemed, until proved otherwise, that the payment or the license refers to the goods whose value is being determined.
- (9) If the license amount is calculated regardless of the price of imported goods, the payment for the license may also refer to the goods whose value is being determined.
- (10) The country where the licensee has its principal place of business shall not be of importance in case of application of Article 38, paragraph 1, item 3 of the Customs Law.

**Article 90**  
**(Valuation of Services Provided Abroad)**

Separately paid services referred to in Article 38, paragraph 1, item 2, indent 4 of the Customs Law shall include services that the buyer received free of charge or at a reduced price.

**Article 91**  
**(Taking into Account Added and Deductible Items in Valuation)**

- (1) When determining the customs value, no other items may be added to the actually paid price or payable price, except for the items referred to in Article 38, paragraph 1 of the Customs Law.
- (2) Each item added to the actually paid price or payable price pursuant to paragraph 1 of this Article must rely solely on the objective facts concerning the quantity verifiable.
- (3) As referred to in Article 39, paragraph 1, item 4 of the Customs Law, the multiplication (reproduction) shall be deemed primarily as graphic and three-dimensional multiplication, construction or performance of an architectural or other structure or instrument, taking photographs, sound and video recording and reproducing, as well as storing in electronic form.

**Article 92**  
**(Particulars Concerning Taking into Account Added and Deductible Items in Valuation)**

- (1) Without prejudice to Article 81, paragraphs 2 and 3 of this Decree, the customs service authority may, at the request of the participant(s), approve that the amounts of specific items to be added to the actually paid price or payable price, even if they were not quantifiable at the time the debt was

incurred (Article 81, paragraph 2 of this Decree), or the amounts of specific items not included in the customs value, in cases when at the time the customs debt was incurred they were not shown separately (Article 81, paragraph 3 of this Decree), be determined in accordance with special criteria.

- (2) In cases referred to in paragraph 1 of this Article the declared customs value shall not be deemed to be temporary value pursuant to Article 134 of this Decree.
- (3) The approval referred to in paragraph 1 of this Article may be given:
  - a) if the application of the procedure pursuant to Article 134 of this Decree should entail disproportionately high costs in view of the circumstances;
  - b) if the method – replacement of use is valuation pursuant to Articles 32 through 37 of the Customs Law, in view of the circumstances, inappropriate;
  - c) in case there are sound reasons that the outstanding import duties in a certain period will not be lower due to the approval referred to in paragraph 1 of this Article than the duties, should the approval not be granted;
  - d) if the granting of the approval does not influence the competitiveness of business operators.

### **Article 93**

#### **(Taking into Account Financial Costs in Alternative Valuation Methods)**

Financial costs shall be considered, pursuant to Article 39, paragraph 1, item 3 of the Customs Law, when applying alternative valuation methods referred to in Articles 32, 33, 35, 36, 37 of the Customs Law.

### **Article 94**

#### **(Acceptability of Transaction Value)**

- (1) The customs service authority shall not accept the determination of the customs value on the basis of the transaction value, pursuant to paragraph 2 of this Article, in case there is doubt that the declared transaction value is adequate to the price paid or payable, referred to in Article 30 of the Customs Law.
- (2) Under conditions referred to in paragraph 1 of this Article, the customs service authority may, pursuant to Article 96, paragraph 3 of this Decree, request that the additional data be submitted. If the doubt is still present based on the data submitted at a later date, the customs service authority shall, prior to reaching the final decision, inform in writing the declarant at his request of the reasons for the doubt, and provide him with the adequate

time period for the explanation. The customs service authority decides on the final decision.

**Chapter 2**  
**Specific Valuation Rules**

**Section 1**  
**Programming Equipment**

**Article 95**

- (1) Notwithstanding the provisions of Articles 30-43 of the Customs Law, when determining the customs value at import of data carriers containing data or programming instruction intended for use in automatic data processors, only the value of the data carrier shall be taken into account, if the value of the data or programming instruction is shown separately from the value of the data carrier.
- (2) Under this Article the following shall not be included:
  - b) "data carriers": integrated circuits, semi-conductors and similar devices or goods containing such integrated circuits or devices;
  - c) "data and programming instructions": sound, cinematographic or video recordings.

**Chapter 3**  
**Declaring Data on Customs Valuation and Documents to Be Presented**

**Article 96**

- (1) If the customs value is determined pursuant to Article 33 through 44 of the Customs Law, the data concerning the customs value of the imported goods should be submitted correctly along with the customs declaration.
- (2) When applying paragraph 1 of this Article, regulations adopted based on Article 69, paragraph 2 of the Customs Law, shall be duly applied.
- (3) The declarant shall provide the following:
  - b) the accuracy and completeness of the data stated in the customs value declaration
  - c) authenticity of the documents submitted as evidence for the data, and
  - d) all additional data and submission of all the documents necessary for determination of the customs value of the goods.

### **Article 97**

In case the automatic data processing system is used, or if simplification concerning customs declarations has been approved for certain goods, the Customs Administration may approve deviations from the form of the presentation of the data necessary for determining the customs value.

### **Article 98**

- (1) The declarant shall submit to the customs service authority two copies of the invoice for the goods imported, based on which the customs value has been declared.
- (2) One copy shall be retained by the customs service authority, and the other copy shall be certified by the customs mark and the number of the customs declaration shall be entered on it by the customs service authority, who will then submit it to the declarant.