

“Official Gazette of the Republic of Montenegro”, No. 15/03, 81/06, 38/08

By virtue of Article 295 of the Customs Law (Official Gazette of the Republic of Montenegro" No. 7/02, 38/02 and 72/02), and Article 12 of the Decree on the Government of the Republic of Montenegro ("Official Gazette of the Republic of Montenegro" No. 15/94 and 4/97), the Government of the Republic of Montenegro, at its session held on the 6<sup>th</sup> of March 2003, issued the following

**DECREE**  
**ON IMPLEMENTATION OF THE CUSTOMS LAW**  
**PART I**  
**CHAPTER 1**

**Article 1**  
**(definitions of terms)**

For the purposes of implementation of this Decree, the following terms shall have the following meanings:

1. **"ATA Carnet"** - international customs document for temporary importation, determined in the ATA, namely in the Istanbul Convention;
2. **"data required for identification of goods"** – are the data used for identification of goods in the commercial context, they enable to customs authorities to classify the goods in respect of Customs Tariff Schedule;
3. **"goods of non-commercial nature"** - are the goods for which particular customs procedure is required from time to time and whose Type and quantity suggest that they are intended for personal or family use by the consignee, namely the person who brings it, namely that clearly indicates that they constitute gifts;
4. **"economic policy measures"** – are the non-tariff measures which are a part of national economic policy and regulate the importation, namely exportation of goods, such as control and protection measures, quantitative restrictions, importation and exportation restrictions;
5. **"agricultural policy measures "** – are the non-tariff i tariff measures which a part of national agricultural policy and regulate the importation, namely exportation of agricultural products and foodstuffs;
6. **"harmonized system"** - is harmonized system of names and code designations of goods;
7. **"Istanbul Convention"** - the Convention on Temporary Importation that was concluded in Istanbul, on 26 June 1990;
8. **"approval"** – any decision of the relevant customs authority taken based on the Law on General Administrative Procedure and other regulations.

**Article 2**  
**(cancellation of the provision on acceptance of security)**

Decision of the customs authority with regard to the security on customs debt, with which the customs authority accepted the obligation of a guarantor that they shall pay the

requested amount of the customs debt upon first demand, shall be cancelled if the obligation is not performed.

### **Article 3 (definition of electronic data exchange)**

(1) The Customs Administration of Montenegro (hereinafter referred to as: the Customs Administration) may approve that electronic data exchange system is used for the formalities determined in customs regulations.

(2) For the purposes of implementation of this Article, the following terms shall have the following meanings:

1. "electronic data exchange system " means:

- a) exchange of standardized messages with customs authorities;
- b) entry of the information required for implementation of requested formalities into the customs IT system;

2. "standardized message" – predetermined structure for electronic data exchange.

(3) Approval referred to in paragraph 1 of this Article shall be issued subject to compliance with the following requirements:

- 1. compliance with principles of customs regulations,
- 2. guaranteed measures for control of data source and data security against the danger of their unauthorized access, loss, alteration, or destruction.

### **Article 4 (electronic signature)**

Where the customs authority approves that formalities are handled via the electronic data exchange system, the customs authority may also define the rules for replacement of signature by hand with the electronic signature.

## **CHAPTER 2 BINDING INFORMATION Section 1 Definition**

### **Article 5**

For the purposes of implementation of this Chapter, the following terms shall have the following meanings:

- 1. "binding information" - information about classification of goods in respect of the Customs tariff nomenclature (hereinafter referred to as: Customs Tariff Schedule), or

information about origin of goods, which, subject to compliance with the requirements from Articles 6 and 8 hereof, is binding for the customs authority;

2. "applicant" :

a) in classification of goods into the Customs Tariff Schedule: a person who submitted to the Customs Administration the application to be issued a binding information about classification of goods into the Customs Tariff Schedule;

b) in origin of goods: a person who submitted to the Customs Administration a request to be issued a binding information on origin of goods and who has a justifiable reason to submit such request;

3. "holder of information" - a person who has been issued a binding information.

## **Section 2**

### **Procedure to obtain a binding information**

#### **Article 6**

(1) Request for issuance of binding information shall be submitted to the Customs Administration.

(2) Individual requests for issuance of binding information on classification of goods into the Customs Tariff Schedule may refer solely to one Type of goods. Individual request for issuance of binding information about origin of goods may refer solely to one Type of goods and a single body of origin-changing circumstances.

(3) Request for issuance of binding information about classification goods into the Customs Tariff Schedule shall include:

1. Name and registered office, namely place of the information holder's permanent residence and his fiscal (personal identification) number;
2. Name, namely company and registered office, namely place of the applicant's permanent residence and, for a person other than the information holder;
3. Proposed ten-digit tariff mark of the Customs tariff, into which the goods should be classified, with due explanation of reasons for such classification;
4. Accurate description of goods, to enable its identification and classification into the Customs Tariff Schedule;
5. Where the classification of goods into the Customs Tariff Schedule is subject to the composition of goods and the examination methods used to determine the composition of goods, the composition of goods and examination method should be entered as well;
6. Samples, photographs, drafts, catalogues or other documents, which are available and may be valuable for the Customs Administration in proper classification of goods into the Customs Tariff Schedule;
7. Consent of the applicant to provide translation of any documents appended to the request, if required and upon the request of the Customs Administration;
8. Any data to be treated as confidential data;
9. Applicant's Statement about whether he already has any information about classification of identical or similar goods into the Customs Tariff Schedule, namely

whether he has already requested the same information and whether he has knowledge about whether binding information about classification of goods into the Customs Tariff Schedule, for identical or similar goods, was already issued in Montenegro, or whether a respective request has been submitted;

10. Consent for the submitted information to be kept in the Customs Administration archive.

(4) Request for issuance of binding information about origin of goods shall include:

1. Name and registered office, namely place of the information holder's permanent residence, and his fiscal (personal identification) number;
2. Name, namely company and registered office, namely place of the applicant's permanent residence, for a person other than information holder;
3. Appropriate legal grounds;
4. Accurate description of goods and four-digit tariff number of the Customs Tariff Schedule in which it is classified;
5. Composition of goods and control methods that were used for determination of the composition of goods and, if necessary, ex factory price of goods;
6. Circumstances that enable determination of origin, data about used materials and their origin, tariff number, unit value and description of facts (rules on the change of tariff number, added value, description of operations and procedures or a specific rule) based on which it is possible to determine whether the requirements for origin obtaining have been met; primarily to be included is the rule for obtaining the origin which was used and the determined origin of goods;
7. Samples, photographs, drafts, catalogues and other available documents on composition of goods and incorporated materials, which may be relevant for describing the procedure, namely treatment of material;
8. Consent of the applicant to provide translation of any document, appended to the request, upon the request of the Customs Administration;
9. All data which are to be treated as the confidential data;
10. Applicant's statement about whether he has the information about origin of identical similar goods, namely whether he has requested it, and whether binding information about origin of goods for identical or similar goods, namely materials such as those referred to in items 4 and 6 of this paragraph in the Republic, has been already issued or whether respective request has been submitted;
11. Consent for the submitted information to be kept in the Customs Administration archive.

(5) If, upon receipt of the request, the Customs Administration finds that the request does not include all the data required for proper decision, they shall ask the applicant to supply further data. The timelines referred to in Article 8 hereof shall commence from the moment when the Customs Administration has available all the information required for decision. The Customs Administration shall notify the applicant that they have received an orderly request and the commencement date of the timeline referred to in Article 8 hereof.

## **Article 7**

- (1) Where for determination of factual situation for the purposes of issuance of binding information, chemical, physical, technological examination or any other examination of goods is required, and it is not possible to conduct in the customs laboratory, the Customs Administration shall submit the samples of goods to a suitable professional organization so that the required examination could be conducted.
- (2) The Customs Administration shall submit the samples of goods to the professional organization pursuant to paragraph 1 of this Article, upon previously obtaining written consent of the applicant that he shall bear the costs of examination.
- (3) Where the applicant fails to submit to the Customs Administration written consent referred to in paragraph 2 of this Article within eight days after receiving the notification from the Customs Administration, the procedure for issuance of binding information shall be ceased.

### **Article 8**

- (1) The Customs Administration shall issue binding information in emergency procedure.
- (2) Where it was not possible to issue a binding information about classification of goods into the Customs Tariff Schedule within three months after the receipt date of orderly request, the Customs Administration shall notify the applicant about the reasons for delay and set a timeline within which the information shall be issued.
- (3) The Customs Administration shall issue a binding information about origin of goods within 60 days after the receipt date of orderly application.
- (4) Binding information shall be issued on the form herewith supplied in Addendum 1, namely Addendum 2 hereof.
- (5) Binding information shall include the notification about the data deemed to be the confidential data.

### **Article 9**

- (1) Information holder who does not agree with the issued binding information may, within 15 days after the binding information handover date, submit to the Customs Administration its objection in writing:
  1. for binding information about classification of goods into the Customs Tariff Schedule – in respect of the classification of the goods into the Customs Tariff Schedule, namely the underlying reasons for such classification.
  2. for binding information about origin of goods – in respect of the determination of origin of goods, namely the underlying reasons for such determination of origin and classification of goods into the Customs Tariff Schedule.

- (2) The Customs Administration shall decide on the objection based on the documentation on the basis of which the binding information was issued, and they may also request to be submitted further documents and data.

### **Section 3**

#### **Article 10 (use of binding information)**

- (1) Binding information may be used only by the holder of binding information, save in the events referred to in Articles 6 and 72 of the Customs Law.
- (2) The Customs Administration may request from a holder of the binding information about classification of goods into the Customs Tariff Schedule to notify the customs authority that he is in possession of the binding information about classification of goods in the Customs Tariff Schedule for the goods which the subject of the procedure with the Customs Administration.
- (3) The Customs Administration, may request from a holder of binding information who complies with the formalities to notify them if they are in possession of the binding information about origin of goods with regard to which such formalities are being conducted.
- (4) Holder of binding information may refer to the issued binding information if:
1. in the procedure with the binding information about classification of goods in the Customs Tariff Schedule: demonstrates to the customs authority that respective goods fully corresponds to such goods which is indicated in the proposed binding information;
  2. in the procedure with the binding information about origin of goods: demonstrates to the customs authority that respective goods and the circumstances on the basis of which their origin is being determined, in all their elements correspond to the goods and circumstances which are described in the information.
- (5) Binding information shall cease to apply within 3 years after the issuance date.

Validity of binding information may cease before the above timeline in the events provided in Article 12 paragraphs 6-9 of the Customs Law and corresponding provisions hereof.

### **Section 4**

#### **Provisions which shall apply in the event the binding information cease to apply**

#### **Article 11**

- (1) If the regulation referred to in Article 12 paragraph 6 of the Customs Law is in place, the Customs Administration shall take into account the regulations which provide that binding information shall be issued pursuant to the regulations applicable until such date.

(2) In the event of the binding information about classification of goods in the Customs Tariff Schedule, za for the purposes referred to in paragraph 1 of this Article, the applicable moment shall be considered to be the following:

1. in the event of the changes of regulation referred to in Article 12 paragraph 6 item 1 of the Customs Law, pertaining to the change of customs nomenclature, namely which determine or affect the classification of goods in the Customs Tariff Schedule - the day when the change commenced to apply;
2. in the event of the changes to explanatory remarks about the Customs Tariff Schedule referred to in Article 12 paragraph 6 item 2 of the Customs Law – the day following their issuance date.

(3) In the event of the binding information about origin of goods, for the purposes referred to in paragraph 1 of this Article, the applicable moment shall be the following:

1. in the event of the change to the regulation referred to in Article 12 paragraph 8 item 1 of the Customs Law pertaining to the definition of the origin of goods, and in the event of changes to the rules from Article 12 paragraph 8 item 2 of the Customs Law - the day when they commence to apply;
2. in the event of requirements referred to in Article 12 paragraph 8 item 2 of the Customs Law, pertaining to the changes of explanatory remarks according to the WTO Agreement on rules of origin of goods and the rules of origin of goods adopted in the framework of international covenants – the day following their coming into force date.

## **Article 12**

If a holder of invalid binding information referred to in Article 12 paragraph 10 of the Customs Law, wishes to carry out the possibility to use such information for additional three months after their cancellation, he shall be under obligation to submit to the Customs Administration all necessary documents which demonstrate that, before cancellation of information, he has executed binding contracts on purchase/sales of respective goods.

## **PART 3**

### **ORIGIN OF GOODS**

#### **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.

## **Section 1**

### **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 into 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 into 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 control 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 prescribed 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 the 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.

## **Preferential Origin of Goods**

### **Section 1**

#### **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 consignee, either at the same time or comprised in a single shipping document with which the exporter is delivering these products to the consignee, or, in absence of such document, the products comprised in a single invoice.

### **Article 31** **(Criteria for Institution 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 prescribed 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.



(4) Notwithstanding provision of paragraph 1 of this Article, preferential treatment of the re-exportation of goods from the customs territory of Montenegro and goods being returned to the customs territory, shall be demonstrated by presenting the evidence of the origin of goods issued by the customs authorities in re-exportation procedure.

### **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 without delay 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 authorized 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, consignment note, 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 control 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 flightters.
- (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 consignees 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**  
**(cumulations 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 control 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 control 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 control, 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 control, 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 control has been drafted in accordance with paragraph 1 of this Article, such a control 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 control will submit the second notification to the competent and duly authorized bodies. If following this second notification the authorities demanding the control should not receive the results of the control 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 control 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 controls 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 routinely 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 into 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 into 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 in declared for placement into 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 into 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 into 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 1 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) routinely 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 shall also be deemed to 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 the 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.

## **PART 5**

### **INTRODUCTION OF GOODS TO CUSTOMS TERRITORY**

#### **Section 1**

##### **Presentation of goods to the customs authority**

#### **Article 99**

##### **(place and time of presentation, and exception)**

- (1) Pursuant to Article 50 of the Customs Law, goods shall be presented within business hours in the business premises of the customs authority or in other place approved by the customs authority.
- (2) Business premises of the customs authority shall be defined by the customs authority and the relevant decision shall be published at the bulletin panel of the customs authority.
- (3) Business hours of the customs authority, for the purposes of paragraph 1 of this Article, shall be defined by director of the Customs Administration.
- (4) By way of derogation from paragraphs 1, 2 and 3 of this Article, the goods may be presented to the customs authority outside business hours and outside business premises, subject to the approval of the customs authority. Any costs pertaining to such presentation, as defined by the director of the Customs Administration, shall be borne by the declarant.

#### **Article 100**

##### **(pre-inspection)**

- (1) Previous inspection of goods referred to in Article 52 of the Customs Law shall be approved upon the application of a participant in the customs procedure. Where it is necessary to take samples, that shall be include in the application.
- (2) Participant shall sign a written request and submit it to the customs authority with which the goods are located. The submitted request shall include:
  - name and address of the applicant,

- information about the location of goods,
- number of the collective applications, if it was submitted, or the information about previous customs procedure, or the information about means of transportation in which the goods are located,
- any other information necessary for identification of goods.

(3) If the customs authority approves the request, the approval of the customs authority shall be issued in the form of an official note on the request. In the event of taking samples, the quantity of goods that may be taken shall be determined.

(4) Previous inspection of goods and taking of samples shall be conducted under surveillance and in the manner defined by the customs authority.

(5) Participant shall bear the risk and costs of packaging removal, measuring of weight, repackaging, and any other procedures with the goods, as well as the costs of analysis.

(6) The samples taken shall be taken into account in determination of the quantity of goods for which particular allowed use or utilization shall be approved. If the samples taken are in the course of analysis destroyed or damaged to such extent that they no longer have a usable value, the customs debt shall not be incurred. Wastes and residues shall be treated pursuant to Article 182 paragraph 7 i 8 of the Customs Law.

## **Section 2**

### **Temporary storage of goods**

#### **Article 101**

##### **(Space for temporary storage of goods)**

(1) A warehouse for temporary storage of goods is the space referred to in Article 61 of the Customs Law that is approved for temporary storage of goods.

(2) For the warehouse for temporary storage of goods, the customs authority may request:

- that the customs authority and keeper of temporary warehouse share the use of key,
- that the keeper of temporary warehouse keep such records of the goods which will provide for traceability of goods.

#### **Article 102**

##### **(surrendering the goods to be kept in the temporary storage)**

(1) Collective application shall be submitted for the goods that is temporarily stored.

(2) Collective application shall be submitted at the moment of surrendering the goods, unless the customs outlet have allowed that it may be submitted at a later time but not later than the business day following the day of surrendering the goods.

(3) Collective application may be submitted by:

- a) a person who has introduced the goods to the customs territory, namely the carrier which took over the goods after it was introduced to the customs territory;
- b) a person acting on behalf of the person referred to in previous indent.

(4) By way of derogation from the regulation on importation of goods in passenger and postal circulation, the customs outlet shall not request to be submitted a collective application if that shall not affect implementation of customs surveillance measures and if, before expiry of the timeline referred to in paragraph 2 of this Article, formalities for approval of customs treatment and use of goods were performed.

### **Section 3** **Collective application**

#### **Article 103** **(documents which may be used as a collective application)**

- (1) Collective application shall be completed and submitted in the events and on the form specified by the director of the Customs Administration.
- (2) The customs authority shall accept the collective application, insert the specified data, and keep it so that it could be checked whether any of the allowed uses or utilizations of goods within the timelines referred to in Article 59 of the Customs Law is required for the respective goods.
- (3) If, before the submittal, the goods were in the transit procedure, then a copy of transit declaration intended for the destination authority shall constitute the collective application.
- (4) The customs authority may approve that a collective application be generated by electronic data processing. In such event paragraph 2 of this Article shall accordingly apply.
- (5) Persons referred to in Article 102 paragraph 3 hereof shall be under obligation to, when the customs authority so requests, once again present the goods, described in the collective application, which were not unloaded from the means of transportation before the Type of allowed treatment or use was defined for such goods.
- (6) A person who has disposal over the temporarily stored goods shall be under obligation to show the untouched goods at any time the customs authority so requests.

#### **Article 104** **(Responsibility for implementation of measures requested by the customs authority)**

- (1) Where the circumstances so require, the customs authority may destroy or sell the temporarily stored goods and duly notify the owner of such destroyed or sold goods; the costs of destruction shall be borne by the owner.



(2) With the exception of the events referred to in paragraph 1 of this Article, a person who has submitted a collective application shall be under obligation to respect the measures of the customs authority referred to in Article 63 paragraph 1 of the Customs Law and bear the costs incurred.

## **Section 4**

### **Division 1**

#### **Article 105 (place of submittal)**

Where the goods are transported to the customs territory by sea or by air and if it is with a single transportation document and by a single means of transportation, without reloading, forwarded to other port or to other airport in the customs territory, the goods shall be submitted to the customs authority in the port or the airport where they are unloaded or reloaded.

### **Division 2**

#### **Passengers' hand luggage and submitted luggage**

#### **Article 106 (definitions)**

The following terms in this Chapter shall have the following meanings:

- **domestic airport:** any airport in the customs territory;
- **international domestic airport:** any airport in the customs territory at which, upon approval of authorized authorities, international traffic may take place;
- **domestic flight:** flight of an aircraft between two airports in the customs territory without interim landing, provided it does not start or end at the airport outside the customs territory;
- **domestic port:** any seaport in the customs territory;
- **navigation in Montenegrin territorial sea:** movement of a vessel carrying out regular traffic between two or more domestic ports, without interim landing;
- **recreational vessel:** a privately-owned vessel for travel in accordance to the users' wishes;
- **aircraft of general category:** the aircraft which is not used for transportation and/or rental or for activities in air, namely for a commercial activity;
- **luggage:** all articles that the passengers carry with them for the needs of the journey.

#### **Article 107 (types of luggage)**

In this Chapter, personal luggage in air traffic shall be deemed to include:

- the submitted luggage, if it was submitted for transportation at the airport of departure and if, during the flight or at interim landing, a person has no access to such luggage;

- hand luggage, if a person takes it into the aircraft cabin, or if, during the transportation, a person could have a contact with the luggage.

**Article 108**  
**(place where formalities are performed)**

Any control and formalities in respect of:

1. hand and submitted luggage, the persons who commence their journey with an aircraft coming from a foreign airport and, after interim landing at a domestic airport, continuing its travel to other domestic airport, shall be performed at this, last domestic airport, provided such airport is an international airport; in such event, taken into account for such luggage shall be the regulations applicable to the luggage of the persons who come from abroad and are not able to prove to the customs authorities that the goods within their luggage is the domestic goods;
2. hand and submitted luggage of the persons who commence their journey by an aircraft which has an interim landing in other domestic airport before continuing its journey to an airport abroad, shall be performed at the a airport of departure, provided such airport is an international airport; in such event, control of hand luggage may be performed at the airport in which aircraft makes interim landing with the intent to determine whether the goods contained in the hand luggage meets the requirements for free circulations in the customs territory.
3. personal luggage of the persons who are using the services of sea aircraft for the transportation to the ports abroad, shall be performed in the port for international traffic where such luggage is being loaded or unloaded.

**Article 109**  
**(exceptions in respect of the place where formalities are performed)**

All controls and formalities in respect of the luggage of persons:

1. at a recreational vessel, shall be performed in any port of Montenegro, regardless of the flag of the vessel and regardless of the place for which it was intended;
2. in the aircraft of general category, shall be performed:
  - at arrival, at the first airport, provided such airport is an international domestic airport, for the aircrafts coming from an airport abroad, if

- such aircraft, after interim landing, continues its journey to other domestic airport;
- at the last international domestic airport, in the case of an aircraft coming from a domestic airport and, after interim landing, continuing its journey to an airport abroad.

**Article 110**  
**(loading and reloading of luggage)**

(1) If the luggage arriving in the domestic airport with an aircraft from an airport abroad is reloaded at a domestic airport into the aircraft which continues its journey within the customs territory:

- a) all controls and formalities in respect of the submitted luggage shall be performed at the domestic airport where the journey ends, provided such airport is an international airport;
- b) all controls of hand luggage shall be performed at the first domestic international airport; by way of exception, when it is necessary to control the submitted luggage, an additional control may be performed at the domestic international airport where the journey ends;
- c) control of the submitted luggage may be performed at the first domestic airport only by way of an exception, when it is necessary to control the hand luggage.

(2) If, at a domestic airport, luggage is loaded into the aircraft which travels to other domestic airport and, at such other domestic airport, it is reloaded into the aircraft intended traveling to an airport abroad:

- a) all controls and formalities pertaining to the submitted luggage shall be performed at the domestic airport where the journey starts, provided such airport is an international domestic airport;
- b) all controls of hand luggage shall be performed at the last domestic international airport; before that, control of such luggage may be performed at the airport where the journey starts, but only by way of exception, if it turns out that it is really necessary after the control of submitted luggage was performed;
- c) additional control of submitted luggage may be performed at the last domestic airport only by way of exception, if it turns out that is necessary to inspect the hand luggage.

(3) All controls and formalities pertaining to the luggage coming to a domestic airport in public air transportation from an airport abroad and being reloaded at such airport into the airplane that is intended only for the travel within the customs territory, shall be performed at the airport at which such public air transportation ends.

(4) All controls and formalities pertaining to the luggage that is at a domestic airport loaded on the airplane which is intended from the travel within customs territory, so that, at other domestic airport, it could be reloaded into the aircraft in public air transportation that is traveling towards an airport abroad where such public air transportation starts.

**Article 111**  
**(marking of luggage)**

(1) The submitted luggage, which is registered at a domestic airport, shall be marked by a tag or a label, which the relevant officer, when taking over the luggage, shall attach at a domestic airport.

(2) The tag, namely the label, shall be made in such a manner that it is reusable. Regardless of the appearance, the tag or label shall have a drawing of the trademark and trade name of the company which, at airports of Montenegro, takes over the luggage on its behalf or on behalf of the carrier.

**PART 6**  
**CONTROL OF CUSTOMS DECLARATION**

**Section 1**  
**Control of goods**

**Article 112**

(1) Goods shall be inspected at the place and time specified by the customs authority.

(2) At the request of the party submitting the customs declaration (hereinafter referred to as: the declaration), the customs authority may inspect the goods outside the specified business hours. The declarant shall bear any additional costs arising from such inspection.

(3) The director of the Customs Administration shall define the pricelist of the costs arising from the inspection of goods, which, at the request of the party, shall be conducted outside the registered office of the customs authority, namely outside the business hours of such authority.

**Article 113**

(1) The customs authority shall notify the declarant or his attorney about its decision to inspect the goods. The notification shall not be in writing.

(2) If the customs authority decides to inspect only a part of the goods, the notification referred to in paragraph 1 of this Article shall include the package, namely such part of the goods which shall be inspected.

**Article 114**  
**(obligations of declarant)**

(1) The declarant or his attorney who attends the inspection of goods shall be under obligation to provide to the customs authority any assistance that is necessary. If the assistance that is provided is not adequate, the customs authority may request that the declarant offers other person to provide the necessary assistance.

(2) If the declarant refuses to cooperate in inspection of goods or fails to authorize other person who could in inspection provide assistance to the customs authority, the customs authority shall specify a timeline within which the declarant shall fulfill his obligations. If no timeline is specified in accordance with this paragraph, the customs authority may abandon the planned inspection of goods.

(3) If, within the timeline specified in accordance with paragraph 2 of this Article, the declarant fails to fulfill his obligations, the customs authority shall, pertaining to the application of Article 83 of the Customs Law, proceed with the inspection of goods, at the request and expense of the declarant. If it is so required by the circumstances, the customs authority may ask other authorities and experts to cooperate, in accordance with applicable regulations.

(4) If, because of the technical characteristics of goods, it is necessary in inspection of goods to ensure the cooperation of qualified persons, and the declarant is not able to ensure their attendance without delay, he shall be under obligation to duly notify the customs authority in writing. In such event, the customs authority shall specify a timeline within which the declarant shall ensure attendance of the persons who shall provide to the customs authority the assistance necessary in inspection of such goods.

(5) Findings of the examination of goods, conducted by the customs authority in accordance with paragraph 3 of this Article, shall have the legal consequences identical to the findings of inspection which the customs authority conducts in attendance of the declarant or his attorney.

(6) Instead of implementing the measures referred to in paragraphs 2 and 4 of this Article, the customs authority may deem that declaration is withdrawn if the refusal of the declarant to cooperate in inspection, namely to appoint another person who is able to provide the assistance necessary to customs authorities, had not prevented the finding that the customs regulations governing the subjecting of goods to the requested customs procedure have been breached and whether the declarant have consequently breached, namely attempted to breach, the provisions of Articles 73 and 91 of the Customs Law.

## **Section 2**

### **Taking samples**

#### **Article 115**

##### **(taking samples)**

(1) If the customs authority decides to take samples of goods for examination purposes, it shall duly notify the declarant or his agent about such decision. The notification need not be in writing.

(2) The customs authority shall take samples by itself or they shall be taken by the declarant or his agent in the presence of a customs officer. The samples shall be taken in the quantity as required for the analysis.

(3) Inserted in the declaration shall be the note about the samples that were taken and the minutes shall be composed and appended to the declaration.

**Article 116**  
**(minutes about taking of samples)**

- (1) Minutes about taking of samples referred to in Article 115 paragraph 3 hereof shall be composed in the form the model of which is supplied in Addendum lo hereto.
- (2) Minutes about taking of samples shall be printed in the self-copying paper A-4 size in three copies out of which:
  - a) one copy for the customs laboratory,
  - b) one copy for the customs authority which took the sample, and
  - c) one copy for the declarant.
- (3) Customs laboratory shall be submitted the appropriate accompanying documents appended to the declaration, which shall explain the Type of goods, their nature, quantity and technical characteristics.
- (4) For the samples of goods which are classified in the groups of hazardous matter, it shall be clearly indicated in the copy of the minutes about taking of samples, which is intended for customs laboratory, that it pertains to the hazardous matter.
- (5) The minutes referred to in paragraph 1 of this Article may also be composed in the form of computer inscription if such inscription takes into account the requirements from this Article and the boxes from the model in Addendum lo hereto.

**Article 117**  
**(procedure with the goods in the taking of samples)**

For the goods which might get damaged in the taking of samples, if the samples are taken at the place where the customs inspection is conducted (e.g. sterile, light-sensitive, dampness-sensitive goods, etc), the customs authority to which the goods were submitted may approve that the samples be taken, subject to the presence of a customs officer, at the premises of the declarant or at other appropriate premises.

**Article 118**  
**(obligation of declarant when taking the samples)**

- (1) The declarant, namely his agent shall be under obligation to provide to the customs authority all necessary assistance in taking of samples.
- (2) If the declarant refuses to cooperate and to provide assistance in the taking of samples, or if he does not want to be present when the samples are taken, the customs authority shall act pursuant to Article 114 hereof.

**Article 119**  
**(number of samples and quantity of goods for sample)**

(1) Pursuant to Article 115 paragraph 2 hereof, the customs authority shall routinely take at least two representative samples. From the particular goods, in agreement with the declarant, it shall take an average sample of goods (e.g. in the case of liquid, powder, etc).

(2) Necessary quantities referred to in Article 115 paragraph 2 hereof are the following:

1. for liquid, creams, solid matter: 10 - 20g or up to 100ml;
2. for the goods in reels: approx. 10cm across the width;
3. for the goods in sheets or plates: approx. 30 x 30cm;
4. for wires, monofilaments, yarn, ropes, etc: approx. 10m;
5. for the goods paced for retail sale: one unit in original packaging;
6. for other types of goods: quantities specified in items 1 - 5 of this paragraph.

(3) If the circumstances so require, smaller or greater quantity than the quantity specified in previous paragraph may be taken.

(4) Machines, namely devices may be obviously depicted in the prospectuses, drawings, sketches, photographs, or some other written documents which contain the information necessary for identification of the nature of goods.

#### **Article 120 (marking of samples)**

The customs authority shall in a suitable manner mark every sample that was taken to establish its identity, including the attachment of customs marks such as seal or customs stamp.

#### **Article 121 (procedure with the samples that were taken)**

(1) The customs authority which took the samples of goods shall submit to the customs laboratory conducting the necessary examination one unit of each sample, together with the corresponding copy of the minutes about taking of samples.

(2) if it is not possible to conduct necessary examinations in the customs laboratory, the sample shall be submitted to a professional organization for necessary examination.

#### **Article 122 (supplementation to the consignment)**

(1) The quantity taken for goods examination purposes shall not be deducted from the quantity of goods reported in the declaration, except when the samples have been taken in the customs procedure of customs warehousing or in the transit procedure.

(2) In the event of the control of the declaration for exportation or the declaration for temporary exportation of goods for additional processing, the customs authority may approve that the declarant, if the circumstances so allow, with the purposes of filling up the consignment, refill the quantity taken for examination of goods with an equal quantity of the same goods.

**Article 123**  
**(procedure with the samples after completion of analysis)**

(1) At the request and expense of the declarant, the samples which are not destroyed in the course of examination shall be returned when they are no longer needed in the procedure, mostly upon exhausting all legal remedies which the declarant could resort to against the decision of the customs authority that was made based on the findings of the inspection, namely based on the sample.

(2) If the declarant does not request that the samples be returned to him, the samples may be destroyed or preserved with the customs authority. In exceptional cases, primarily pertaining to the samples which are dangerous for the environment or which are group I toxins, the customs authority may request that the declarant removes the remaining samples.

**Article 124**  
**(costs of inspection)**

(1) The customs authority shall submit to the declarant a calculation of the costs for the completed examination, taking into account the data of the customs laboratory indicated in the minutes about the results of inspection.

(2) Pricelist of the costs referred to in paragraph 1 of this Article shall be issued by the director of the Customs Administration.

(3) Calculation of the costs referred to in paragraph 1 of this Article shall be issued solely if:

1. it is found in inspection of samples that the declaration indicated wrong tariff number of the Customs Tariff Schedule, or if

2. the samples were taken at the request of the declarant.

(4) The declarant shall also bear the costs actually incurred if the samples were returned to the declarant, namely the user, or if the samples were destroyed because the declarant did not take them, in the events referred to in Article 123 hereof.

(5) The declarant shall settle the costs referred to in this Article within 8 days after calculation of costs.

**Section 3**  
**Results of the declaration control and putting of goods into free circulation**

**Article 125**  
**(results of the declaration control)**



(1) If the customs authority controls the declaration, it shall be under obligation to, on the declaration, on the copy to be retained, or on the document to be appended, attach a note with the reasons and results of the control. If the control was performed by partial inspection of goods, he shall be under obligation to attach a note about the package, namely such part of goods which was inspected.

(2) In the note referred to in paragraph 1 of this Article, the customs authority shall indicate that the declarant, namely his agent, did not attend the control of goods.

(3) If the results of control deviate from the data indicated in the declaration, the customs authority shall note such fact on the declaration, on the copy to be retained, or on a separate document to be appended to the declaration, inserting the underlying reasons and the calculation of customs debt and other duties against the declared goods, as well as the basis for calculation of the refund or duties for exportation goods, and other findings of relevance for application of the regulations governing the customs procedure to which the goods were subjected.

(4) Results of control performed by the customs authority shall, if necessary, contain the methods for determination of identity that were used by the customs authority. They shall indicate the date and the signature of the person who performed the control.

## **Article 126**

(1) Putting the goods into free circulation lead to appearance of customs debt and other duties, determined based on the data from customs declaration.

(2) Where there is a possibility that results of the declaration review lead to a customs debt that exceeds the customs debt which the customs authority would have calculated on the basis of the data indicated in the declaration, the declarant shall, before the goods are put into free circulation, regardless of the results of review, submit a suitable security instrument for any difference in the level of calculated customs debt and pay the higher customs debt that was determined in this ways.

(3) If the customs authority, on the basis of the control of declaration, finds that the amount of customs debt does not correspond to the data that the declarant has indicated in the declaration, it shall put the goods into free circulation if the declarant pays a differently determined customs debt or submit a suitable security instrument.

(4) If the customs authority takes samples of goods for the purposes of controlling the accuracy and correctness of the received declaration, the goods may be released to the declarant to put them into free circulation even before the inspection of samples is completed, provided the debt that arose or that could arise in connection with such goods was paid, namely a suitable security was provide, and if putting of goods into free circulation is not impossible for other reasons.

(5) Where the customs authority, before the control of declaration is completed, is not able to determine whether the goods to which the declaration pertains were subjected to any

restrictions or prohibitions, it may not release such goods to the declarant until the results of control are known.

**Article 127**  
**(the manner of putting the goods into free circulation)**

(1) The manner of putting the goods into free circulation to the declarant is conditional on the place in which the goods are located and the manner in which customs surveillance is conducted.

(2) Where a written declaration was submitted for the goods, the date of putting the goods into free circulation shall be indicated in the declaration or in the document to be appended to it. A copy of the appended document shall be given to the declarant.

**Section 4**  
**Other measures of the customs authority**

**Article 128**

(1) In the event the customs authority is not able to release the goods to the declarant due to any reason referred to in Article 83 paragraph 1 item 1 indents 2 to 4 of the Customs Law, it shall set shall a timeline within which the declarant shall be under obligation to meet the specified obligation.

(2) If the declarant, in the event referred to in Article 83 paragraph 1 item 1 indent 2 of the Customs Law, fails to submit the requested documents within the timeline that the customs authority has specified in accordance with paragraph 1 of this Article, it shall be deemed that declaration was withdrawn. Article 74 paragraph 4 of the Customs Law shall apply.

(3) If the customs authority deems that the declaration was withdrawn, it shall indicate it clearly in the declaration and, in the box for remarks, it shall indicate the reason for withdrawal. It shall return to the declarant the declaration, except for a copy no. 1 (in exportation procedures), namely a copy no. 6 (in importation procedures), together with the appended documents.

(4) If the declarant, in the event referred to in Article 83 paragraph 1 item 1 indent 3 of the Customs Law, despite the withdrawal of the declaration pursuant to Article 74 paragraph 1 of the Customs Law or pursuant to Article 178 of the Customs Law, fails to submit a suitable security instrument for payment of customs debt or fails to pay the incurred customs debt within the timeline specified by the customs authority in accordance with paragraph 1 of this Article, the customs authority shall seize the goods. If, before seizure of goods, the declarant meets his obligation and pays the customs debt or submits a suitable security instrument, he shall be released the goods.

(5) Until the goods are seized as referred to in paragraph 4 of this Article, the customs authority may relocate the goods to a separate space where the goods shall be under customs surveillance.

(6) If, in the event referred to in Article 83 item 1 indent 4 of the Customs Law, within the specified timeline, prohibitions and restrictions that prevent the implementation of customs procedure are not removed and the declarant does not withdraw the declaration and does not request other, allowed, use and utilization for the respective goods, the goods shall be seized. The customs authority may sell the goods if the buyer demonstrates that the prohibitions and restrictions which prevented the implementation of selected customs procedure do not or no longer apply to him.

#### **Article 129** **(cancellation of declaration after putting the goods into free circulation)**

The customs authority may, pursuant to Article 74 paragraph 3 of the Customs Law, approve the cancellation of the declaration even after putting the goods into free circulation, if:

1. The customs authority finds that the goods were erroneously subjected to a customs procedure, due to which customs debt has arisen, where the goods were declared for other customs procedure. In such event, the customs authority shall approve the cancellation of declaration if the declarant submits a written request within three months after the receipt date of the declaration and provided the following requirements are met:

- a) previous use of goods were not contrary to the requirements to be met for the other customs procedure to be approved,
- b) at the moment when they were declared for the first procedure, the goods were in compliance with the requirements for approval of the other procedure, and
- c) the goods were without delay declared for the procedure which the declarant wanted;

In such event, it shall be deemed that the new declaration was submitted on such day on which the cancelled declaration was submitted.

In justifiable cases, the customs authority may accept the request of the declarant for cancellation of the declaration even after expiry of the timeline of three months.

2. It was found particular goods were erroneously subjected to a particular procedure, due to which customs debt has arisen, where other goods should have been subjected to such procedure. In such event, the customs authority shall approve the cancellation of declaration if the declarant submits a written request within three months after the receipt date of declaration and provided the following requirements are met:

- a) the goods that were originally subjected to the procedure:
  - were not used in a manner that is different from the manner allowed by the original procedure
  - were returned to original condition, and
  - considering the circumstances, other allowed use or utilization was without delay requested for them; in such event it shall be deemed that the new

declaration was submitted on such day on which the cancelled declaration was submitted;

b) the goods which should be subjected to the respective customs procedure:

- could have been, at the time when the first declaration was submitted, submitted to the same customs authority, and
- were declared for the customs procedure equal to the one that was requested in the first declaration.
- In justifiable cases, the customs authority may accept the request of the declarant for cancellation of the declaration even after expiry of the timeline of three months.

3. the goods were ordered within the sales via catalogue and then returned, the customs authority shall approve the cancellation of declaration if the declarant had submitted the request within three months after the receipt date of the declaration and provided such goods were exported to the address of the procurer or to the address of a person appointed by him.

4. for the goods declared for exportation, namely for the procedure outward processing, provided the following requirements are met:

a) in the event the goods are subjected to export duties or export incentives, the request for refund of import duties in exportation, or other specific measures for exportation, the declarant shall:

- submit to the customs authority which has received the customs declaration for exportation of goods the evidence that the goods did not leave the customs territory;
- submit to the customs authority all copies of the declaration together with all other documents he was handed over by the customs authority when he received the declaration;
- submit to the customs authority the evidence that the compensations for import duties and other incentives for exportation of goods were refunded, namely that the relevant authorities have taken necessary measures to refund those amounts, and
- in accordance with applicable regulations, perform any other obligations to be, in view of the circumstances, specified by the customs authority.

When the declaration is cancelled, the original status shall be remedied in respect of the quantities that were written off on the basis of certificates or other documents appended to the exportation declaration.

Where it was determined for the goods declared for exportation that they should leave the customs territory within a specified timeline, the customs authority shall deem that such declaration is canceled if the goods leave the customs territory within such timeline. The customs authority shall notify the declarant in writing about the cancellation of declaration.

b) in the event that the goods in question are other than the goods referred to item 4 under a), if the declarant has duly notified the customs authority which received the

declaration for exportation of goods that the goods did not leave the customs territory and has returned all copies of the declaration together with all other documents which he was handed over by the customs authority when he received the declaration;

5. If, due to the repeated exportation of goods, it is necessary to submit the declaration, the cancellation of this declaration shall be approved and item 4 of this Article shall apply.

6. Declaration shall be cancelled in accordance with Article 105 paragraph 1 item 2 of the Customs Law, of domestic goods were subjected to the procedure of customs warehousing, provided the declarant demonstrates that the measures were taken that were introduced for the event when specific requirements are not met for the approved use or utilization of goods.

If, before expiry of the timeline that was specified for customs warehousing, the request for commencement of any specified uses or utilizations was not submitted, the customs authority shall take necessary measures specified in specific regulations that were passed on the basis of Article 105 paragraph 1 item 2 of the Customs Law.

## **Section 5**

### **Subsequent control of declaration**

#### **Article 130**

(1) The customs authority may perform customs control in the declaration after putting the goods into free circulation, with the purpose to, by inspecting commercial and other the documentstion with the declarant or other person holding the necessary data, and, if possible, also by performing the control of goods, establish whether the customs debt was correctly determined, whether economic policy measures and other policy measures were properly employed, and whether obligations arising from the approved customs procedure complied with. Also, the subsequent control may be performed at the request of foreign customs authorities acquiring legal assistance within the framework of international cooperation.

(2) If the customs authority, on the basis of the results of subsequent control, finds that customs debt was erroneously calculated, it shall take the measures necessary for subsequent customs debt collection, refund, or write-off. If the customs authority finds that provisions about the measures of economic or other policy were breached, it shall duly notify relevant government authorities. On the basis of international cooperation, foreign customs authorities will be notified about the results of control.

(3) To the subsequent control, provisions of Sections 1 to 3 of this Chapter shall accordingly apply.

(4) If samples are taken in subsequent control, that fact will be indicated in the minutes about subsequent control of declaration.

## **CHAPTER 7**

## **SIMPLIFIED PROCEDURES**

### **Section 1 General Provisions**

#### **Article 131 (types of simplification)**

- (1) Use of incomplete declaration shall make it possible for the customs authority to, in justifiable cases, accept the declaration which does not include all the data that should be indicated in order that the requested customs procedure be approved, namely which does not have appended all the documents which should be appended in order that the requested customs procedure be approved. (Article 84 paragraph 1 item 1 of the Customs Law).
- (2) Simplified procedure of declaring makes it possible that the goods are initially subjected to the customs procedure on the basis of submittal of simplified declaration and later submittal of supplementary declaration (Article 84 paragraph 1 item 2 of the Customs Law).
- (3) Declaring on the basis of bookkeeping entries makes it possible to initially subject the goods to customs procedure at the premises of the approval holder or in other place approved by the customs authority. (Article 84 paragraph 1 item 3 of the Customs Law).

#### **Article 132**

- (1) Request for issuance of the approval for simplified declaring procedure, namely the declaring on the basis of bookkeeping entries, shall be submitted at the customs outlet which is territorially competent, considering the applicant 's registered office and main bookkeeping service.
- (2) The customs outlet shall submit the request together with its opinion to the Customs Administration for the purpose of decision making. On the basis of such request, the Customs Administration shall decide.

#### **Article 133**

If data processing systems or electronic data exchange systems are used for the simplified procedure, regulations passed on the basis of Article 69 paragraph 2 of the Customs Law shall apply.

### **Section 2 Declaration for putting the goods into free circulation**

#### **Division 1 Incomplete declaration**

#### **Article 134 (declaration which does not include all data)**

Declaration for putting the goods into free circulation, which may be accepted by the customs authority on the basis of a written request of the declarant, regardless of the fact that it does not include all the prescribed data, shall include the following minimum of data:

- data in boxes 1 (second division), 14, 21, 31, 33, 37, 40, and 54 of the unique customs document;
- description of goods, which makes it possible for customs authorities to without delay and beyond doubt identify the tariff mark of the customs tariff into which the goods are classified,
- customs value of goods, if pertaining to the goods subject to payment of ad valorem customs debt or, if it is obvious that the declarant is not able to declare the customs value, temporary entry of the value which is acceptable for the customs authority, primarily taking into account the information available to the declarant;
- all other data which are necessary to the customs authority to ensure the identification of goods, the implementation of regulations for putting the goods into free circulation, and the determination of the value of security instrument to be presented so that the goods could be released to the declarant.

#### **Article 135**

##### **(declaration to which all documents are not appended)**

(1) In case of the declaration for putting the goods into free circulation which the customs authority may accept on the basis of the declarant's request even if all the prescribed documents are not appended to it, such documents shall be appended before putting the goods into free circulation.

(2) By way of derogation from paragraph 1 of this Article, a declaration may be accepted which do not have appended all the documents which must be appended before the goods are put into free circulation, if the customs authority previously proves beyond doubt that:

- the missing documents do exist and that they are valid,
- these documents could not be appended to the declaration for the reasons which the declarant was not able to control, and that
- delayed receipt of such declaration would prevent putting the goods into free circulation or that, due to the delay, import duties should be calculated as per a higher rate.

(3) The missing documents shall be listed in the declaration.

#### **Article 136**

##### **(acceptance of incomplete declaration and application of preferential rates of duty)**

(1) After the receipt of the declaration, the customs authority shall specify a timeline within which the declarant shall submit or hand over the missing data. This timeline shall not be less than a month after incomplete declaration was received.

(2) If the missing document is necessary to approve a reduced rate or "free" rate of duty and the customs authority reasonably assumes that, for the goods declared with incomplete declaration, this reduced rate of duty or "free" rate of duty could apply, at the request of the declarant it may allow additional time for submittal of such document. Such additional timeline shall not be longer than three months.

(3) If the missing data or documents pertain to the customs value, the customs authority may, if it is so required under the circumstances, specify a longer timeline or extension to previously specified timeline. The timeline specified in this manner shall not be longer than three months.

(4) If the reduced rate of duty or "free" rate of duty may apply to the goods put into free circulation pursuant to Article 22 of the Customs Law, the customs authority shall approve the application of more favorable customs duty only after the documents which are the requirement for application of that Article are submitted.

(5) If the documents on which the application of a reduced rate of duty or "free" rate of duty are conditional were submitted to the customs authority in accordance with this Article after the expiry of the validity period of the preferential rate of duty, it shall be possible to apply the reduced rate only if the declaration for putting the respective goods was received before the expiry of the preferential rate of duty validity period.

#### **Article 137** **(putting the goods into free circulation)**

(1) Upon receipt of incomplete declaration, the goods shall be put into free circulation, unless there are other well-grounded reasons. Without prejudice to Article 126 hereof, the customs authority shall release the goods to the declarant in accordance with the provisions of this Article.

(2) If any subsequent submittal of data or documents which were not appended at the time when the incomplete declaration was accepted cannot affect the level of import duties on the goods declared in this manner, the customs authority shall without delay calculate the import duties as per the rates specified in the Customs tariff schedule.

(3) If the declarant, pursuant to Article 134 indent 3 hereof, has indicated only the temporary data about the value of declared goods, the customs authority shall:

- without delay calculate the customs debt defined on the basis of this insertion, and
- if it is required under the circumstances, request that the declarant provides a security instrument in the amount of the difference between the amount calculated on the basis of temporary data and the highest possible amount of the customs debt which should be calculated for such goods.

(4) In the events not mentioned in paragraph 3 of this Article, when the subsequent submittal of data or documents could affect the level of the customs debt which should be calculated for the declared goods, the customs authority shall:



- a) in the event that, due to subsequent submittal of missing data or documents, application of reduced rate of duty could be approved, then the customs authority shall:
  - without delay calculate the customs debt at the reduced rate, and
  - request that the declarant presents a security instrument at the level of the difference between the amount calculated on the basis of the above indent and the amount of the customs debt which should be calculated for these goods if the usual rate of duty would apply;

b) in the event when, due to delayed submittal of missing data or documents, full release from customs duty payment may be approved, the customs authority shall request that a security instrument be deposited at the level of the amount which would have to be paid if the customs debt were calculated as per the routine rate of duty.

(5) Regardless of any subsequent changes, primarily due to final determination of customs value, the declarant may, instead of submitting a security instrument, request that the following be without delay calculated:

- if indent 2 paragraph 3 or indent 2 item a) paragraph 4 of this Article applies - the amount of customs debt which would have been calculated on the basis of routine rate of duty, or
- if item b) paragraph 4 of this Article applies, the amount of customs debt calculated as per the regular customs rate.

### **Article 138**

#### **(procedure after expiry of the timeline referred to in Article 136 hereof)**

If, before the expiry of the timeline referred to in Article 136 hereof, the declarant did not submit the data required for final determination of customs value goods, namely did not submit the missing data or documents, the customs authority shall calculate the customs debt at the level for which the declarant has provided the security instrument in accordance with indent 2 paragraph 3 or indent 2 item a) or item b) paragraph 4 Article 137 hereof.

### **Article 139**

#### **(supplementation or replacement of incomplete declaration)**

(1) Declaration which the customs authority has accepted in accordance with Articles 134-137 hereof, the declarant may supplement upon the consent of the customs authority, replace by a complete declaration which complies with the requirements referred to in Article 70 of the Customs Law.

(2) In the event when an incomplete declaration is replace by a new one, the applicable date for determination of customs debt and implementation of other measures for putting the goods into free circulation shall be deemed to be the date when the incomplete declaration was received.

**Division 2**  
**Simplified declaring procedure**

**Article 140**  
**(a form of the simplified declaring procedure)**

(1) The declarant may, on the basis of a written request that contains all necessary data, get the approval to, under conditions and in the manner specified in Articles 141 and 142 hereof, upon submittal goods to the customs authority, declare such goods in a simplified manner.

(2) Simplified declaring procedure shall be approved in such a manner that the submittal of the declaration for putting the goods into free circulation is approved in the form of:

- declaration, filled out on the "unique customs document", or
- commercial or other official documents accompanied by a written request of the declarant for putting the goods into free circulation

Simplified declaration shall include all the data required for identification of goods.

(3) Written request referred to in paragraph 2 of this Article may replace a general request which applies to all procedures for putting the goods into free circulation commenced within a particular time period. In such event, the document referred to in paragraph 2 indent 2 of this Article shall have a clear indication that general request is approved in accordance with this paragraph.

(4) Simplified declaration must have appended all the documents on which the putting of goods into free circulation is conditional. In such event, Article 135 paragraph 2 hereof shall apply.

(5) In application of this Article also taken into account is Article 160 hereof.

**Article 141**  
**(requirements for approval of simplified declaring procedure)**

(1) Approval for simplified declaring procedure referred to in Article 148 hereof, the Customs Administration may issue only if efficient control of the compliance with restrictions and prohibitions, and control of other regulations referring to the putting of goods into free circulation is ensured.

(2) It shall routinely not be possible to issue the approval:

1. to the applicant who has gravely or repeatedly breached the customs regulations,  
or
2. to the applicant who declares the goods for putting into free circulation only on a temporary basis.

(3) If, after the issuance of the approval, there arise the circumstances referred to in paragraph 2 of this Article, the approval may be cancelled.

### **Article 142 (Approval)**

(1) The approval referred to in Article 140 hereof should:

1. define the customs authority, namely the authorized competent to accept the simplified declaration,
2. define the content and form of simplified declaration,
3. define the types of goods to which the simplified declaration pertains and the data that simplified declaration should contain for purposes of the identification of goods;
4. indicate the security instrument;
5. define the form and the content of supplementary declaration, the timelines within which supplementary declaration should be submitted to the customs authority which is responsible for the acceptance of supplementary declaration.

(2) The Customs Administration may define in the approval that the submittal supplementary declaration is not necessary if the simplified declaration referred to in Article 140 hereof already contains all the information necessary for putting the goods into free circulation and, if it is on the basis of such declaration that the goods whose value does not exceed €400.00 has been put into free circulation.

## **Division 3 Declaring on the basis of bookkeeping entries**

### **Article 143 (events when the approval may be issued)**

The approval for declaring on the basis of bookkeeping entries, the Customs Administration may, in accordance with Articles 144 to 146 hereof issue to a person requesting that the procedure of putting the goods into free circulation be performed at his premises or in other places approved by the customs authority, provided he has submitted a written request that contains all data necessary for approval of simplifications and if it pertains to the following events:

- a) if it pertains to the goods which, before it was put into free circulation, was subjected to the transit customs procedure within which the applicant was issued the approval for application of simplified formalities with the destination customs authority in the transit procedure pursuant to Article 84 paragraph 6 of the Customs Law, and Articles 484 to 487 hereof;
- b) if it pertains to, besides the events referred to in Article 160 hereof, the goods which, before it was put into free circulation, was subjected to the customs procedure with economic effect;

c) if it pertains to the goods which, after it was submitted to the customs authority in accordance with Article 50 paragraph 1 of the Customs Law, was transported to these premises in accordance with the transit customs procedure which is not mentioned in the first indent of this paragraph;

d) if it pertains to the goods which was transported to the customs territory, when they shall not be subject to the submittal pursuant to Article 51 of the Customs Law.

#### **Article 144 (requirements for issuance of approval)**

(1) The Customs Administration may issue the approval referred to in Article 143 hereof only if the following requirements are met:

1. the applicant's bookkeeping enables the customs authority to perform efficacious control, in particular the subsequent control,
2. efficacious control of the imports or exports prohibitions or restrictions and other measures for putting the goods into free circulation is guaranteed.

(2) As a rule, the approval shall not be possible to issue:

1. to the applicant who has gravely or repeatedly breached the customs regulations,
- or
2. to the applicant who declares the goods for putting into free circulation only on a temporary basis.

#### **Article 145 (cancellation of approval)**

(1) The Customs Administration may decide to cancel the issued approval if:

- the approval holder performs his obligations within the timeline specified by the Customs Administration, or
- non-performance of obligations does not produce serious consequences to the proper application of simplifications.

(2) The Customs Administration shall, as a rule, cancel the approval if circumstances referred to in Article 144 paragraph 2 item 1 hereof have arisen.

(3) The Customs Administration may cancel the approval if there arise the circumstances referred to in Article 144 paragraph 2 item 2 hereof.

#### **Article 146 (specific obligations of the approval holder)**

(1) So that the customs authority can be convinced of the correctness of the implementation of simplifications, holder of approval referred to in Article 143 hereof shall be under obligation to:

1) in the events referred to in Article 143 paragraph 1 items a) and c) hereof:

- a) if the goods were placed into free circulation without delay after arrival at the place which is designated for such purpose:
  - in the form and in the manner specified in the approval, it shall timely notify the customs authority about arrival of goods so that the goods may be released, and
  - enter the goods into its bookkeeping;

b) if the goods were, before they were put into free circulation, subjected to temporary storage in accordance with Article 60 paragraph 1 of the Customs Law, already before the expiry of the timeline referred to in Article 59 of the Customs Law:

- in the form and in the manner specified in the approval, it shall notify the customs authority about its request that the goods be put into free circulation, with the intention that the goods could be released, and
- enter the goods in its bookkeeping;

2) in the events referred to in Article 143 item b) hereof:

- in the form and in the manner specified in the approval, notify the customs authority about its request to put the goods into free circulation, with the intention that the goods could be released, and
- enter the goods in its bookkeeping.

Notification referred to item 1 of this item shall not be necessary if the goods which should be released into free circulation were previously subjected to the procedure of customs warehousing in the Type D warehouse;

3) in the events referred to in Article 143 item d) hereof, when the goods arrive at the place designated for such purposes:

- enter the goods in its bookkeeping;

4) from the moment of entry of the goods into the bookkeeping, put on disposal of the customs authority all the documents that need to be submitted for the purposes of implementing the regulations referring to the putting of goods into free circulation.

(2) If appropriate control over performance of simplifications is ensured, the Customs Administration may:

1) approve to the approval holder to announce to the customs authority the arrival of goods referred to in item a) or b) paragraph 1 of this Article, without delay before their arrival;

2) approve, if it is so justifiable by the nature of goods and frequency of importation, that holder of approval shall not announce to the customs authority every arrival of goods, when

holder of approval submits to the customs authority all the data necessary of the inspection of goods, if any.

(3) In the event referred to in item 2 paragraph 2 of this Article, the bookkeeping entry shall be deemed to mean that the goods were allowed to pass.

(4) Entry in the bookkeeping referred to in items 1, 2 and 3, paragraph 1 of this Article, may be replaced by other formality that ensures the same security, if it is approved by the Customs Administration. The entry shall contain the date and the data necessary for identification of goods.

### **Article 147 (content of approval)**

Approval referred to in Article 143 hereof shall contain all the requirements pertaining to the performance of simplifications and it shall primarily contain:

1. the data about the goods to which it pertains;
2. the form of the obligation referred to in Article 146 hereof and the data about the security to be provided,
3. the timeline within which the supplementary declaration is to be submitted, and with which customs authority;
4. the form, and content of supplementary declaration and the requirements to be met to submit the general, periodical, namely recapitulative declaration for the goods.

## **Section 3 Declaration for customs procedures with economic effect**

### **Division 1 Commencement of customs procedure with economic effect**

#### **Subdivision 1 Commencement of customs warehousing procedure**

##### **(a) Incomplete declaration**

### **Article 148 (incomplete declaration)**

(1) Incomplete declaration for commencement of the customs warehousing procedure, which does not contain all prescribed data, may be accepted by the customs authority if such declaration contains those data which are necessary for identification of the goods covered by such declaration, including quantity of goods.

(2) In connection with incomplete declaration referred to in paragraph 1 of this Article, Articles 135, 136 and 139 hereof shall accordingly apply.

## **(b) Simplified declaring procedure**

### **Article 149 (acceptable forms)**

(1) The Customs Administration may, on the basis of a request of the approval holder, approve that, at the submittal of goods to the customs authority and in accordance with the requirements and in the manner specified in Article 152 hereof, the declaration for commencement of the customs warehousing procedure be submitted in the simplified manner.

(2) Simplified declaration may be submitted in the form of:

- incomplete declaration referred to in Article 148 hereof, or
- commercial or other official document accompanying the written request for introduction of goods into the customs warehouse.

(3) Incomplete declaration or commercial and other official documents referred to in paragraph 2 of this Article shall contain the data referred to in Article 148 paragraph 1 hereof.

### **Article 150 (introduction into the Type D customs warehouse)**

If the simplified declaring procedure is used for instigation of the procedure of goods warehousing in the Type D customs warehouse, simplified declaration shall contain:

1. precise data about nature of the goods, to enable immediate and dependable classification of goods into the Customs Tariff Schedule, and
2. customs value of goods.

### **Article 151**

(1) Simplified declaring procedure may not be used for instigation of the customs warehousing procedure when the goods are to be introduced into the Type F customs warehouse.

(2) When simplified declaring procedure is used for instigation of customs warehousing procedure in the Type B customs warehouse referred to in Article 149 paragraph 2 indent 2 hereof, it shall not be possible to use the commercial documents. If other official documents do not contain the data which are in the unique customs document entered in box 1 (second division), 3, 5, 14, 19, 26, 31, 32, 37, 38, 49, and 54, these data should be appended separately.

### **Article 152 (individual and general request referred to in Article 149 paragraph 2 indent 2 hereof)**

(1) Written request referred to in Article 149 hereof shall contain all the data necessary for issuance of approval.

(2) If the circumstances so allow, every individual written request referred to in Article 149 paragraph 2 indent 2 hereof may be replaced by the general request for implementation of this procedure in particular time period.

(3) In the event referred to in paragraph 2 of this Article, the request shall be submitted in accordance with Articles 176 do 184 hereof and shall be submitted together with the request for customs warehouse opening or as the request for amendment, namely supplementation of the previously issued approval for customs warehouse opening. The request shall be submitted with the customs outlet which has issued the approval for the customs warehouse opening.

(4) The Customs Administration shall issue the approval referred to in Article 149 hereof only if proper implementation of the customs warehousing procedure is not impaired.

(5) As a rule, the approval shall not be issued:

1. if the applicant does not provide a satisfactory security for proper performance of the customs warehousing procedure;
2. to the applicant who has gravely or repeatedly breached customs regulations, or
3. to the applicant who declares the goods for instigation of the customs warehousing procedure on a temporary basis only.

(6) The approved approval may be cancelled only if the circumstances referred to in paragraph 5 of this Article arise.

### **Article 153 (supplementary customs declaration)**

(1) The approval referred to in Article 149 hereof shall contain all the requirements for the implementation of simplifications, including the data about:

1. the customs authority, namely authorities, with which such customs declaration for instigation of the customs warehousing procedure may be submitted;
2. the form and content of simplified declaration.

(2) The holder of the approval for simplified declaring procedure for the instigation of customs warehousing procedure need not submit the supplementary declaration.

### **(c) Declaration on the basis of bookkeeping entries**

### **Article 154**

(1) The Customs Administration shall issue the approval for goods declaring on the basis of bookkeeping entries in accordance with the requirements and in the manner specified in paragraph 2 of this Article and in Articles 155 and 156 hereof.



(2) The Customs Administration shall not approve the declaring of goods on the basis of bookkeeping entries, if the goods are being introduced into the Type B or F customs warehouse.

(3) If the Customs Administration approves that the goods be declared on the basis of bookkeeping entries, Article 152 hereof shall apply to the issuance of approval and the implementation of these simplifications.

### **Article 155**

(1) In order that the customs authority could perform the prescribed control, the approval holder shall, without delay after arrival of the goods at the place specified in the approval:

- 1) without delay notify the relevant customs authority that the goods have arrived, in the form and in the manner specified by such authority;
- 2) without delay enter the goods in the bookkeeping;
- 3) put on disposal of the relevant customs authority all the documents that need to be submitted for subjecting the goods to the procedure.

(2) The bookkeeping entry goods referred to in item 2) paragraph 1 of this Article shall contain such data which are necessary for determination of the commercial description of goods and their quantity.

(3) Article 146 paragraphs 2 and 3 hereof shall apply to the events referred to in of this Article.

### **Article 156 (content of approval)**

(1) Approval referred to in Article 154 paragraph 2 hereof shall contain all the requirements for implementation of simplifications, and in particular:

- Type of the goods to which the simplification pertains,
- obligations referred to in Article 155 hereof,
- the moment of releasing the goods.

(2) Supplementary declaration need not be submitted.

### **Subdivision 2 Commencement of the procedure of inward processing, procedure of processing under customs surveillance, and procedure of temporary importation**

#### **(a) Incomplete declaration**

### **Article 157**

(1) Declaration for instigation of the customs procedure of inward processing, the procedure of processing under customs surveillance, and the customs procedure of temporary importation, may be, on the basis of the declarant's written request, accepted by the customs authority which is the authority competent for instigation of the respective customs procedure, even if it does not contain all prescribed data; however, it must contain such data which should be inserted in boxes 14, 21, 31, 33, 37, 40 and 54 of the unique customs document, and in box 44 – the data about the approval or the data about the request, if it pertains to the events to which Article 227 hereof applies.

(2) Articles 135, 136 and 139 hereof shall accordingly apply.

(3) If the system of the paid customs duty refund is used in the procedure of inward processing, Articles 137 and 138 hereof shall apply.

### **(b) Simplified declaring procedure and declaring on the basis of bookkeeping entries**

#### **Article 158**

Provisions Articles 140-147 hereof shall accordingly apply to the issuance of approval for the use of simplified declaring procedure and declaring on the basis of bookkeeping entries in the event of declaring the goods for instigation of the procedure of inward processing, procedure of processing under customs surveillance and temporary importation.

### **Subdivision 3 Instigation procedure of outward processing**

#### **Article 159**

Articles 161-169 hereof shall accordingly apply to the simplifications pertaining to the customs declarations for instigation of the procedure of outward processing.

### **Division 2 Conclusion of procedure with economic effect**

#### **Article 160**

(1) For conclusion of the procedure with economic effect, with the exception of the procedure of outward processing and customs warehousing, implementation of simplified procedures envisaged for putting the goods into free circulation, exportation, or re-exportation of goods, may be approved. In the event of re-exportation, Articles 161-169 hereof shall apply.

(2) For conclusion of the procedure of temporary exportation for the purposes of outward processing, the simplifications envisaged for putting the goods into free circulation may be implemented and Articles 134-147 hereof shall accordingly apply.

(3) For conclusion of the customs warehousing procedure, the simplifications envisaged for putting the goods into free circulation, for exportation or re-exportation may be implemented.

(4) Without prejudice to paragraph 3 of this Article:

a) for the goods which was introduced to the Type F customs warehouse, none of the envisaged simplifications may be implemented;

b) for the goods which was introduced to the Type B customs warehouse, only the incomplete declaration and the simplified declaring procedure may be implemented;

c) issuance of the approval for opening of Type D customs warehouse shall also include the approval that the goods may be declared on the basis of bookkeeping entries for putting the goods into free circulation.

(5) Simplification referred to in paragraph 4 of this Article may not be approved if the applicant wishes to in that way conclude the procedure pertaining to the goods for which the basis for determination of import duties cannot be verified without the inspection of goods. In such event, other procedure may be approved, the one that also includes the submittal of goods to the customs authority.

## **Section 4**

### **Declaration for exportation**

#### **Article 161**

(1) The formalities which need to be carried out with the customs authority in exportation, which are envisaged in Article 429 hereof, may be simplified in accordance with provisions under this heading.

(2) Provisions of Articles 430 and 433 hereof shall apply to this Section.

### **Division 1**

#### **Incomplete declaration**

#### **Article 162**

(1) On the basis of the declarant's request, the customs authority may accept the declaration for exportation of goods even when such declaration does not contain all the prescribed data but rather only the following data:

1. the data specified in boxes 1 (second and third subdivision), 2, 14, 17, 31, 33, 38, 44, and 54 of the unique customs document;

2. all the data necessary for implementation of specific measures of the agricultural policy or for the calculation of export duties, if the goods were subjected to the specific measures of agricultural policy or the payment of export duties;

3. any other data necessary for identification of goods, for implementation of the regulations pertaining to their exportation or for determination of the amount of the security, if any is requested before the exportation of goods.

(2) By way of derogation from paragraph 1 item 1 of this Article, the customs authority may approve that the declarant does not fill out the boxes 17 and 33 in the unique customs document, if:

1. the declarant states that the goods covered by such declaration are the subject to exportation prohibition or restrictions, and
2. the customs authority does not doubt the accuracy of the statement from the above item, and
3. description goods in the declaration enables that the goods without delay and dependably agree classified in the Customs Tariff Schedule.

(3) Copy No. 3 of the unique customs document shall contain, in box 44, the note "simplified exportation".

(4) Articles 135 do 139 hereof shall accordingly apply to the exportation declaration filled out in accordance with this Article.

### **Article 163**

(1) If Article 427 hereof is applied, supplementary or exportation declaration may be submitted with the customs authority which is territorially competent considering the place where the exporter has its registered office. If the subcontractor has the registered office in the territory of other territorially competent customs authority, the supplementary declaration may be submitted with the customs authority which is territorially competent considering the registered office of the subcontractor.

(2) In the event referred to in paragraph 1 of this Article, the customs authority which has accepted the incomplete declaration shall send the copies 1 and 2 of the unique customs document to the customs authority with which the supplementary or replaceable customs declaration shall be submitted.

## **Division 2**

### **Simplified declaring procedure**

### **Article 164**

(1) On the basis of the declarant's written request that contains all the data necessary for issuance of approval, the Customs Administration may approve that, when submitting the goods to the customs authority, the declarant submits the declaration for exportation goods in the simplified manner. In determination of the requirements for simplified declaring procedure, Articles 141 and 142 hereof shall be accordingly taken into account.

(2) Save in the events referred to in Article 169 hereof, simplified declaration shall be submitted in the form of unique customs document that contains the data necessary for identification of goods. Article 162 paragraphs 1 and 4 hereof shall accordingly apply.

**Division 3**  
**Declaring on the basis of bookkeeping entries**

**Article 165**

(1) On the basis of written request, the Customs Administration may approve the declaring of goods for exportation on the basis of entry in bookkeeping, in accordance with the requirements referred to in paragraph 2 of this Article to the person wishing to implement the exportation formalities at its premises, namely at other place approved by the Customs Administration (hereinafter referred to as: "the recognized exporter").

(2) Articles 144 and 145 hereof shall accordingly apply.

**Article 166**

(1) To enable the customs authority to perform control over the approved procedure, "the recognized exporter" shall be under obligation to, before removing the goods from the premises or place referred to in Article 165 hereof:

- a) timely notify the relevant customs authority about removal of goods in the form and in the manner specified in the approval, with the intention of putting the goods into free circulation;
- b) enter the goods in the bookkeeping. Such entry may be replaced by other formality which ensures equal security and which is approved by the customs authority. The entry shall contain the publication date of the data necessary for identification of goods;
- c) put on disposal of the relevant customs authority all the documents on which implementation of the regulations governing exportation of goods.

(2) In justifiable cases, when it is so necessary due to the nature of goods and frequency of the exportation procedure, the customs authority may release the "recognized exporter" from the obligation to timely notify the customs authority in accordance with indent a) paragraph 1 of this Article. In such event, "the recognized exporter" is under obligation to put on disposal of the customs authority all the data necessary for inspection of goods, if any.

(3) In the event referred to in paragraph 2 of this Article, the bookkeeping entry of goods shall be deemed the same as putting the goods into free circulation.

**Article 167**  
**(evidence of actual exportation of goods)**

(1) Copy No. 3 of the unique customs document shall serve the purpose of control and as the evidence that the goods have actually left the customs territory.

(2) In the approval for the use of simplifications, it shall be indicated that copy no. 3 of the unique customs document should be certified in advance.

(3) The certification in accordance with paragraph 2 of this Article shall be made in any of the following ways:

- a) the customs authority specified in the approval shall in advance attach the seal and signature in the box A of the unique customs document;
- b) the exporter shall be authorized to be able to attach to the declaration the seal that corresponds to the model from Addendum 11 hereto. The imprint of the seal may be printed in advance, if the printer of the form obtains the approval of the Customs Administration.

(4) Before shipping the goods, "the recognized exporter" shall be under obligation to:

1. perform the obligations referred to in Article 166 hereof;
2. enter in box 44 on the copy no. 3 of the unique customs document the ordinal number and the date of entry of goods in the bookkeeping.

(5) Copy no. 3 of the unique customs document shall, besides the data in box 44, contain:

1. approval number,
2. remark "simplified exportation".

#### **Article 168**

(1) The approval referred to in Article 165 hereof shall define all the requirements for implementation of simplifications, and primarily:

1. the goods to which the simplification pertains,
2. the form of formalities referred to in Article 166 hereof;
3. the time of putting the goods into free circulation,
4. the content of form no. 3 of the unique customs document and the manner of its confirmation;
5. procedure for submittal of supplementary declaration and the timeline within which it shall be submitted.

(2) Approval shall contain the obligation of the "recognized exporter" to accept the measures necessary for ensuring safe keeping of the special stamp, namely the form in which the stamp of the exportation customs authority is preprinted.

#### **Division 4**

#### **Common provisions for division 2 and 3 of this section**

#### **Article 169**

#### **(application of commercial and other documents)**

(1) Instead of the unique customs document, the Customs Administration may approve that the declarant uses a commercial or other official document or other data carrier, if such document, namely data carrier contains minimum the following:

1. data for identification of goods,
2. the text "simplified exportation", and
3. request for exportation.

(2) Request referred to in paragraph 1 item 3 of this Article may be substituted by the general request, which applies to all, at a certain time period of the instigated exportation procedure. In such event, the document or other data carrier referred to in paragraph 1 of this Article shall have a clear indication of the approval on the basis of which the general request was accepted in accordance with this paragraph.

(3) Commercial or other official document shall be used as evidence of actual removal of the goods from the customs territory, as well as copy no. 3 of the unique customs document. If the Customs Administration allows the use of other data carrier, it shall at the same time specify the manner for confirmation of actual removal of goods from the customs territory.

## **PART II ALLOWED USE AND UTILIZATION**

### **CHAPTER 1 PUTTING THE GOODS INTO FREE CIRCULATION**

#### **Section 1 General provisions**

##### **Article 170 (putting goods into free circulation when the goods was exported with ATA carnet)**

(1) If domestic goods were exported with ATA carnet, pursuant to Article 434 hereof, they may be put into free circulation on the basis of ATA carnet.

(2) In the event referred to in paragraph 1 of this Article, the customs authority with which the goods were put into free circulation, shall perform the following actions:

- a) check the information from boxes A to G re-export coupon,
- b) fill out the talon and H box of the re-export coupon,
- c) retain the re-export coupon.

(3) When the formalities for conclusion the procedure for temporary exportation of domestic goods are carried out with a customs authority different than the one with which the goods were introduced into the customs territory, from the entry customs authority to the destination customs authority where the goods will be put into free circulation, the goods will be transported without additional formalities.

#### **Section 2**

## **Application of the unique rate of duty**

### **Article 171**

#### **(value of the goods to which unique rate of duty may apply)**

Unique rate of duty, pursuant to Article 20 of the Customs Law may be applied to non-commercial goods whose total value does not exceed the equivalent of €1000.

### **Article 172**

#### **(restriction on the unique rate application)**

Unique rate of duty of 5 % may not be applied to tobacco, tobacco products, alcohol, alcohol beverages, motor fuel.

### **Article 173**

#### **(application of the same regulations to complete consignment)**

If a passenger or consignee of consignment request that the goods be cleared at a rate prescribed in the Customs Tariff Schedule, such prescribed rate shall be applied to all goods, namely to complete consignment.

## **CHAPTER 2**

### **CUSTOMS PROCEDURES WITH ECONOMIC EFFECT**

#### **Section 1**

#### **Common provisions**

#### **Division 1**

#### **Definitions**

### **Article 174**

#### **(definitions)**

Under this heading, the following terms shall have the following meanings:

a) "surveillance customs authority" is the customs organ specified in the approval, designated to conduct surveillance over the procedure with economic effect;

b) "the customs authority of procedure instigation" is the customs authority specified in the approval, or the customs authority designated to receive the declarations for instigation of one or more procedures with economic effect, as specified in the approval;

c) "the customs authority of procedure conclusion" is the customs authority specified in the approval or the customs authority, designated to receive the declarations by way of which the goods for which a procedure with economic effect was instigated, other allowed use or utilization is designated;



d) "authorized customs authority" is the customs authority or the customs authority authorized by the Customs Administration to be submitted the declarations deemed to constitute the requests for approval of customs procedure with economic effect and which are authorized to receive such declarations.

**Article 175**  
**(competent customs authority)**

Unless otherwise provided in the Customs Law or herein, for the issuance of approval and for other procedures pertaining to the approvals for customs procedures with economic effect, the competent authority shall be the customs authority which is territorially competent considering the place where the applicant has a registered office, namely a person on whose behalf the request is being submitted.

**Division 2**  
**Approval for application of procedure - routine procedure**

**Article 176**  
**(request for customs procedures with economic effect)**

(1) Save in the events referred to in paragraph 5 of this Article and Articles 238, 316, 351 and 408 hereof, request for the approval to apply the customs procedure with economic effect (including the request for customs warehouse business or application of the customs warehousing procedure), shall be filled out in writing.

(2) Request referred to in paragraph 1 of this Article shall be filled out on the prescribed form from Addendum 12 hereto. The applicant shall in the request include all the data necessary for the decision.

Models of forms are in Addenda 12 A to 12 E hereto. Request shall contain the signature and date.

(3) If the customs authority deems that the data in the request are not complete or sufficient for the decision, it may request that additional data be submitted.

(4) To the request referred to in paragraph 1 of this Article, the applicant shall append the documents and evidence necessary for the decision. The applicant shall submit the documents in original or certified copy. These documents shall be integral part of the request which should indicate the data about the number of accompanying documents.

(5) The customs authority shall approve amendment or extension of the individual approval on the basis of the approval holder's written request for amendment or extension of approval, and such request shall indicate the data from the previous approval, as well as the amendments that were necessary.

(6) Save in the events of simplifications provided in Articles 238, 316, 351 and 408 hereof, the request not complying with the requirements referred to in paragraphs 1 to 3 of

this Article and not being submitted in accordance with Articles 189, 226, 311, 347 and 398 hereof, shall be rejected as incomplete.

#### **Article 177**

The applicant shall be responsible for:

1. accuracy of the data indicated in the request;
2. authenticity of the documents and evidence appended to the request, and for
3. compliance with all the obligations arising from the approval of individual customs procedure.

#### **Article 178**

- (1) The customs authority shall, before issuing the approval, check whether all prescribed requirements for its issuance are met.
- (2) Request shall be rejected if, pursuant to Article 176 paragraph 6 hereof, the request is incomplete.

#### **Article 179 (Approval)**

- (1) By way of derogation from the provisions of Articles 238, 316, 351, 408 hereof, the approval for application of the customs procedure with economic effect, pursuant to Article 93 of the Customs Law (including approval for customs warehouse business or application of customs warehousing procedure), shall be issued in the form corresponding to one of the models from Addenda I3A to I3E hereto.
- (2) The customs authority shall issue the approval for each individual instigation procedure with economic effect or general approval for submittal of the declaration for the procedure with economic effect within a particular time period.
- (3) By way of derogation from paragraph 1 of this Article, in the event of extension or amendment to the approval, the customs authority may, on the basis of the request pursuant to Article 176 hereof, decide on amendments of individual items, in the form of a note on the previously issued approval, or issue a new approval.

#### **Article 180**

- (1) Applicant shall have the registered office in the customs territory, if it is entered in court register or other prescribed records in Montenegro.
- (2) Natural person - applicant shall demonstrate his permanent residence in the customs territory by way of a public document in which his identity and place of residence are clearly visible.

(3) The following shall be deemed to be the guarantees referred to in Article 94 of the Customs Law:

1. reliability of the applicant in implementation of customs procedures;
2. keeping of records and books of relevance for customs surveillance and control, in the form and in the manner acceptable to customs authorities;
3. performance of production procedures and keeping of a warehouse in such a manner that customs authorities are allowed insight into the implementation of customs procedure;
4. submittal of suitable security instruments, unless the applicant is released from this obligation;
5. compliance with the requirements for electronic data exchange.

### **Article 181**

(1) If for the goods for which a procedure with economic effect is to be instigated, some specific requirements are to be met pursuant to other regulations, the applicant shall demonstrate that all requirements are met.

(2) If, it is prescribed in the regulations referred to in paragraph 1 of this Article that a particular Type of goods may be used solely after the approval of the competent authority is obtained, the applicant shall demonstrate, by way of the approval or consent, that the requirements referred to in paragraph 1 of this Article are met.

### **Article 182**

(1) The customs authority shall not approve the requested procedure with economic effect of any of the prescribed requirements for the requested procedure is not met.

(2) Approval referred to in paragraph 1 of this Article shall be issued in accordance with Article 8 of the Customs Law.

### **Article 183**

(1) The customs authority shall keep the submitted requests and addenda, together with the duplicates of the approvals issued.

(2) The customs authority shall keep the documents referred to in paragraph 1 of this Article, for at least:

- three years after the end of the calendar year in which the approval ceased to apply, namely,
- in the event of approval for the customs warehouse business, three years after the end of the calendar year in which the approval was cancelled or cancelled.

(3) In the event that the request was rejected or approval was cancelled, namely if was found to be null and void, the customs authority shall keep the documents referred to in paragraph 1 of this Article for at least three years after the end of the calendar year in which

the request was rejected or approval was cancelled, namely it was found to be null and void.

## **Article 184**

(1) Approval holder and any other person to which the approval pertains, shall have their own copy of the approval and all other documents pertaining to the implementation of the approved procedure and keep them pursuant to Article 17 of the Customs Law.

(2) If the customs authority, when performing the control, finds that the documents are not kept in accordance with paragraph 1 of this Article, and that holder, even after the additional official request, is not going to surrender all the documents collected, the customs authority shall take necessary measures, including the seizure of approval.

## **Section 2** **Customs warehousing**

### **Division 1** **General**

#### **Subdivision 1** **Types of warehouse**

### **Article 185** **(types of customs warehouse)**

(1) Within the customs warehousing procedure, customs goods may be warehoused in any of the following types of customs warehouses:

1. public warehouse, in which the kept of warehouse is responsible for the obligations referred to in Article 108 of the Customs Law. (Type A);

2. public warehouse, in which each depositor of customs goods is responsible for the obligations from Article 108 of the Customs Law, in accordance with Article 109 of the Customs Law (Type B);

3. private warehouse, in which the keeper of warehouse is the owner of goods (Type C);

4. private warehouse, in which the keeper of warehouse is the depositor of goods, and not necessarily the owner of goods, and in which Article 110 of the Customs Law may apply (Type D);

5. customs warehousing procedures may also be performed in the private warehouse referred to in Article 106 of the Customs Law, when the keeper of customs warehouse is the depositor but not necessarily the owner of goods, in the manner which allows the warehousing of the approval holder's goods in the premises of the warehouse referred to in Article 105 paragraph 3 of the Customs Law. This system is defined as the Type E customs warehouse.

The examples referred to in Article 105 paragraph 3 of the Customs Law shall be the events when specific space is needed because of the specific conditions for warehousing

of individual types of goods or if it is so necessary because the approved premises of the customs warehouse are all occupied.

6. Without prejudice to paragraph 1 of this Article, customs goods may also be warehoused in the public customs warehouse whose keeper is the customs authority (Type F).

(2) At the same premises or on the same location it shall be not possible to approve different types of warehouses referred to in this Article.

## **Subdivision 2**

### **Premises of the customs warehouse**

#### **Article 186**

(1) Customs warehouse, besides the Type E customs warehouse, comprises one or more interconnected fenced areas or premises which shall be visibly marked and in a suitable manner separated from other premises and areas.

(2) If the customs authority runs the customs warehouse by itself, the Customs Administration shall designate the premises and areas that shall constitute the customs warehouse premises and publish the relevant information in the "Official Gazette of the Republic of Montenegro".

#### **Article 187**

(1) The customs authority may approve that the customs warehouse, besides the customs warehouse Type E, be also used for temporary storage of goods pursuant to Article 61 of the Customs Law.

(2) Customs goods which is temporarily stored in the customs warehouse shall be stored separately from other goods in the customs warehouse.

(3) If the customs authority approves to the keeper of customs warehouse to temporarily store in the customs warehouse the customs goods in accordance with this Article, it shall, when it is so necessary for implementation of customs surveillance, keep records for these goods separately from other records of goods in the customs warehouse.

## **Subdivision 3**

### **Economic policy measures**

#### **Article 188**

If, in accordance with the regulations in force, economic policy measures are implemented when:

a) putting the goods into free circulation, then such measures shall not be used for the goods for which the customs warehousing procedure was instigated for as long as the goods are subjected to such procedure;

- b) introduction of goods in the customs territory, then these measures shall be used when the customs warehousing procedure has been instigated for the customs goods;
- c) exportation goods, then these measures shall be used in actual exportation of domestic goods which was previously subjected to the customs warehousing procedure, from the customs territory.

## **Division 2**

### **Approval for opening of Type A, B, C, D or E customs warehouse**

#### **Article 189**

Request for issuance of the approval for opening of customs warehouse shall be submitted by the applicant to the customs authority which is territorially competent considering the proposed location of the customs warehouse, on the form from the Addendum 12 A hereto.

#### **Article 190**

- (1) The customs authority may approve the customs warehouse opening if the applicant demonstrates the compliance with the prescribed requirements and the existence of an economic need for customs warehousing.
- (2) When determining whether the costs of the customs authority with regard to the conduct of surveillance are disproportionally high compared with the benefits of approving the customs warehouse, the customs authority shall take into account, primarily, the type of customs warehouse and the activities which the keeper wishes to perform in such customs warehouse.
- (3) Customs warehouse shall, regardless of other activities which may be performed in the warehouse, primarily intended for warehousing of customs goods. Other activities which in accordance with this Decree may be approved in such customs warehouse, shall not prevail.
- (4) In the premises of the customs warehouse it shall not be allowed to warehouse retail goods, save in the event of:
- the sales of goods within international covenants, on the basis of which diplomatic and consular missions and international organizations are exempted from customs duty payment.

#### **Article 191**

- (1) The customs authority shall, on the basis of the request referred to in Article 190 hereof, issue the approval provided all prescribed requirements are met.
- (2) Together with the approval for Type D customs warehousing, the customs authority shall issue, pursuant to Article 154 hereof, the approval for putting the goods into free circulation on the basis of bookkeeping entries.

(3) The approval referred to in paragraph 1 of this Article shall be issued by the customs authority on the form the contents of which correspond to the model from Addendum 13 A hereto.

(4) Keeper of customs warehouse shall commence the business when it obtains the approval and deposit with the customs authority a suitable security instrument pursuant to Article 193 hereof. Deposited security instrument shall not be used as a security for other customs debts which are not the debts that might arise in the procedure of goods warehousing pursuant to Article 118 of the Customs Law.

### **Article 192**

(1) Approval for the customs warehouse opening shall be issued for an indefinite period of time, but this fact shall not affect any decision on cancellation, invalidation or amendment to the approval.

(2) In the approval, the customs authority shall designate the surveillance customs authority. If it is so necessary under the circumstances, it shall be also defined in the approval that the goods which may adversely affect other goods, and the goods whose warehousing require meeting of specific requirements, may be warehoused only in such customs warehouses which are specifically equipped for warehousing of such goods.

(3) For private customs warehouse, the customs authority may define, in the approval, the types of goods which may be warehoused in such warehouse.

(4) If the applicant requests to be allowed to be surrendered the goods for the purposes of instigating the customs warehousing procedure with other customs authority and not with the surveillance customs authority, provided such fact does not affect the customs surveillance, the customs authority may authorize, in the approval, one or more customs authorities as the authorities for instigation of the customs warehousing procedure.

### **Article 193**

(1) Keeper of customs warehouse shall submit a security instrument before the customs warehouse starts its business.

(2) Value of the security instruments shall not be less than the amount of customs debts which were incurred or could have been incurred considering the average monthly level of import duties for the goods which was put into free circulation from the customs warehouse. The level of the security shall be determined pursuant to Article 585 paragraphs 3 and 4 hereof.

(3) The customs authority may release the keeper of warehouse from the submittal of security instruments referred to in paragraph 1 of this Article if the customs authority has designated the shared use of the key as a regular measure of customs surveillance.,

### **Article 194**

Besides in the events referred to in Articles 9 and 10 of the Customs Law, the customs authority may cancel the issued approval:

1. if the keeper of warehouse does not start the customs warehouse business within six months after the issuance of approval, or
2. if it arises from the customs warehouse business that its existence is no longer economically justifiable. It shall be deemed that the existence of the customs warehouse is not longer economically justifiably if other activities prevail in such warehouse for a prolonged period of time.

### **Division 3** **Instigation of the customs goods warehousing procedure**

#### **Article 195**

(1) Customs declaration for the goods which were surrendered within the customs warehousing procedure, shall be submitted with the customs authority, save in the event referred to in Article 192 paragraph 4 hereof, when the declaration may be submitted with any of the customs authorities of the initial procedure which are designated in the approval.

(2) In the event referred to in Article 192 paragraph 4 hereof, the customs authority of the initial procedure shall notify the surveillance customs authority about receipt of the declaration. In such event, regulations on customs warehousing shall apply after the receipt date of the declaration for instigation of customs warehousing procedure. This declaration shall also be used for the soonest possible transportation of goods to the premises of customs warehouse and for introduction of goods to the customs warehouse, and the goods need not be re-surrendered to the surveillance the customs authority.

(3) It shall not be possible to apply the procedure referred to in paragraph 2 of this Article to warehousing of customs goods in the Type B customs warehouse.

(4) Procedure referred to in paragraph 2 of this Article may be omitted if internal organizational structure of the customs authority, primarily electronic data exchange, enables appropriate customs surveillance.

#### **Subdivision 1** **Routine procedure**

#### **Article 196**

Declaration referred to in Article 195 hereof shall be filled out in the manner stipulated by the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law.

#### **Subdivision 2** **Simplified procedure**

#### **Article 197**



The customs authority may, for instigation of the customs warehousing procedure, approve the simplifications referred to in Article 84 of the Customs Law, provided the requirements referred to in Articles 148-156 hereof are duly met.

**Article 198**  
**(procedure in transfer of goods from temporary storage to the customs warehousing procedure)**

Procedure referred to in Articles 196 and 197 hereof shall be also applied in the event of transferring the temporary stored goods from the temporary storage referred to in Article 187 paragraph 1 hereof to the customs warehousing procedure.

**Division 4**  
**Keeping the customs warehouse**

**Subdivision 1**

**Article 199**

- (1) Records of the goods in Type A, C, D or E customs warehouse shall, pursuant to Article 112 paragraph 1 of the Customs Law and in accordance with the decision the customs authority, be kept by the keeper of customs warehouse.
- (2) Keeper of customs warehouse shall, at the request, surrender to the competent customs authority the records for the purposes of verifying that records are kept properly and that the content of the records is in compliance with actual stocks in the customs warehouse.
- (3) In the event of introduction of goods in Type B customs warehouse, the surveillance customs authority shall keep the declaration or other official documents for instigation of customs warehousing procedure, with the intention of performing surveillance over the conclusion of instigated customs warehousing procedures. In such event, it shall not be necessary to keep separate bookkeeping records.
- (4) In the event of Type E customs warehouse, records of the goods located in the customs warehousing procedure shall be kept by the customs authority in accordance with this subdivision.

**Article 200**

Save in the events referred to in Article 199 paragraph 3 hereof, surveillance customs authority shall not keep records and, because of the administrative needs, it may keep the register of all declarations received.

**Article 201**

If the depositor keeps records for its commercial and taxation requirements and such records contain the data which, considering the type of customs warehouse and the procedures for instigation and conclusion of the customs warehousing procedure, are necessary for surveillance, the customs authority may approve such records as the records referred to in Article 112 of the Customs Law.

## **Article 202**

(1) Records referred to in Article 112 of the Customs Law shall contain all the data necessary for proper implementation and surveillance over the procedure of customs warehousing.

(2) Records referred to in paragraph 1 of this Article shall contain the following minimum of data:

- a) data from boxes 1, 31, 37 and 38 of the unique customs document which is filled out for the declaration for instigation of the customs warehousing procedure;
- b) reference to the customs declaration, namely application for new allowed use or utilization of goods with which the customs warehousing procedure for respective goods has been concluded;
- c) the date and the data about other customs and other documents concerning the instigation and conclusion of the customs goods warehousing procedure;
- d) the data which make it possible to perform surveillance over movement of goods in the customs warehouse and, in particular, where the goods are located and the data about relocation of goods from one to the other warehouse, if any, while the customs warehousing procedure was not concluded;
- e) the data about joint warehousing of customs goods and goods referred to in Article 113 paragraph 1 of the Customs Law.;
- f) all other data which are of relevance for determination of the type and quality of goods;
- g) the data about routine procedures and treatment of goods in the customs warehouse;
- h) the data about temporary removal of goods from the customs warehouse premises.

(3) Records about the goods located in the Type D customs warehouse shall, besides the data referred to in paragraph 2 of this Article, contain the data from boxes 3, 5, 14, 19, 26, 32, 33, 34, 47, 49 and 54 of the unique customs document, which are filled out in the declaration with which the customs warehousing procedure is instigated.

(4) Keeper of customs warehouse shall keep records so that at any time they show actual stocks of goods in the customs warehousing procedure. In the time periods determined by the customs authority, the keeper of customs warehouse shall submit the extract from the records.

(5) If the declarant has requested that, when determining the customs value of the goods in the customs warehouse, Article 118 paragraph 2 of the Customs Law be applied, the data about customs value of goods shall be specified in the records before implementation of the approved procedure or treatment.

(6) In the event of the approved application of simplified procedures referred to in Article 84 of the Customs Law, provisions of this Article pertaining to the declaration shall accordingly apply to the approved simplifications.

### **Article 203**

(1) The goods for which the customs warehousing procedure was instigated in the Type A, C or D warehouse, shall be entered in the records at the moment when the goods are introduced to the customs warehouse. Care should be taken about the data accepted, namely confirmed by the customs authority or the customs authority for instigation of the procedure pursuant to Article 195 paragraph 2 hereof.

(2) If, for the goods, the customs warehousing procedure was instigated in the Type E warehouse, the goods shall be entered in the records at the moment when the goods arrive to the warehousing premises of the approval holder.

(3) If the customs warehouse pursuant to Article 187 hereof is used for temporary storage of goods, the goods shall be entered in the records:

1. in the event that the declaring was approved on the basis of bookkeeping entries in accordance with Article 154 hereof for transfer of goods from the temporary storage to the customs warehousing procedure – before expiry of the timeline referred to in Article 59 of the Customs Law,

2. in all other events – at the moment when the goods subjected to the procedure of customs warehousing, on the basis of received declaration.

(4) The data concerning the conclusion of customs warehousing procedure, the keeper of customs warehouse shall enter in the records:

1. in the event that any of simplified procedures referred to in Article 84 of the Customs Law is approved – not later than at the moment when the goods were removed from the customs warehouse,

2. in all other events – at the moment of releasing the goods to the declarant on the basis of the declaration for customs approved use or utilization goods.

### **Subdivision 2**

### **Routine procedures and treatment**

### **Article 204**

(1) The customs authority may, on the basis of request, approve that the customs goods be subjected to routine procedures and treatment, for the reasons to preserve the goods, improve their appearance or market value, and prepare them for distribution and further sales.

- (2) Procedures and treatment which may be approved in accordance with paragraph 1 of this Article are listed in the Addendum 14 hereto.

#### **Article 205**

- (1) Request referred to in Article 118 paragraph 2 of the Customs Law should be submitted at the same time with the request for approval of the performance of routine procedures and treatment referred to in Article 204 hereof.
- (2) Applicant referred to in paragraph 1 of this Article may at the same time request that the customs authority issue to him the certificate about the data which, pursuant to Article 118 paragraph 2 of the Customs Law, are taken into account in determination of customs debt, if any.

#### **Article 206**

Keeper of customs warehouse shall, in the written request for approval of the procedures and treatment referred to in Article 204 hereof, besides the general data, indicate the precise data about:

1. declaration and goods to which the approval pertains;
2. types of procedures and treatment which are to be approved;
3. customs warehouse in which the goods are to be warehoused, namely to be subjected to the approved procedures and treatment.

#### **Article 207**

- (1) Approval for performance of routine procedures and treatment shall be issued by the surveillance customs authority, for each individual case separately.
- (2) By way of derogation from paragraph 1 of this Article, surveillance customs authority may, in justifiable cases, issue the general approval for a limited or an unlimited period of time.
- (3) If the request contains all the data necessary for the decision, and the customs authority completely meets the request, the approval referred to in paragraph 2 of this Article shall be issued in the form of a written note on the request.

#### **Subdivision 3**

#### **Joint warehousing of the goods with different customs status**

#### **Article 208**

#### **(storing of domestic goods)**

- (1) The customs authority, which is a competent authority for surveillance over the customs warehouse, may, at the written request, approve to the keeper of customs warehouse to, in the premises of customs warehouse, store other domestic goods and not only the goods referred to in Article 113 paragraph 1 item 1 of the Customs Law. These goods shall not be subjected to the customs warehousing procedure.

(2) Approval referred to in paragraph 1 of this Article the customs authority may be issued solely provided:

1. it is economically justifiable,
2. it is possible to any time determine which goods are in the customs procedure and which are not,
3. fulfillment of prescribed requirements is ensured, and
4. customs surveillance remains ensured.

(3) As a rule, the goods referred to in paragraph 1 of this Article shall not be mixed with the goods which is in the warehouse and is in the customs warehousing procedure.

(4) If, due to the nature of the goods which is intended to be stored in accordance with paragraph 1 of this Article, it is not possible to ensure determination of the identity of these goods, warehousing of such goods in the customs warehouse may be approved only if such goods is of the same type as the customs goods. It shall be deemed that the goods of the same type, if it is classified in the same paragraph of the Customs Tariff Schedule and is of equal trade quality and equal technical characteristics.

(5) For the goods kept in the customs warehouse in accordance with this Article, the keeper of warehouse shall keep separate records pursuant to Article 202 hereof.

#### **Subdivision 4** **Temporary removal of goods from the customs warehouse**

##### **Article 209**

(1) The customs authority, competent for surveillance over customs warehouse, may, pursuant to Article 116 of the Customs Law, approve temporary removal of goods from the customs warehouse.

(2) Approval referred to in paragraph 1 of this Article shall be, as a rule, issued by the customs authority for each individual case separately, on the basis of the warehouse keeper's, namely the goods user's written request,.

(3) If the approval for customs warehouse includes general approval for temporary removal of goods from the warehouse, the keeper shall notify the customs authority about every removal of goods in the manner specified by the customs authority.

(4) Request referred to in paragraph 2 of this Article shall contain all the data necessary for the decision on the request, and primarily the timeline in which the goods should be returned to the customs warehouse.

(5) If the customs authority fully meets the request, it shall issue the decision in the form of an official note on the request.

(6) In the event of temporary removal of customs goods from the customs warehouse, the applicant shall submit to the customs authority a suitable security instrument in case the

obligation of customs debt payment arise, unless the customs authority already possesses a suitable security instrument with which it can secure the payment of customs debt, if any.

(7) In the event that the customs goods, while it is still temporarily removed from the customs warehouse, are subjected to routine procedures and treatment, Articles 204 to 206 hereof shall apply.

#### **Subdivision 5**

#### **Relocation of goods between customs warehouses without the conclusion of customs warehousing procedure**

#### **Article 210**

(1) The customs authority may, pursuant to Article 117 paragraph 3 of the Customs Law, approve relocation of goods from one customs warehouse to other, while the customs warehousing procedure is not concluded, on the basis of the written request of keeper of the warehouse from which the goods are removed.

(2) Request referred to in paragraph 1 of this Article shall contain all the data necessary for the decision, and primarily the timeline that is necessary for the goods to be introduced to other customs warehouse.

(3) Responsibility for the goods for which the customs authority has approved the relocation shall be transferred to the keeper of the warehouse to which the goods is redirected, at the moment of introducing the relocated goods in the new warehouse and entry into the records of such warehouse.

(4) Relocation of goods from one customs warehouse to other without the conclusion of customs warehousing procedure shall not be possible when the goods are being removed from or introduced to the Type B customs warehouse.

(5) If the goods were relocated before it were introduced into other customs warehouse and subjected to procedures and treatment referred to in Article 204 hereof, and if the request referred to in Article 118 paragraph 2 of the Customs Law was submitted, the request referred to in paragraph 1 of this Article shall also contain the data about the nature, customs value, and quantity of relocated goods which is taken into account in the event that the customs debt arise for such goods.

(6) Relocation procedure shall be implemented in the manner defined in Addendum 15 hereto.

#### **Subdivision 6**

#### **Article 211 (inventory of goods)**

(1) The customs authority competent for surveillance over customs warehouse may, if it deems that it is necessary for the control of the properness of the customs warehouse business, request that the keeper of warehouse make inventory of all goods which is

warehoused in the customs warehousing procedure or inventory of individual types of goods.

(2) The customs authority may request that the inventory of goods referred to in paragraph 1 of this Article is made in the presence of customs officers.

(3) Inventory of goods may be requested periodically or from time to time.

## **Division 5**

### **Conclusion of customs warehousing procedure**

#### **Article 212**

(1) If, pursuant to Article 208 paragraph 4 hereof, the customs authority has approved joint warehousing of the same-type domestic and customs goods, the goods for which the approval for allowed use or utilization is requested may be deemed to be the customs goods or the domestic goods. That is to be decided by the owner of warehouse or owner of goods.

(2) In no event shall the customs approved use or utilization of goods in accordance with paragraph 1 of this Article be requested for a quantity of customs goods exceeding the actual quantity of such goods warehoused in the customs warehouse at the time of removal of the goods which was notified for a particular allowed use or utilization.

(3) In the event of complete destruction or irrecoverable loss of the goods which were in the customs warehousing procedure, share of the destroyed or lost goods shall be determined taking into account the share of such goods in the total quantity of the same-type goods in the customs warehousing procedure in the premises of the customs warehouse at the time of occurrence of the destruction or loss, unless the owner of warehouse submits to the customs authority the evidence of actual quantity of lost or destroyed goods which were in the customs warehousing procedure.

## **Division 6**

### **Specific provisions for the goods referred to in Article 105 paragraph 1 item 2 of the Customs Law.**

#### **Article 213**

(1) Unless otherwise provided in this Division, provisions of Divisions 1 to 5 of this Section shall also apply to the goods referred to in Article 105 paragraph 1 item 2 of the Customs Law.

(2) Goods referred to in Article 105 paragraph 1 item 2 of the Customs Law may be warehoused in the same warehouse premises as other customs and domestic goods pursuant to Article 208 paragraph 1 hereof, only if it is possible to at any time determine the customs status of each individual product.

#### **Article 214**

**(declaration for instigation of procedure)**

Goods referred to in Article 105 paragraph 1 item 2 of the Customs Law shall be declared for instigation of warehousing procedure by way of a declaration filled out in the manner provided by the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law. All documents necessary for instigation of customs warehousing procedure shall be appended to the declaration.

**Article 215**  
**(declaration for conclusion of procedure)**

- (1) Customs warehousing procedure shall be concluded by the receipt of declaration for exportation of goods.
- (2) The goods for which the exportation declaration was submitted shall remain under customs surveillance until the goods actually leave the customs territory. In such time period, the goods may be stored in the premises of customs warehouse even if they are not in the customs warehousing procedure.

**Article 216**  
**(exportation customs declaration)**

- (1) For the goods referred to in Article 105 paragraph 1 item 2 of the Customs Law, exportation declaration shall be filled out in the manner provided by the regulation passed on the basis of Article 69 paragraph 2 of the Customs Law, and all prescribed documents shall be appended to the declaration.
- (2) The customs authority shall, on the back of the documents referred to in paragraph 1 of this Article, insert the date when the goods were actually removed from the customs territory.

**Article 217**  
**(timeline for exportation)**

Goods referred to in Article 115 paragraph 1 item 2 of the Customs Law shall be actually removed from the customs territory within 3 months after the date when the customs warehousing procedure was instigated for such goods.

**Division 7**  
**Utilization of customs warehouse even if no customs warehousing procedure was  
instigated for the goods**

**Article 218**  
**(processing of goods)**

- (1) The Customs Administration may, pursuant to Article 113 of the Customs Law, on the basis of the written request, approve that, in the premises of customs warehouse, processing of customs goods be performed in accordance with the procedure for



importation of the goods for production for exportation or procedure for processing under customs surveillance, provided the following requirements are met:

1. applicant has proven the economic justifiability;
2. processing of goods has been separated in other premises so that the processing of goods cannot cause mixing of such goods with the goods which are in the customs warehousing procedure.
3. it is not a permanent activity but rather only a temporary or sporadic activity which is supposed to provide better economic exploitation of warehousing premises.

(2) Approval referred to in paragraph 1 of this Article shall be issued, as a rule, for each individual case separately, and it shall contain the data about the warehouse in which the processing will be performed.

(3) By way of derogation from paragraph 2 of this Article, the Customs Administration may issue the general approval, if the approved processing is performed in the Type A, C or D customs warehouse, and, if the approval for declaring the goods on the basis of bookkeeping entries was issued at the same time.

(4) Applicant shall not commence the processing of goods in the customs warehouse in accordance with this Article before it obtains the approval.

### **Section 3** **Procedure of inward processing**

#### **Division 1** **General provisions**

#### **Article 219**

In implementation of this heading, the following terms shall have the following meanings:

1. "main obtained products" are the obtained products for whose production the procedure of inward processing was approved;
2. "ancillary obtained products" are obtained products, other than main obtained products;
3. "loss" is such part of the imported goods which is destroyed or lost in the course of production operations, primarily through evaporation, desiccation, escape of gas, or leakage into waste waters;
4. "quantitative method" is calculation of the participation of imported goods in different obtained products on the basis of the quantity of such goods;
5. "value method" is calculation of the participation of imported goods in different obtained products on the basis of the value of obtained products;

6. "processor" is a person who performs production operations, in part or entirely;

7. "utilization of equivalent goods" means a system under which it is possible, in accordance with Article 120 of the Customs Law, to obtain products from the equivalent goods, which meets the requirements referred to in Article 239 hereof;

8. "previous exportation" means a system under which it is possible, in accordance with Article 120 paragraph 1 item 2 of the Customs Law, to export the products obtained from the equivalent goods from the customs territory before the procedure for the imported goods was instigated under the system of deferral of customs duty payment system;

9. "timeline for re-export" means the timeline within which one of the customs uses or utilizations of goods, referred to in Article 97 of the Customs Law must be approved for the products;

10. "monthly grouping" means application of Article 122 paragraph 6 of the Customs Law in respect of the timelines for re-exportation which commence in the respective calendar month;

11. "quarterly grouping" means application of Article 122 paragraph 6 of the Customs Law in respect of timelines for re-exportation, which commence in the respective quarter.

## **Article 220**

### **(goods for which the procedure of inward processing may be instigated)**

(1) Pursuant to Article 119 paragraph 2 item 3 indent 4 of the Customs Law, it is possible to approve inward processing for auxiliary means of production, which are supposed to enable or facilitate production of obtained products, even though they are, entirely or partially, used up in production of obtained products and are not included in the substance thereof.

(2) The goods referred to in paragraph 1 of this Article shall not include the following goods:

1. fuels and energy sources, except those which are required for testing of obtained products or for identification of flaws in imported goods, due to which the repairs are necessary;

2. lubricants, except those which are required for testing, calibration and tuning of obtained products;

3. equipment, tools, including spare parts for equipment and tools for production of obtained products, and prone to wear and tear parts of equipment and tools.

## **2. Division**

### **Approval of the procedure of inward processing - routine procedure**

## **Article 221**

(1) With regard to the application of Article 121 paragraph 2 item 2 of the Customs Law, the customs authority shall specify in the approval the manner for identification of imported goods in the obtained products, namely it shall specify the measures necessary for controlling whether the prescribed requirements for implementation of Article 120 of the Customs Law are met.

(2) In accordance with paragraph 1 of this Article, the customs authority shall primarily specify the following measures:

1. indication of special designation or their description, namely series number;
2. putting of stamps, seals, and other designations;
3. taking of samples, images or technical descriptions;
4. conduct of analyses;
5. checking of records and other documents pertaining to the progress of the inward processing procedure, from which it is clearly visible that the obtained products were produced from imported goods.

## **Article 222 (Economic requirements)**

(1) Save in the events referred to in Article 224 hereof, it shall be deemed that the economic requirements referred to in Article 121 paragraph 2 item 3 of the Customs Law are met:

1. if it pertains to one of the following production operations:

- a) of inward processing referred to in Article 121 of the Customs Law;
- b) if it pertains to performance of production operations with regard to the goods which does not have a commercial purpose;
- c) if it pertains to improvement of goods, including regulation, adjustment and incapacitation of goods;
- d) if it pertains to routine procedures and treatments for conservation of goods, improvement of appearance, or better sales of the goods, or preparation of goods for distribution or further sale;
- e) if it pertains to production operations in which the value of each individual type of imported goods (defined on the basis of eight-digit designation of the Customs Tariff) for one applicant in a calendar year does not exceed €10,000, regardless of the number of persons performing the production operations;  
Value referred to in paragraph 1 of this item is equal to the customs value of goods estimated on the basis of known data and the documents submitted at the moment when the request was submitted.
- f) if it pertains to further processing procedures referred to in Article 229 hereof, other than those included in any of indents (a) to (e) of this item;

2. if, in the procedure of inward processing, the goods is being exported that cannot be compared with the goods which are routinely produced in the customs territory;

"Comparable goods" in accordance with this item means that the goods is classified in the same eight-digit tariff designation of the Customs Tariff Schedule, and that it is of the same commercial quality and the same technical characteristics as the imported products;

3. if comparable goods referred to in item 2 of this Article are not produced in sufficient quantities in the customs territory;

4. if domestic manufacturers of comparable goods referred to in item 2 of this Article are not able to supply them to the applicant within the appropriate time period.

In accordance with this item, it shall be deemed that the goods were not supplied within the appropriate time period if domestic manufacturers are not able to provide such goods at the time when such goods are necessary for the planned activity and if the applicant has timely requested such goods.

5. If comparable goods referred to in item 2 of this Article are produced in the customs territory of Montenegro but may not be used in the respective procedure for the following reasons:

a) their price is such that the planned activity would not be cost effective, for the purposes of paragraph 2 item 5 of this Article;

In determination of the impact of the price of domestic goods on the cost-effectiveness of the planned activity, care must be taken of its impact on the offer on foreign market.

The following shall be taken into account:

- comparison between the price payable for the goods which were imported for the inward processing purposes, without payment of customs debt and the price of domestic comparable goods, after deducting all internal duties which are refunded or should be refunded when the goods are exported,
  - sales terms, primarily payment terms and proposed delivery terms for the domestic comparable goods, and
  - the price which the obtained products realize on foreign market, determined on the basis of trade correspondence and other documentation.
- b) goods do not have the quality or certain characteristics necessary for production of the obtained products requested;
- c) goods do not comply with the explicitly expressed requests of the foreign buyer of derived goods;
- d) obtained products must be produced from imported goods because the provisions pertaining to protection of industrial property need to be respected;

6. If the applicant, with regard to certain type of goods for which it requests approval for inward processing for a certain time period, demonstrates to the customs authority that:
- a) in such period, 80% of all goods it uses or the goods necessary for production of obtained products, it shall acquire from domestic manufacturer as the comparable goods in the context of item 2 of this Article;
  - b) the imported goods eliminate the actual problem of insufficient supply of such goods on domestic market, if the share of domestic comparable goods for meeting his needs is smaller than the share referred to under a) of this item;
  - c) he has taken the measures necessary to provide the comparable goods from domestic manufacturers but they have submitted no offers in response to his demand;
  - d) he repairs civil aircrafts.

(2) Indent a) item 6 paragraph 1 of this Article shall not apply to the goods from Addendum 16 hereto.

### **Article 223** **(exceptional request of the recognition of other economic requirements)**

- (1) Applicant may request the Customs Administration to determine that other economic requirements, besides those listed in Article 222 hereof, are met. In such event, the request must contain the reasons for which it deems that economic requirements are met. At its request, the Customs Administration shall be submitted the evidence of the content of request.
- (2) If, in the event referred to in paragraph 1 of this Article, the Customs Administration deems that the economic requirements could be considered met, it shall issue the approval for inward processing for a limited period of time which may not exceed nine months.
- (3) In the event that the Customs Administration issues the approval referred to in paragraph 2 of this Article, it shall notify the minister of economy and, in the event pertaining to the importation of agricultural products and foodstuffs, the minister of agriculture.
- (4) Minister of economy shall, on the basis of notification referred to in paragraph 3 of this Article, decide whether economic requirements contained in the approval may be deemed to be met even after expiry of the timeline referred to in paragraph 2 of this Article. In the event of importation of agricultural products and foodstuffs, it shall decide on the basis of the pinion of the minister responsible for agriculture. If it may be deemed that the requirements are met, the Customs Administration shall accordingly extend validity of the approval referred to in paragraph 2 of this Article.

(5) If the Customs Administration deems that economic requirements for the approval of inward processing are not met, it shall notify the applicant and the minister of economy, and in the event of importation of agricultural products and foodstuffs, the minister of agriculture.

**Article 224**  
**(exceptional refusal of approval)**

(1) If the circumstances suggest that application of the procedure of inward processing could have a negative effect on the interests of domestic manufacturers even though one of the requirements referred to in Articles 222 or 223 hereof is met, this Article shall apply.

(2) Injured domestic manufacturer may, in the event of paragraph 1 of this Article, submit with the Customs Administration the request to have the implementation of the procedure of inward processing banned on the basis of disputed economic requirements. The request shall contain all the data which makes it possible to decide whether the essential interests of domestic manufacturers are adversely affected.

(3) The Customs Administration shall decide on the request referred to in paragraph 2 of this Article after it obtains the opinion of the ministry of economy, namely ministry of agriculture. If the request is met, the Customs Administration shall, in its decision, precisely define the circumstances in which individual economic requirements may not be considered to be met.

(4) After the issuance date of the approval by way of which the request referred to in paragraph 2 of this Article is met, the customs authority may no longer approve that the procedure of inward processing be instigated on the basis of disputed economic requirements.

(5) Approvals for inward processing which were issued on the basis of disputed economic requirements before the decision referred to in paragraph 4 of this Article shall be cancelled in accordance with Article 10 of the Customs Law.

(6) The Government of the Republic of Montenegro, in specific cases, may entirely or partly prohibit implementation of the procedure of inward processing for imported agricultural and food products. In such event, paragraphs 4 and 5 of this Article shall accordingly apply.

**Article 225**  
**(fact which do not suffice for issuance of approval)**

In determination of economic requirements, the following facts shall not suffice to be the basis for the approval of the procedure of inward processing:

1. the fact that domestic manufacturer of the comparable goods which may be used for production of obtained products is the competition to the applicant;
2. the fact that the goods of the same type as the comparable or obtained are produced by one manufacturer only.

#### **Article 226**

- (1) Request shall be filled out pursuant to Article 176 hereof on the form whose content corresponds to the model from Addendum 12 B hereto. Request may be submitted by a person who, in accordance with Articles 94 and 121 of the Customs Law, may be issued the approval.
- (2) Request referred to in paragraph 1 of this Article shall be submitted with the customs authority which is territorially competent considering the registered office or permanent residence of the applicant.
- (3) If production operations are performed on the basis of labor contract between two persons with registered offices in the customs territory, the request shall be submitted by the ordering party or other person on its behalf.
- (4) For the purposes of implementation of Article 121 paragraph 2 item 1 of the Customs Law, the term "goods of non-commercial character" shall mean the goods referred to in Article 2 item 3 hereof.

#### **Article 227**

- (1) Save in the events referred to in Article 238 hereof, the approval shall be issued by the customs authority referred to in Article 226 paragraph 2 hereof, in accordance with Article 179 hereof, on the form the contents of which are in compliance with the model from Addendum 13B hereto.
- (2) By way of derogation from provisions Article 179 hereof, the customs authority may, in justifiable cases, issue the approval which shall apply retroactively but shall not exceed the request submittal date.

#### **Article 228**

- (1) The customs authority issuing approvals for the procedure of inward processing shall determine that the approval holder, for the purposes of surveillance over the implementation of the procedure of inward processing, shall keep records of the quantity of imported goods for which such procedure was instigated, about quantity of obtained products, and all other data which are necessary for surveillance over the implementation of procedure, as well as for the proper calculation of the customs debt which might arise.
- (2) The approval holder shall, at the request, show the records referred to in paragraph 1 of this Article to the customs authority, for the purposes of controlling whether approved procedure is properly implemented.
- (3) If production operations are performed with two or more contractors, the records referred to in paragraph 1 of this Article shall be kept in such a manner that the factual status with regard to the implementation procedure with each of the contracts may be determined at any time.

(4) If the circumstances allow, the customs authority may approve that the books that the approval holder kept for the purposes of organizing its business, namely production, be used as the records in accordance with this Article.

**Article 229**  
**(obtained products, derived from other obtained products)**

If the obtained products are derived from other obtained products for which the approval was previously issued, a person who performs further production operations, namely a person on whose behalf such operations are performed, shall submit a new request on the form from Addendum I2B hereto, in which it shall insert the data about the approval issued previously.

**Article 230**  
**(approval validity period)**

(1) The customs authority shall specify the validity period of the approval taking into account the economic requirements and specific needs of the applicant.

(2) If the approval validity period referred to in paragraph 1 of this Article is longer than two years, the customs authority shall check the requirements for issuance of approval in the time intervals specified in the approval. Such intervals may not be longer than 24 months.

**Article 231**  
**(timeline for re-exportation)**

(1) The customs authority shall, when issuing the approval, specify the timeline within which, pursuant to Article 121 of the Customs Law, obtained products need to be re-exported. When specifying the timeline, the customs authority shall take into account the time required for obtaining the products within the production procedures defined in the approval, for each individual quantity of imported goods, selected for the procedure, and the time required for instigation of other allowed use or utilization.

(2) The request which the approval holder has, for justifiable reasons, submitted after the expiry of the originally specified timeline for re-exportation, may also be deemed to be a timely written request for determination of the new timeline referred to in Article 121 paragraph 2 of the Customs Law.

(3) If the procedure of inward processing is approved for live animals, for the purposes of their fattening (including slaughter, if appropriate), the timeline for re-exportation may not exceed:

- three months, if it pertains to animals classified under tariff number 0104, namely 0105 Customs tariff, namely
- six months, if it pertains to other animals, classified under chapter 1 of the Customs Tariff Schedule;
- two months, if it pertains only to animal slaughter, without fattening.



(4) If the procedure of inward processing is approved for meat, the timeline for re-exportation may not exceed six months.

(5) By way of derogation from paragraph 3 indent 2, and paragraph 4 of this Article, on the basis of a justifiable and timely written request of the approval holder, timeline for re-exportation may be extended:

- 00 a) for tariff numbers 0102, 0201, 0202, 0203 (except 0203 12 110), 0206 and 0209 by further six months,
- b) and for tariff number 0203 12 110, by further nine months.

#### **Article 232** **(previous exportation - timelines)**

(1) In the event of previous exportation, the customs authority shall specify the timeline referred to in Article 122 paragraph 4 of the Customs Law, taking into account the time required for procurement and transportation of imported goods in the customs territory.

(2) The timeline referred to in paragraph 1 of this Article shall not exceed six months. This timeline may be extended by the customs authority if the approval holder submits a well-grounded request, but overall timeline may not exceed twelve months. Exceptionally, extension may be approved even after the expiry of the originally specified timeline.

#### **Article 233**

(1) Timelines referred to in Article 231 hereof shall commence after the receipt date of the declaration for instigation of the procedure of inward processing, namely in the event of the sue of the customs duty refund system, after the receipt date of the declaration for putting into free circulation.

(2) The timeline referred to in Article 232 hereof shall commence after the receipt date of export declaration.

#### **Article 234** **(monthly and quarterly grouping)**

(1) Monthly or quarterly grouping referred to in paragraph 3 Article 122 of the Customs Law shall be approved by the customs authority which issues the approval for the procedure of inward processing, when it is expected that the procedure of inward processing shall be regularly instigated for the imported goods and the re-exportation procedure shall be instigated for the obtained products, so that the timeline for performance of re-exportation is permanent, as a rule.

(2) In the event of monthly grouping, all timelines or re-exportation that commence in a particular month shall expire on the last day of the calendar month in which the timeline for re-exportation expires, and which pertains to the goods for which the procedure of inward processing was last instigated in such month.

(3) In the event of quarterly grouping, all timelines for re-exportation which commence in a particular quarter shall expire on the last day of the calendar quarter in which the timeline for re-exportation expires, which pertains to the goods for which the procedure of inward processing was last instigated in such quarter.

(4) Monthly and quarterly grouping shall be implemented taking into account the events from Addendum 17 hereto.

#### **Article 235**

Timelines referred to in Article 234 hereof shall commence on the receipt date of the declaration for instigation of the procedure of inward processing.

#### **Article 236**

##### **(norm on the basis of production data)**

(1) Save in the events referred to in Article 237 hereof, the norm of the obtained products (hereinafter referred to as: the norm) referred to in Article 123 of the Customs Law, or the method for determination of such norm, shall be determined on the basis of production data which shall be obvious from the records kept by the processor.

(2) The norms or the method for determination of norms shall be defined in accordance with paragraph 1 of this Article, and the customs authority may verify it retrospectively.

#### **Article 237**

##### **(standard norms)**

(1) Standard norms of consumption referred to in Article 123 paragraph 2 of the Customs Law may be used only for importation of the goods of good and original quality, which is the market goods and which is in accordance with prescribed quality standards.

(2) Standard norm referred to in paragraph 1 of this Article shall be determined by the customs outlet upon obtained opinion of the ministry of economy, namely ministry of agriculture.

### **Division 3**

#### **Approval for implementation of procedure - simplified procedure**

#### **Article 238**

(1) If for instigation of the procedure of inward processing no simplifications referred to in Article 84 of the Customs Law are used and in the events referred to in Article 232 item 1 hereof, the competent customs authority may approve that the submittal of the declaration for instigation of the procedure of inward processing be deemed to be the submittal of the request for approval.

(2) In the event referred to in paragraph 1 of this Article, receipt of the declaration of the instigation procedure shall be deemed to be the issuance of approval only if the requirements which should be taken into account when issuing the approval are met.

(3) Appended to the declaration which shall be submitted in accordance with paragraph 1 of this Article, shall be suitable documents which shall be filled out by the declarant and which, subject to the circumstances, shall contain the following data, except when such data are inserted in box 44 of the unique customs document:

1. name and address, namely company and registered office of the applicant, if he is not the declarant at the same time;
2. name and surname, namely company and registered office of the performer of production operation, if he is not the applicant or the declarant at the same time;
3. types of production operations;
4. trade or technical description of obtained products;
5. determined norm of the material consumption, or the method for determination of the norm;
6. envisaged timeline for re-exportation;
7. place where it is expected that production operations will be performed.

(4) Articles 177, 183 i 184 hereof shall accordingly apply.

(5) This procedure shall not be able to implement in the system of the use of equivalent goods.

#### **4. Division**

##### **Use of equivalent goods and previous exportation**

##### **Subdivision 1**

##### **Use of equivalent goods in the payment deferral system and customs duty refund system**

##### **Article 239**

##### **(request and requirements)**

(1) Use of equivalent goods shall be possible only if it is requested by a person who performs production operations and if the approval contains detailed data about the elements referred to in Article 120 paragraph 3 of the Customs Law, which are common for the equivalent and imported goods, and the measures with which these elements may be controlled.

(2) If approval for the procedure of inward processing includes the use of equivalent goods, the approval shall contain the specific measures which shall ensure compliance with the rules applicable to such system.

(3) If the approval that is already issued does not define the possibility of the use of equivalent goods and the approval holder wishes to implement such system, he shall have to submit the request for alteration of the originally issued approval. The request shall be filled out pursuant to Article 176 hereof.

**Article 240**  
**(use of equivalent goods, which was treated further than imported goods)**

(1) The Customs Administration may, exceptionally, approve that the used equivalent goods undergo better treatment than imported goods only if a significant part of the production of such equivalent goods was performed in the approval holder's company or in the undertakings where such production procedures are performed on behalf of the approval holder.

(2) In any case, the approval holder shall be under obligation to allow the customs authorities to verify the elements referred to in Article 120 paragraph 3 of the Customs Law before he commences the use of equivalent goods.

**Article 241**  
**(exchange of customs status between equivalent and imported goods)**

(1) In accordance with Article 120 paragraph 2 of the Customs Law, customs status of equivalent and imported goods shall be replaced:

1. in the event when previous exportation of the obtained goods was not approved pursuant to Article 120 paragraph 1 item 2 of the Customs Law – at the moment when the customs authority has accepted the customs declaration for conclusion of the customs procedure of inward processing;

2. if the approval holder, before the procedure is concluded, release the imported goods in altered condition, or obtained products, to the domestic market – at the moment when such goods are released to domestic market.

(2) Replacement of the customs status of goods in accordance with paragraph 1 of this Article shall not change the origin of exported goods.

(3) In the event of complete destruction or irrecoverable loss of unprocessed goods or obtained products, the share of destroyed or lost imported goods shall be determined taking into account part the imported goods indicated in the approval holder's records at the moment when the destruction or loss occurred, unless the approval holder submit to the customs authority the evidence of actual quantity of lost or destroyed imported goods.

**Subdivision 2**

**Article 242**

(1) The customs authority may not issue the approval for previous exportation pursuant to Article 120 paragraph 1 item 2 of the Customs Law, if the applicant, within the procedure of inward processing, refers to the economic requirements referred to in Article 222 paragraph 1 item 1 hereof and if the applicant is not able to demonstrate that the approval holder would specifically benefit from the use of this system.

(2) If previous exportation is implemented according to the customs duty deferral system, Articles 239, 240 and other, as well as Article 241 paragraph 3 hereof, shall accordingly apply.

(3) In the event of previous exportation of obtained products, customs status shall be changed in accordance with Article 120 paragraph 2 of the Customs Law:

a) for exported obtained products, at the moment when the customs authority received the exportation declaration, if inward processing procedure has been already instigated for imported goods,

b) for imported and equivalent the goods, at the moment of putting the goods u procedure of inward processing.

## **Division 5**

### **Customs duty payment deferral system**

#### **Subdivision 1**

#### **Instigation procedure**

#### **Article 243**

#### **(instigation procedure - general)**

(1) Procedures applicable as the instigation procedure of inward processing (system of deferred payment of customs duty) shall be implemented for imported the goods according the system of the use of equivalent goods, with or without previous exportation.

(2) By way of derogation from paragraph 2 Article 241 hereof, for the equivalent goods used according to the system of using the equivalent goods with or without previous exportation, provisions of this subdivision shall not apply.

#### **(a) Routine procedure**

#### **Article 244**

(1) Save in the event referred to in Article 238 hereof, declaration for instigation of the procedure of inward processing (customs duty payment deferral system), shall be submitted with one of the customs authorities of the instigation of procedure, as specified in the approval.

(2) In the event referred to in Article 238 hereof, the declaration referred to in paragraph 1 of this Article shall be submitted with the authorized customs authority.

#### **Article 245**

#### **(filling out the declaration)**

- (1) Declaration referred to in Article 244 hereof shall be filled out in the manner provided by the regulations referred to in Article 69 paragraph 2 of the Customs Law.
- (2) Save in the events referred to in Article 238 hereof, description of goods in the declaration referred to in paragraph 1 of this Article shall correspond to the data in the approval.
- (3) if the system of using the equivalent goods was approved, the data in the declaration shall be in such detail that they enable the identification of the data referred to in Article 120 paragraph 3 of the Customs Law.
- (4) Appended to the declaration referred to in Article 244 hereof, pursuant to Article 70 paragraph 2 of the Customs Law, shall be the documents prescribed in Article 69 paragraph 2 of the Customs Law.

#### **(b) Simplified procedure**

##### **Article 246 (simplifications)**

- (1) Simplified procedures referred to in Article 84 of the Customs Law shall be performed in accordance with Articles 157 and 158 hereof.
- (2) The customs authority shall not issue the approval for declaring on the basis of bookkeeping entries to the persons who do not provide for keeping of records pursuant to Article 228 hereof.
- (3) Supplementary declaration referred to in paragraph 3 Article 84 of the Customs Law shall be submitted within the prescribed timeline which shall not exceed 2 months after the submittal date of incomplete customs declaration.

#### **Subdivision 2 Conclusion procedure**

##### **Article 247 (end of the procedure of inward processing)**

- (1) Procedure of inward processing for imported goods shall be concluded when the declaration for instigation of other allowed use or utilization of goods pursuant to Article 97 of the Customs Law is received for the obtained products, namely the goods in altered condition and if all other requirements for conclusion procedure.
- (2) If Article 120 paragraph 1 item 2 of the Customs Law applies, the procedure shall be concluded when the customs authority accepts the declaration for customs goods.
- (3) Conclusion procedure shall be implemented either in respect of the quantities of imported goods which correspond to the obtained products for which the allowed use, or utilization in accordance with paragraph 1 of this Article or Article 248 hereof has

commenced, or in respect of the quantities of goods in unaltered condition for which such use or utilization has commenced.

#### **Article 248**

In implementation of the conclusion of the procedure of inward processing, the exportation goods shall be deemed to be the delivery of obtained products to the persons who may, pursuant to Article 184 paragraph 1 item 1 of the Customs Law, realize the right to be exempted from payment of customs duty, provided the requirements are met that are prescribed for realization of the right to be exempted from payment of customs duty in such events.

#### **Article 249**

The declaration by way of which other, allowed use or utilization is approved for the obtained products or imported goods in unaltered condition, shall contain all the data necessary for conclusion of procedure.

#### **Article 250**

- (1) If the nature or technical characteristics of imported goods change due to unpredictable circumstances or vis major in such a manner that the approval holder is not able to perform the approved production procedure or obtain the envisaged products, the holder shall duly and without delay notify the surveillance customs authority.
- (2) Article 241 paragraph 3 hereof shall accordingly apply.
- (3) In the events when the respective change may affect the validity or the content of issued approval, without prejudice to paragraphs 1 and 2 of this Article, Article 10 and Article 98 paragraph 1 of the Customs Law shall apply.
- (4) This Article shall also accordingly apply to obtained products.

#### **Article 251 (putting into free circulation)**

- (1) Save in the events referred to in Article 272 hereof, the customs authority may approve the putting of main obtained products or goods in unaltered condition into free circulation, if the respective person is not able, for such products or the goods, instigate the allowed use or utilization in which import duties are not payable.
- (2) The customs authority may approve putting of goods into free circulation in the routine manner. Such approval shall not be in contravention with other regulations pertaining to the putting of goods into free circulation.
- (3) If, in accordance with paragraph 2 of this Article, the approval for putting into free circulation was issued in the routine manner, the imported goods in unaltered condition or obtained products may be released for sales even though the formalities for putting into free circulation were not fulfilled at the moment when the goods were released to domestic

market. For the goods which were released to the market in accordance with this paragraph, only for the purposes of implementation of paragraph 4 of this Article, it shall not be deemed that they were approved the allowed use or utilization.

(4) It shall be deemed that the imported goods in unaltered condition or obtained products to which the approval referred to in paragraph 2 of this Article pertains have been put into free circulation and that the declaration for putting into free circulation was submitted and accepted and the goods released to the declarant if, at the expiry of the timeline for re-exportation (in compliance with Article 232 hereof), none of allowed uses or utilizations referred to in Article 97 of the Customs Law was approved. In such event it shall be deemed that the declaration was submitted and accepted and the goods released to the declarant at the moment of expiry of the timeline for re-exportation.

(5) The goods put into free circulation in accordance with paragraph 3 of this Article shall be deemed to be the domestic goods.

#### **Article 252** **(submittal of obtained products)**

(1) Save in the events of application of simplified procedures, the approval holder shall submit to the destination customs authority the obtained products or imported the goods for which the allowed use or utilization will be instigated so that formalities prescribed for the respective allowed use or utilization could be carried out in accordance with general provisions.

(2) The surveillance customs authority may approve that the products, namely the goods referred to in first paragraph of this Article be also submitted to other customs authority and to the one specified in paragraph 1 of this Article.

#### **(a) Routine procedure**

#### **Article 253** **(submittal place of the declaration for conclusion of procedure)**

(1) Save in the events referred to in Article 238 hereof, the declaration with which the procedure of inward processing (customs duty payment deferral system) is concluded, shall be submitted with one of customs authorities for the conclusion procedure that are specified in the approval

(2) In the event referred to in Article 238 hereof, the declaration shall be submitted with the customs authority which has issued the approval

(3) By way of derogation from paragraphs 1 and 2 of this Article, the surveillance customs authority may approve that the declaration be submitted with any other actually competent customs authority.

#### **Article 254** **(filling out declaration for the conclusion procedure)**



- (1) Declaration for the conclusion procedure referred to in Article 253 hereof shall be filled out in accordance with provisions about filling out the declaration for a given, allowed use or utilization.
- (2) Description of the obtained products or imported goods in unaltered condition in the declaration referred to in paragraph 1 of this Article shall correspond to the data in the approval.
- (3) Pursuant to Article 70 paragraph 2 of the Customs Law, appended to the declaration shall be all the documents provided by the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law, pertaining to the determination of customs procedure.

#### **(b) Simplified procedures**

##### **Article 255 (simplifications in the conclusion procedure)**

Simplified procedures referred to in Article 84 of the Customs Law shall be implemented pursuant to Article 160 hereof.

#### **(c) Provisions for calculation of customs debt**

##### **Article 256 (customs debt for the goods, subjected to the preferential customs treatment)**

- (1) Where the imported goods at the time of receiving the declaration for instigation of the procedure of inward processing has met the requirements for preferential customs treatment because of the final intended use of these goods, the customs debt which should be calculated pursuant to Article 125 paragraph 1 of the Customs Law, shall be calculated at the rate applicable for such intended final use and it shall not be required to obtain the approval for such preferential treatment.
- (2) Paragraph 1 of this Article shall apply only in the event where the imported goods is used for the intended use for which the preferential treatment is intended before expiry of the timeline determined by the regulations on the requirements which must be met in order that such preferential treatment may be approved. The timeline shall commence after the receipt date of the declaration for instigation procedure. The customs authority may extend such timeline if the goods which was not used for intended use within the originally specified timeline due to vis major or technical characteristics of the production operations.

##### **Article 257 (calculation of customs debt in the event of putting into free circulation)**

- (1) Where obtained products were put into free circulation and the customs debt was incurred, such customs debt shall be calculated pursuant to Article 125 of the Customs Law. Boxes 15, 16, 34, 41 and 42 of the unique customs document, filled out as the declaration for putting into free circulation, shall contain the data pertaining to the imported the goods in unaltered condition.

(2) The data from paragraph 1 of this Article shall not be needed to indicate, where appended to the declaration is a properly filled out form INF1 from Article 274 hereof.

#### **Article 258**

**(obtained products referred to in Article 126 paragraph 1 item 1 of the Customs Law.)**

(1) The surveillance customs authority shall approve that Article 126 paragraph 1 item 1 of the Customs Law be applied to the wastes, recycling wastes, residues, printing wastes and flawed goods.

(2) In application of this Article, destruction of the obtained products, other than those to which Article 126 paragraph 1 item 1 of the Customs Law applies, shall be deemed to be the exportation from customs territory.

(3) For the obtained products referred to in paragraph 1 of this Article, the receipt date of the declaration for putting into free circulation shall be deemed to be the day which is applicable for determination of import duties.

#### **Article 259**

Where the customs debt is incurred related to the obtained products or goods in unaltered condition, no compensation interest shall be payable on the calculated customs debt.

#### **Article 260**

**(share of imported goods in the obtained products)**

(1) Share of imported goods in the obtained products shall be calculated so as to determine the level of customs debt. Such calculation shall not be used where the amount of customs debt is determined solely on the basis of Article 126 of the Customs Law.

(2) Used for the calculation shall be one of the methods referred to in Articles 261 to 263 hereof or method yielding the same results.

#### **Article 261**

**(quantitative method – the obtained products)**

Quantitative method (obtained products) shall be used where, after the procedure of inward processing only a single type of obtained products is obtained. In such event the quantity shall be determined of the imported goods used up in the production of the obtained products pertaining to which the customs debt was incurred, so that the overall quantity of imported goods is multiplied by the coefficient that corresponds to the ratio between the quantity of obtained products for which customs debt was incurred, and overall quantity of obtained products.

#### **Article 262**

**(quantitative method - the imported goods)**

(1) Quantitative method (the imported goods) shall be used in the event where all elements of imported goods are to be found in each of obtained products. Quantity of the imported goods used up in production of each of the obtained products shall be determined so that the successively overall quantity of imported goods is multiplied by the coefficients that correspond to the ratio between the quantity of imported goods used up in each individual type of obtained product, and the overall quantity of imported goods used up in all obtained products.

(2) The decision on using this method shall not take into account the losses.

(3) Quantity of imported goods in the quantity of obtained products for which customs debt was incurred shall be determined taking into account the coefficient defined pursuant to Article 261 hereof, which shall be multiplied by the quantity of imported goods used up in the production of such obtained products, such as calculated on the basis of first paragraph of this Article.

### **Article 263 (value method)**

(1) Where it is impossible to apply the methods referred to in Articles 261 to 262 hereof, the value method shall be applied. Upon the consent of the approval holder, and due to the simplifications, the customs authority may use the quantitative method (the imported goods) instead of the value method where both methods yield similar results.

(2) Quantity of imported goods which is used up in the production of each individual type of obtained goods shall be calculated in such a way that overall quantity of imported goods is multiplied by the comparative coefficients which shall be calculated on the basis of the ratio between the value of each obtained product and the total value of such products, calculated in accordance with paragraph 3 of this Article.

(3) Pursuant to Article 44 paragraph 3 of the Customs Law, the value of each type of obtained products that is used in the value method in accordance with paragraph 2 of this Article is:

- current selling price of equal or similar products in the customs territory, where such price was not affected by the relations between buyer and seller or if such price is not known;
- current price based on "fco factory" in the customs territory, where such price was not affected by the relations between the buyer and the seller, or
- where it is not possible to determine the value in accordance with first or second indent, the value determined by the surveillance customs authority according to other suitable method.

(4) Quantity of imported goods corresponding to the quantity of obtained products for which customs debt is calculated, shall be calculated in such a way that the coefficient, calculated on the basis of Article 261 hereof, is multiplied by the quantity of the imported goods used up in production of such obtained products, calculated as in accordance with paragraph 2 of this Article.

#### **(d) Form for the calculation procedure**

##### **Article 264 (submittal of the form for calculation procedure)**

(1) Approval holder shall be under obligation to submit to the surveillance customs authority the form for calculation procedure, which shall contain:

- a) the data which allow the identification of approval;
- b) quantity of each type of imported goods, and the data about customs declarations pertaining to the instigation procedure;
- c) tariff designation of the customs tariff of imported goods;
- d) customs value of imported goods and rates of import duties that were payable;
- e) the norm of the imported goods consumption;
- f) the nature and quantity of obtained products and the data about allowed uses or utilizations allowable for such products, together with the data about declarations, namely applications pertaining to the approval procedure;
- g) value of obtained products, where value method is applied to the conclusion procedure;
- h) level of import duties payable on the quantity of imported goods, which is deemed to be put into free circulation pursuant to Article 251 paragraph 3 hereof.

(2) Model of the form is in Addendum 18 hereto.

(3) Where the procedure of inward processing is instigated or concluded in the simplified manner, the form for calculation procedure shall indicate the declaration and documents pursuant to Article 84 of the Customs Law. Clearly visible from the form for calculation procedure shall be the quantity of goods that was released into free circulation pursuant to Article 251 hereof.

##### **Article 265 (timeline for submittal of the form)**

(1) Approval holder shall submit to the customs authority regular form for calculation procedure referred to in Article 264 within thirty days after the day before which the procedure of inward processing must be concluded.

(2) If monthly or quarterly grouping is applied, the form for calculation procedure shall be submitted for each month or quarter within 30 days after the last day of the month, namely quarter to which the form applies.

##### **Article 266 (payment of import duties)**

(1) Import duties for the imported goods in unaltered condition or for obtained products which were put into free circulation in a routine manner pursuant to Article 251 hereof, shall be payable not later than at the time of submitting the form for calculation procedure which may be submitted on the basis of collective declarations.

(2) Where it is necessary to determine other basis for calculation of import duties, these data shall be indicated in the form for calculation procedure. Where it is necessary under the circumstances, a note should be taken from the form for calculation procedure of the share of imported goods in the obtained products, determined in accordance with Articles 261 to 263 hereof.

(3) Approval holder shall be under obligation to submit to the surveillance customs authority all the documents pertaining to the goods which were put into free circulation pursuant to Article 251 hereof and necessary for proper application of the provisions on putting into free circulation.

(4) The surveillance customs authority may approve that:

1. the calculation be generated in computer or in any other agreed form;
2. the calculation be generated on the declaration for instigation of procedure.

**Article 267**  
**(control of the forms for calculation procedure)**

The surveillance customs authority shall, on the basis of conducted control, confirm the form for calculation procedure and, if necessary, notify the approval holder about the results of such control. The customs authority shall keep the form for calculation procedure and the documents pertaining to it, for at least three years after the end of calendar year in which the form for calculation procedure was composed. The customs authority may decide that the approval holder keeps the documents pertaining to the form for calculation procedure. In such event, the approval holder shall keep them in the same form as the customs authority keeps them.

**Article 268**  
**(one approval, several declarations)**

(1) Where the procedure for imported goods was instigated on the basis of one approval, with several declarations, the obtained products or goods in unaltered condition which were surrendered for allowed use or utilization shall be deemed to the obtained or imported goods for which the procedure was instigated pursuant to the declaration that was first submitted.

(2) Paragraph 1 of this Article shall not be applied if the approval holder can demonstrate that the obtained products, namely goods in unaltered condition, were made from particular imported goods.

**Subdivision 3**  
**Measures economic policy**

**Article 269**  
**(presentation of license, consent, or similar documents**  
**at the submittal of request)**

Where request for issuance of the approval for procedure of inward processing pertains to the goods to which measures of economic policy referred to in Article 270 paragraph 1 hereof are applicable, it shall not be necessary to, when submitting the request, present the license, consent or similar document.

#### **Article 270**

##### **(application of economic policy measures at the beginning of the procedure of inward processing according to the customs duty payment deferral system)**

(1) Where the goods for which the declaration for instigation of the procedure of inward processing was submitted are:

1. subjected to specific economic policy measures for putting such goods into free circulation, such measures shall not be taken into account in the beginning of the procedure of inward processing and for as long as the goods remain in such procedure;
2. subjected to specific economic policy measures for introduction of goods in the customs territory, such measures shall be applied when for inward processing has commenced for those goods.

(2) For the customs goods for which the payment of customs debt is not mandatory, procedure may be started according to the customs duty payment deferral system:

1. so that it is not necessary to take into account the economic policy measures which are generally applied for putting the goods into free circulation;
2. so that it is not necessary to take into account the economic policy measures which are applied in exportation of the goods in unaltered condition or obtained products, not including the economic policy measures pertaining to the exportation of goods originated from Montenegro.

(3) If paragraphs 1 or 2 item 1 of this Article are applied, it is not necessary to append the license, consent or similar document at the time when the procedure is started.

#### **Article 271**

##### **(application of economic policy measures in re-exportation of customs goods)**

To the re-exportation of customs goods for which the procedure of inward processing was previously instigated, the economic policy measures prescribed for exportation of goods in unaltered condition or obtained products shall not apply, not including the economic policy measures pertaining to the exportation goods originated from Montenegro.

#### **Article 272**

##### **(application of economic policy measures when putting the goods into free circulation)**

Where the procedure of inward processing is concluded with the submittal of the declaration for putting into free circulation, for imported the goods in unaltered condition or for obtained products, with the exception of ancillary obtained products referred to in

Article 258 hereof, all economic policy measures applicable at the time of receiving the declaration for putting into free circulation shall apply to the imported goods.

#### **Subdivision 4**

##### **Article 273**

##### **(conclusion procedure with the commencement of new, allowed use or utilization – entry of remarks in the documents)**

(1) Where procedure of inward processing for the goods in unaltered condition or obtained products is concluded in such a manner that such goods are introduced into the free customs zone or it is subjected to any of postponed procedures, then in the box intended for the description of goods in the document used for selected, allowed use or utilization, or in the event of the use of simplifications – in the commercial document or in bookkeeping records, in addition to the data prescribed for the selected, allowed use or utilization, the following remark should be inserted:

"U - I goods"

(2) Where the goods for which a procedure according to the duty payment deferral system was instigated, were to be subjected to the economic policy measures and such measures do not apply when the imported goods or obtained products are introduced into the free zone, in addition to the remark referred to in paragraph 1 of this Article, the following remark should be inserted:

"economic policy measures"

(3) The customs authority with which the procedure was concluded shall determine whether the remarks referred to in paragraph 1, namely 2 of this Article were correctly inserted in each of the documents that replace or cancel the first document.

##### **Article 274**

##### **(form INF1)**

(1) Informative form (hereinafter referred to as: form INF 1) shall contain an original and two copies on the form corresponding to the model from Addendum 19 hereto.

(2) Form INF 1 referred to in paragraph 1 of this Article shall be applied for:

1. determination of the amount of the security referred to in Article 96 paragraph 1 of the Customs Law.;
2. putting into free circulation the obtained products or goods in unaltered condition with other customs authority rather than with the authority of the procedure conclusion.

##### **Article 275**

Where form INF 1 is applied for implementation of Article 274 paragraph 2 item 1 hereof, this fact must be duly indicated in box 2.

**Article 276**  
**(filling out the form INF 1)**

(1) Where pursuant to Article 274 paragraph 2 item 2 hereof, the putting of all or part of obtained products or goods in unaltered condition into free circulation is required, the customs authority which received the declaration and form INF 1, which he has confirmed, shall request the surveillance customs authority to insert the following data:

- in box 9 (a) - the amount of import duties payable in accordance with Articles 125 or 132 paragraph 4 of the Customs Law,
- quantity of each item in the Customs Tariff Schedule and origin of the imported goods used in production of the obtained products that were put into free circulation.

(2) In the amount of customs debt, the following should be clearly distinguished:

- the amount of the customs debt determined pursuant to Article 125 of the Customs Law, or the amount of the refunded, namely written-off importation debt, and
- the amount of customs debt which was already calculated or is to be refunded or written-off.

(3) Where the declaration for putting into free circulation pertains to the products or the goods referred to in Article 273 paragraph 2 hereof, the customs authority which receives the declaration and form INF 1, which it has confirmed, shall request the surveillance customs authority to indicate whether applicable measures were actually applied to the goods for which the procedure of inward processing was already instigated.

(4) Original and one copy of the INF 1 shall be submitted to the competent authority, and other copy shall be retained by the authority which has confirmed the form.

(5) Where the form INF 1 is applied to the implementation of economic measures, the surveillance customs authority, which receives the request, shall duly notify the approval holder.

(6) The surveillance customs authority, which was submitted the form INF 1, shall fill out the a boxes 8, 9 and 10 of the above form, confirm the form, retain one copy, and return the original. The surveillance customs authority shall not be under obligation to fill out the above boxes after expiry of the timeline within which it is to keep the records.

(7) Exclusively for the purposes of calculating the customs debt in accordance with paragraphs 1 and 2 of this Article, it shall be deemed that the products to which form INF 1 pertains were put into free circulation on the day when box 2 of the form was filled out.

**Article 277**



(1) Where putting the goods into free circulation is required and form INF 1 is filled out pursuant to Article 275 hereof, form INF 1 may be applied if it contains:

- in the box 9 (a) - the amount of customs debt payable pursuant to Article 125 paragraph 1 and Article 132 paragraph 4 of the Customs Law, and
- in the box 11 - the date when the procedure was instigated for the respective goods.

(2) If the data referred to in paragraph 1 of this Article are not indicated in the form INF 1, new form INF 1 shall be filled out pursuant to Article 276 hereof.

### **Article 278**

(1) Approval holder may request the confirmation of the form INF 1, where the obtained products or goods are transferred to other holder or to the production plant of other authorized processor.

(2) In such event the surveillance customs authority shall indicate the data referred to in Article 277 hereof.

### **Subdivision 5 Relocation goods**

### **Article 279**

(1) Where the goods for which the procedure of inward processing was instigated according to the system of deferred duty payment, are relocated within the customs territory, such transportation shall be performed in accordance with provisions for transit procedure or in accordance with the procedure referred to in paragraphs 3 and 4 of this Article and Articles 280 to 285 hereof.

(2) Transit declaration or document, which is treated as the transit declaration, shall contain the remark referred to in Article 273 hereof.

(3) The approved relocation procedure shall be specified in the approval and the relocation procedure shall be used instead of transit procedure. In the event of the relocation of products or goods from the holder of one approval to the holder of other approval, both approvals shall contain the approval for relocation procedure.

(4) Approval for the application of the relocation procedure shall be issued only if the approval holder keeps records referred to in Article 228 hereof.

### **(a) Relocation of goods or products within one approval**

### **Article 280**

(1) The customs authority may approve that the obtained products or goods in unaltered condition be, without specific customs formalities and without interruptions of the procedure of inward processing, within one approval, relocated from a plant of one manufacturer to a plant of another manufacturer, for the purposes of further processing. Relocation of goods shall be entered in the records referred to in Article 228 hereof.

(2) Responsibility for implementation of customs regulations pertaining to the relocated goods referred to in paragraph 1 of this Article shall be borne by the approval holder

**(b) Transfer of goods or products from one approval holder to the other approval holder**

**Article 281**

The customs authority shall approve the transfer of obtained products or goods in unaltered condition from one approval holder to the other, provided the entry was made in the records of the first approval holder in accordance with Addendum 20 hereto.

**Article 282**

(1) Responsibility for the transferred goods or products shall be transferred to the holder of second approval at the moment when the latter takes over the goods, namely products, and when he enters them in his records about the procedure of inward processing.

(2) With the entry of goods, namely products in the records, in accordance with paragraph 1 of this Article, it shall be deemed that, for these goods, namely products, the procedure of inward processing was anew instigated on behalf of the holder of second approval.

**Article 283**

**(other simplifications with regard to the relocation of goods)**

(1) In the event that proper implementation of the procedure is not breached, the customs authority may, under the conditions it determines by itself, approve:

a) transportation of imported goods without customs formalities, from the customs authority of initial procedure to the production plant, and transportation of obtained products or goods in unaltered condition from the production plant to the customs authority of the conclusion of procedure;

b) previous confirmation of the form from Addendum 2o, or, if the contractor fills out the form which it confirms with a specific stamp (seal) that is approved by the customs authority;

c) filling out the formalities through application of the electronic system, if such system provides for proper implementation of the provisions under this heading;

d) simplification formalities referred to in Article 281 hereof, provided the system that was used ensures the transfer of information in the manner equal to that provided in Addendum 20 hereto, and performance of the formalities for application of commercial and administrative documents.

(2) In the events referred to in item a) paragraph 1 of this Article, the customs authority of the instigation of procedure shall notify the surveillance customs authority that the respective procedure was instigated for the goods, and the customs authority of the conclusion of procedure – that the obtained products or the imported goods in unaltered condition were exported. Used for this purpose shall be an additional copy of the declaration, filled out for these purposes, and a copy of accompanying documents, or the notification shall be sent in an electronic format

#### **Article 284**

Approval holder shall notify the customs authority in advance about the planned relocations, in the form and in the manner specified by the customs authority.

#### **Article 285 (putting the goods into free circulation)**

(1) In the event the relocation procedure is used, as described in this subdivision, upon presentation of the form about the calculation procedure, Article 251 hereof may be applied for the goods for which it is deemed that they were put into free circulation, provided it is not forbidden by provisions pertaining to the putting into free circulation.

(2) The surveillance customs authority shall notify the customs authority or the authorities of the instigation of procedure about the approved conclusion of procedure and specify the corresponding numbers of the declaration for instigation of customs procedure, which it has received.

### **Division 6 Specific provisions for the paid customs debt refund system**

#### **Subdivision 1 Putting into free circulation according to the customs debt refund system**

#### **Article 286**

The procedure prescribed for putting the goods into free circulation according to the customs debt refund system shall be applied to the imported goods regardless whether the system of use of equivalent goods is applied or not.

#### **(a) Routine procedure**

#### **Article 287 (declaration in importation)**

(1) Save in the events referred to in Article 238 hereof, the declaration for putting into free circulation according to the customs debt refund system shall be submitted with one of the customs authorities of the instigation of procedure, as specified in the approval.

(2) Where the approval was issued pursuant to Article 238 hereof, the declaration shall be submitted with the authorized customs authority.

### **Article 288**

(1) Declaration referred to in Article 287 hereof shall be filled out in accordance with the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law, Articles 112 to 129 and Article 245 paragraphs 2 to 4 hereof.

### **(b) Simplified procedure**

### **Article 289**

(1) Simplified procedures referred to in Article 84 of the Customs Law, pertaining to the putting of goods into free circulation according to the customs duty refund system, shall be applied in accordance with Articles 157 i 158 hereof.

(2) Article 246 paragraph 2 hereto shall apply to the procedures referred to in paragraph 1 of this Article.

(3) Supplementary declaration referred to in Article 84 paragraph 3 of the Customs Law shall be submitted within the prescribed timeline but not later than the submittal of the request for refund.

## **Subdivision 2 Customs debt refund or write-off**

### **Article 290**

Procedure referred to in Article 248 hereof shall be deemed to be the exportation of obtained products.

### **Article 291**

Declaration for one of the allowed uses or utilizations referred to in Article 132 paragraph 1 of the Customs Law shall contain all data necessary for the explanation of the request for refund.

### **Article 292**

By way of derogation from the approved simplifications referred to in Article 84 of the Customs Law, the approval holder shall, at the submittal of the declaration for customs allowed use or utilization of goods, which the basis for the refund of customs debt, surrender these goods to the customs authority at the conclusion of procedure and duly fill out all prescribed customs formalities for the selected allowed use, namely utilization.

### **Article 293**

(1) Save in the events referred to in Article 238 hereof, the declaration with which one of the allowed uses or utilizations referred to in Article 132 paragraph 1 of the Customs Law is commenced for the obtained products, shall be submitted with one of the customs authorities of the conclusion of procedure, as specified in the approval.

(2) In the event referred to in Article 238 hereof, the declaration referred to in paragraph 1 of this Article shall be submitted with the authorized customs authority, which has issued the approval.

(3) The surveillance customs authority may approve that the declaration referred to in paragraph 1 of this Article be submitted with other customs authority.

#### **Article 294**

(1) Declaration referred to in Article 291 hereof shall be filled out in accordance with the provisions for requested customs use or utilization.

(2) Declaration referred to in paragraph 1 of this Article shall be filled out pursuant to Article 254 paragraphs 2 and 3 hereof.

#### **Article 295**

Simplified procedures referred to in Article 84 of the Customs Law shall, for the conclusion procedure of inward processing, apply pursuant to Article 160 hereof.

#### **Article 296**

(1) Share of imported goods in the obtained products shall be calculated when it is necessary to determine the refund of paid or written-off customs debt. Such calculation shall not be necessary where one of the approved uses or utilizations provided in Article 132 paragraph 1 of the Customs Law for was instigated for all obtained products.

(2) Used for the calculation shall be one of the methods referred to in Articles 297 to 299 hereof, or any other method that yields equal results.

#### **Article 297**

Quantitative method (obtained products) shall apply when each procedure of inward processing produces only one type of obtained products. Calculated in such event shall be the quantity of imported goods used up in production of the obtained products for which the refund or write-off customs debt may be requested, so that the overall quantity of imported goods is multiplied by the coefficient corresponding to the share of obtained products for which it is possible to request the customs debt refund or write-off, in the total quantity of obtained products.

#### **Article 298**

(1) Quantitative method (the imported goods) shall be applied in the event that all elements of imported goods are to be found in each obtained product. The quantity of

imported goods that is used in the production of each of the obtained products according to the customs debt refund system shall be calculated so that the successively overall quantity of imported goods is multiplied with the coefficients corresponding to the ratio between the used up quantity of imported goods in each type of obtained products and the total used up quantity of imported goods in all obtained products.

(2) Losses shall not be taken into account.

(3) Quantity of the goods imported according to the customs debt refund system, corresponding to the obtained products for which the refund or write-off of customs debt is requested, shall be calculated taking into account the coefficient determined pursuant to Article 297 hereof, which shall be multiplied by the quantity of the imported goods used up in production of such obtained products, such as calculated on the basis of paragraph 2 of this Article.

### **Article 299**

(1) In the event that it is not possible to apply the quantitative method referred to in Articles 297 and 298 hereof, the value method shall be applied. The customs authority may, for the purposes of simplification and upon the consent of the approval holder, apply the quantitative method (the imported goods) instead of the value method, if such method yields similar results.

(2) In accordance with value method, the quantity of imported goods which is used in the production of each type of obtained goods shall be calculated so that the overall quantity of imported goods is multiplied by the comparative coefficient which shall be calculated on the basis of the ratio between the value of each obtained product and the total value of such products, calculated in accordance with paragraph 3 of this Article.

(3) Article 263 paragraph 3 hereof shall apply.

(4) The quantity of imported goods which corresponds to the quantity of obtained products for which the customs debt refund or write-off may be requested, shall be calculated in such a manner that the coefficient, calculated on the basis of Article 297 hereof, is multiplied by the quantity of imported goods used up in the production of such obtained products, calculated in accordance with paragraph 2 of this Article.

### **Article 300**

(1) Request for customs debt refund, namely write-off, shall be submitted by the approval holder with the surveillance customs authority. This authority shall decide on the request for refund, namely write-off of the debt.

(2) Approval holder shall submit the request for customs debt refund, namely write-off, in two copies. One copy shall, after the decision is issued on the refund, namely write-off, be returned to the approval holder, and the other shall be kept by the customs authority.

(3) Request shall be filled out on the form the contents of which corresponds to the model from Addendum 21 hereto.

(4) The customs authority with which the request was submitted may request that additional documents necessary for the decision on justifiability of the request be submitted.

(5) Where Article 229 hereof is applied, the refund of customs debt may be requested only by the approval holder.

#### **Article 301**

In determination of the timeline referred to in Article 132 paragraph 3 of the Customs Law, it shall be deemed that the requirements for refund of paid customs debt are met when the declaration was accepted for any of allowed uses or utilizations referred to in Article 132 paragraph 1 of the Customs Law for the obtained products.

#### **Article 302**

(1) Where the surveillance customs authority decides that the approval holder shall keep the declaration from box 4 Addendum 21 hereto and other documents, such declarations and documents shall be on the disposal to the customs authority.

(2) Where Article 308 hereof is applied, appended to the request shall be the original form INF7.

#### **Article 303**

(1) The surveillance customs authority may approve that the applicant, which periodically submits identical requests for refund of customs debt, omits the indication of particular data from the request; however, such request shall contain all the data necessary for the decision about the level of refund.

(2) The surveillance customs authority may approve that the request is generated in computer or any other agreed form.

#### **Article 304**

The surveillance customs authority, on the basis of published control, shall confirm the request for refund of paid customs debt and notify the approval holder about the results of such control. The customs authority shall keep the request and the pertaining documents for at least three calendar years after the end of the year in which the request was submitted. The customs authority may determine that the approval holder keeps the documents pertaining to the request. In such event, the approval holder shall keep them for at least three years.

#### **Article 305**

(1) Refund of paid customs debt shall be made in such a manner that the competent department, the one which maintains the customs authority's account, issue the order for transfer of the refund to the account which the approval holder has specified in his request.

(2) Refund of paid customs debt shall not be possible to reimburse where the approval holder has any unsettled matured obligations against the importation or exportation customs debt. Refund and matured customs debt shall be offset in this event.

### **Subdivision 3**

#### **Administrative cooperation of customs authorities**

#### **Article 306**

**(obtained products, for which any of allowed uses, namely utilizations was instigated)**

(1) Where any of the allowed uses or utilizations of goods referred to in Article 132 paragraph 1 of the Customs Law was instigated for the obtained products according to the customs debt refund system, and when refund was approved, inserted in the box which is in the document used for instigation of the procedure or for introduction of goods in free customs zone, intended for description of goods, shall be the following remark:

"U - I / refund system "

(2) The customs authority with which the procedure is to be concluded shall determine whether the remark referred to in paragraph 1 of this Article was inserted in each of the documents that have replaced or cancelled the former document.

#### **Article 307**

**(transportation of goods in the transit procedure)**

Where the obtained products, derived from the procedure of inward processing according to the customs debt refund system, were transported to other customs authority within the transit procedure, and where such transit procedure is the basis for submittal of the request for refund, and a new procedure of inward processing is requested for such obtained products, the authorized customs authority, which is responsible for issuance of new approval, shall use the form INF 1 referred to in Article 274 hereof to determine the amount of importation customs debt payable, or the amount of customs debt that may be written-off.

#### **Article 308**

**(use of the form INF 7)**

(1) Form INF 7 shall consist of the original and two copies on the form which corresponds to the model from Addendum 22 hereto.

(2) Form INF 7 referred to in paragraph 1 of this Article shall be used where, in the procedure of inward processing (customs debt refund system), the obtained products for which the request for refund was requested are transported to the customs authority of the concluded procedure, which is not specified in the approval and with which, for the products in unaltered condition or obtained products, according to the subsequently approved processing, any of allowed uses or utilizations which is the basis for refund or exemption from payment of customs debt in accordance with Articles 128 do 132 of the



Customs Law was instigated. The customs authority with which, such allowed use or utilization was instigated shall issue the form INF 7 at the request of the interested person.

**Article 309**  
**(submittal of the form INF 7)**

(1) The respective person shall submit the form INF 7 at the same time with the declaration for the requested allowed use or utilization.

(2) The customs authority with which the declaration referred to in paragraph 1 of this Article is being submitted, shall confirm the form INF 7 and return the original and one copy to the approval holder.

**Section 4**  
**Processing pod customs surveillance**

**Division 1**  
**General provisions**

**Article 310**  
**(requirements for issuance of the approval for instigation of procedure)**

(1) Procedure of processing under customs surveillance may be approved by the customs authority where the requirements referred to in Article 136 of the Customs Law are met, if it pertains to the goods from the column 1 of the description from Addendum 23 hereto, which should be the subject of the processing procedures listed in column 2 of Addendum 23.

(2) It shall be deemed that economic requirements referred to in Article 136 paragraph 3 item 5 of the Customs Law are met in the events listed in the Addendum referred to in paragraph 1 of this Article.

**Subdivision 1**  
**Issuance of approval - routine procedure**

**Article 311**  
**(approval)**

Approval referred to in Article 312 hereof shall be issued on the basis of the request which shall be generated pursuant to Article 176 hereof and filled out on the form whose contents correspond to the model from Addendum 12 C hereto. The request shall be submitted with the customs authority.

**Article 312**

(1) By way of derogation from Article 316 hereof, approval for the procedure of processing under customs surveillance shall be issued on the form the contents of which correspond to the model from Addendum 13 C hereto.

(2) With the purpose of ensuring proper implementation of the procedure, the customs authority may, intending to facilitate the control, request that the approval holder keeps records of the goods from which clearly visible shall be the quantity of imported goods for which the procedure of processing under customs surveillance was instigated, the quantity of processed products, and other data necessary for surveillance over the implementation of the processing and for proper calculation of customs debt, if any.

(3) The records referred to in paragraph 2 of this Article shall be presented by the approval holder, at the request of the surveillance customs authority for the purposes of implementing the surveillance over proper implementation of the procedure.

(4) The records kept by the approval holder for his own commercial needs and which facilitates surveillance over the implementation of the procedure of processing under customs surveillance, may, upon the consent of the customs authority, be used as the records referred to in paragraph 2 of this Article.

### **Article 313 (validity period)**

(1) Validity period of the approval for implementation of the procedure of processing under customs surveillance shall be determined by the customs authority, taking into account specific needs of the requested procedure of processing.

(2) Where validity period of the approval referred to in paragraph 1 of this Article is longer than two years, the customs authority shall ex officio check the compliance with the requirements for issuance of the approval in the time intervals specified in the approval.

### **Article 314 (timeline for implementation of the procedure and its extension)**

(1) The approval referred to in Article 312 hereof shall specify the timeline within which other customs allowed use or utilization pursuant to Article 137 of the Customs Law shall be approved for the processed products. Account should be taken of the time required for implementation of the processing procedure and the time required for the processed products to allowed new allowed use or utilization.

(2) Exceptionally, if so required under the circumstances, the timeline referred to in paragraph 1 of this Article may be extended even after expiry of the timeline that was originally determined in the approval.

### **Article 315 (determination of the goods consumption norm)**

(1) The norm for the obtained products or the method for determination of such norm should be, if possible, determined on the basis of the production data. The norm shall be subsequently checked in the approval holder's records.

(2) The norm of the consumption of goods or the method for determination of the norm referred to in paragraph 1 of this Article shall be subjected to subsequent checks by the customs authority.

## **Subdivision 2**

### **Issuance of approval - simplified procedure**

#### **Article 316**

**(declaration for instigation of the procedure as the request for issuance of approval)**

(1) Where for the instigation of the procedure of processing under customs surveillance simplifications referred to in Article 84 of the Customs Law are not applied, authorized customs authority may allow that the submittal of the declaration for instigation of the procedure of processing under customs surveillance shall be deemed to be the submittal of the request for approval.

(2) The receipt of the declaration for instigation of the procedure shall be deemed to be the issuance of the approval for implementation of the procedure of processing under customs surveillance, where the requirements for issuance of the latter are met.

(3) Appended to the declaration referred to in paragraph 1 of this Article shall be the document which shall contain the following data, provided they are not covered by the box 44 of the unique customs document:

- a) name and address of the applicant and the company, if the person submitting the request is not at the same time the declarant;
- b) name, namely the company and address of the person performing the processing, if such person is not the applicant, namely the declarant;
- c) description of the procedure of processing;
- d) trade or technical description of processed products;
- e) the norm or method for determination of the norm, if that is a more appropriate method for determination of the norm;
- f) the timeline for achievement of new, allowed use or utilization of imported goods, namely obtained products;
- g) the place where it is envisaged that processing procedure will be performed.

(4) Articles 177, 183 and 184 hereof shall accordingly apply to the simplifications from this Article.

## **2. Division**

### **Instigation procedure**

#### **Article 317**

**(competences)**

(1) Save in the events referred to in Article 316 hereof, the approval holder may be submitted the declaration for instigation of the procedure of processing under customs

surveillance only with the customs authority or the customs authority indicated in the approval.

(2) In the event referred to in Article 316 hereof, the declaration for instigation of the procedure of processing under customs surveillance shall be submitted with the authorized customs authority.

#### **Article 318 (filling out the declaration)**

(1) Declaration referred to in Article 317 shall be filled out pursuant to Article 70 of the Customs Law, in the manner provided by the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law.

(2) By way of derogation from item d) paragraph 3 Article 316 hereof, entry of the goods in the declaration shall correspond to the text indicated in the approval.

(3) In implementation of Article 70 paragraph 2 of the Customs Law, appended to the declaration shall be the prescribed documents referred to in Article 20 of the Rules on Filling out of the Document.

#### **Article 319 (simplified procedures)**

(1) Simplified procedures referred to in Article 84 of the Customs Law shall apply in accordance with Articles 157 i 158 hereof.

(2) The Customs Administration shall not issue the approval for implementation of the simplified declaring on the basis of bookkeeping entries pursuant to Article 158 hereof to the persons which do not keep the records of goods pursuant to Article 312 paragraph 2 hereof.

(3) Supplementary declaration referred to in Article 84 paragraph 3 of the Customs Law shall be submitted in the prescribed time intervals, but not later than the time when the form for calculation procedure is submitted.

### **Division 3 Conclusion of procedure**

#### **Article 320**

(1) Procedure of processing under customs surveillance shall be concluded for the quantity of imported goods which, with application of the norms, correspond to the quantity of processed products or for the quantity of unaltered imported goods for which the new allowed use or utilization was approved.

(2) Where it is so required under the circumstances, pursuant to Article 138 of the Customs Law, in respect of the part of imported goods which is included in the processed products, Articles 260 do 263 hereof shall accordingly apply.

**Article 321**  
**(competences)**

- (1) Save in the events when Article 316 hereof is applied, the declaration for conclusion of the procedure of processing under customs surveillance shall be submitted to the customs authority which is specified in the approval.
- (2) In the events simplifications referred to in Article 316 hereof, the declaration referred to in paragraph 1 of this Article shall be submitted to the authorized customs authority.
- (3) The surveillance customs authority, in the event referred to in Article 316 hereof, may approve that the declaration referred to in paragraph 1 of this Article be submitted with other customs authority that that specified in paragraphs 1 and 2 of this Article.

**Article 322**  
**(filling out the declaration)**

- (1) Declaration for conclusion of procedure shall be filled out in accordance with the provisions for the requested new customs procedure, namely use or utilization.
- (2) Description of the processed products or imported goods in unaltered condition in the declaration referred to in paragraph 1 of this Article shall correspond to the data from the approval.
- (3) In respect of the Addendum to the declaration, paragraph 3 Article 254 hereof shall apply.

**Article 323**  
**(simplifications in conclusion of procedure)**

Simplified procedures, referred to in Article 84 of the Customs Law, shall apply to the conclusion of procedure pursuant to Article 160 paragraph 1 hereof.

**Article 324**  
**(calculation)**

- (1) Approval holder shall be under obligation to submit to the surveillance customs authority the calculation procedure not later than thirty days after the date before which the procedure of processing under customs surveillance is to be concluded.
- (2) Calculation referred to in paragraph 1 of this Article shall contain:
  - a) data, which makes it possible to identify the approval, on the basis of which the procedure of processing under customs surveillance is performed;
  - b) quantity and type of imported goods, and the data about declarations pertaining to the

- instigation procedure;
- c) tariff mark of the customs tariff of imported goods;
- d) customs value of imported goods;
- e) the norm of the imported goods consumption;
- f) nature and quantity of processed products and the data about declarations pertaining to the conclusion of procedure;
- g) costs of processing, where provisions of Article 326 indent 4 hereof shall apply;
- h) tariff mark of the customs tariff of processed products.

(3) Where simplified procedure is applied for instigation or conclusion of the procedure of processing under customs surveillance, for the implementation of this Article, the documents referred to in Article 84 paragraph 3, 4 and 5 of the Customs Law shall be deemed to be the declaration, namely other documents.

#### **Article 325** **(simplification of the calculation)**

- (1) The surveillance customs authority may approve:
- 1. that the calculation referred to in Article 324 hereof is generated in the computer or in any other agreed form;
  - 2. that the calculation is generated on the declaration for instigation of procedure.
- (2) Article 268 hereof shall apply.
- (3) The surveillance customs authority may by itself generate the calculation procedure, taking into account the timelines referred to in paragraph 1 Article 324 hereof. Decision for such manner of the generation of the calculation shall be specified in the approval.

#### **Article 326** **(customs value)**

Pursuant to Article 44 paragraph 3 of the Customs Law, customs value of the processed products for which the declaration for putting into free circulation was submitted, shall be determined on the basis of one of the following values, as selected by the declarant at the time of receiving the declaration.

- 1. customs value of identical or similar products which are produced in other country, determined at the same or approximately the same time;
- 2. selling price, provided this price is not affected by the relationship between the buyer and the seller;
- 3. selling price of identical or similar products on domestic market, provided such price is not affected by the relationship between the buyer and the seller;
- 4. customs value of imported goods, to which the costs of processing are added.

#### **Article 327** **(application of economic policy measures)**

(1) Where specific measures of economic policy apply to the imported goods at the time of receiving the declaration for putting into free circulation, such measures shall not apply to the processed products, unless they also apply to the products identical to the processed products.

(2) In the event referred to in paragraph 1 of this Article, these measures shall apply to such quantity of imported goods which was actually used in the production of processed that were put into free circulation.

## **Section 5**

### **Temporary importation**

### **Division 1**

#### **General provisions**

#### **Article 328**

##### **(definitions)**

In the implementation of this heading, the following terms shall have the following meanings:

1. "Customs authority of entry" is the customs authority through which the goods, covered by ATA carnet, were introduced to the customs territory;
2. "The customs authority of exit" is the customs authority through which the goods, covered by ATA carnet, were removed from the customs territory;
3. "Means of transportation" is any means used for transportation of passengers and goods;

This term also includes spare part and common accessories and equipment, including the equipment which is used for loading, safety and protection of goods and which are imported together with the means of transportation;

4. "A person with the registered office outside customs territory" is a natural person with the residence outside the customs territory or legal person which is registered outside the customs territory.

"Place of residence" in accordance with paragraph 1 of this item shall be the place where a person lives for at least 185 days in a calendar year because of his family and business relations. In the event that a person does not have business relations, or that such relations are in other country other than the country of his family relations, it shall be deemed to be the place where a person has family relations, if he regularly comes back to such place. The sojourn abroad for the purposes of studying shall not affect the change of residence;

5. "Commercial use" is the use of means of transportation for transportation of person upon payment, or industrial, namely commercial transportation of goods regardless whether it was performed upon payment or not;

6. "Personal utilization" is the utilization of the means of transportation exclusively for personal needs of an individual, including the commercial use;
7. "Container" is a part of transportation equipment (e.g. removable container for transportation of furniture, mobile cistern, superstructure, or similar construction which is replaceable):
- which is completely or partly closed, so that it constitutes one unit intended for transportation of goods – of durable nature and therefore sufficiently strong for multiple use,
  - specifically made so that it enables easier transportation of goods in one or several manners for transportation, without interim reloading,
  - made for easier handling, particularly where it is transferred from one means of transportation to the other,
  - made in such a manner that it is simple to fill or empty and that it has the inside volume of one cubic meter or more.

Loading platforms shall be deemed to be the containers.

The term container shall also include the accessories and equipment of the container, adjusted to a particular type of container, provided such accessories and equipment are transported together with the container. The term container shall not include the vehicle, accessories and spare parts for vehicles, packaging and palettes.

The term container shall also include the containers which are used for air traffic and have inside volume of less than one cubic meter.

8. "Transportation under customs seal" is the use of container for transportation of the goods which is deemed to be same as affixing the seal on the container.

9. "Replaceable superstructure" is a loading section, without the drive of its own, which is specifically made for transportation on a motor vehicle, whose housing and lower part of the construction is specifically made for this intended use. This term shall include the mobile cases which have loading sections specifically made for combined transport;

10. "Partially incorporated container" is the equipment which usually consists of the base and the superstructure that frames the loading space identical to such with the closed container;

Superstructure is usually made of metal parts and constitutes a frame of the container; containers of this type may also have one or more lateral or frontal walls; in some cases, there is only one roof which is by the supports fixed to the base; this type of the container is usually used for transportation of large-scale goods (e.g. motor vehicles);

11. "Loading platform" is the loading platform with partial superstructure or without it, of the same length and width as the container, and having upper and lower angular reinforcement incorporated at the side of the platform to enable the use of cranes for containers;



12. "Accessories and equipment of containers" are the following devices:

- equipment for temperature control, adjustment or maintenance inside the container;
- small devices such as the device sensitive to whether conditions and vibrations and intended for indication or recordation of environmental changes or impact;
- internal sections, palettes, shelves, supports, hangers and similar devices intended for stacking of goods;

13. "Palette" is the device on which a certain quantity of goods may be stacked, which therefore constitutes a loading unit which can be transported, loaded or stacked by the use of mechanical aids. The palette constitutes of two plates which are mutually separated by the supporters, or one plate supported on legs, or one plate specifically made for transportation by air; its total height is reduced to minimum and it is easy for handling by the use of forklift or vehicle for relocation of palettes; it can have a superstructure or not;

14. "User of the container or palette" is a person who, regardless whether he is the owner or not, exercises efficacious control over its movement.

15. "User of the procedure for container or palette" is the operator of the container or palette or his representative;

16. "Domestic circulation" is transportation of boarded persons or loaded goods in the customs territory with the intention of landing or unloading the goods at the place within such territory.

## **2. Division**

### **Temporary importation of goods, not including temporary importation of the means of transportation**

#### **Article 329**

#### **(Goods which may be temporarily imported, with full or partial exemption from payment of customs debt)**

(1) Full exemption from payment of customs debt in the procedure of temporary importation may, for the purposes of Article 144 of the Customs Law, be approved for:

1. professional equipment;
2. the goods displayed or used at exhibitions, trade fairs, meetings and similar events;
3. teaching material and scientific equipment;
4. medical, surgical and laboratory equipment;
5. material for assistance in accidents;
6. packaging;
7. molds, matrices, templates, images, models, sketches, and similar;
8. instruments for measuring, testing, and similar;
9. special tools and instruments for production of goods which shall be exported in

full;

10. miscellaneous goods, which is the subject of trials, testing, research, presentations, but not for commercial purposes;
11. miscellaneous goods used in the conduct of trials, tests, research or presentation, but not for commercial purposes;
12. samples of goods;
13. production means for replacement;
14. used goods for auction sales;
15. goods temporarily imported against the purchase/sale contract with the option to use in the trial period;
16. artistic and collection items, antiquities with the option of sales;
17. consignment of apparel from fur, precious stone, items made of silver and gold, which are consigned for the purposes of examination, when their characteristics prevent them from being considered the samples;
18. positive, cinematographic films, whether developed or not, and other carriers of image, intended for presentation before the commercial use;
19. films, magnetic tapes, wires and other carriers of sound or image, intended for filling out with audio recording, synchronization or copying;
20. films which present the type or effect of foreign products or equipment, if they are not intended for public presentation upon payment;
21. data carriers, consigned free of charge for the use in automatic data processing;
22. items, including the vehicles which, due to their type and construction, are not fit for any other intended use except for the purposes of advertising particular products or particular intended uses;
23. items for personal use of the passengers when traveling, and items for sports;
24. tourist advertising material;
25. equipment and live animals for specific intended uses;
26. material for entertainment of sailors;
27. different equipment which is used under surveillance and responsibility of government authorities, for construction, repairs and maintenance of infrastructure in near-border area;
28. the goods, which are temporarily imported within the framework of the circumstances without commercial value;
29. means of transportation;
30. household items which are imported foreign natural persons which are temporarily staying in Montenegro.

(2) Partial exemption from customs duty payment may be approved in temporary importation of goods which shall remain the property of foreign person and is not listed in paragraph 1 of this Article.

(3) The Government shall specify detailed requirements for the realization of partial exemption from payment of customs duty in accordance with this Article.

(4) The Government may, in the events when it is necessary for the purposes of preserving the production in the country and protection of essential interests of domestic manufacturers, define a list of goods for which, in the event of temporary importation, it shall not be possible to request partial exemption from payment of customs duty.

**Subdivision 1**  
**Temporary importation with full exemption: scope and requirements**

**(a) Professional equipment**

**Article 330**

- (1) Under the conditions from this Article, full exemption from payment of customs debt in temporary importation shall apply pursuant to Article 144 of the Customs Law, for:
1. equipment for correspondents and correspondence offices of newspapers houses, radio and TV houses with the registered office or residence outside the customs territory, visiting this territory for the purposes of informing, broadcasting or recording the material for particular programs;
  2. cinematographic equipment which the person with registered office, namely residence outside the customs territory, needs while staying in the customs territory because of recording a particular film or films;
  3. all other professional equipment which is, with the purposes of practicing the profession or craft, used by a person with registered office or residence outside the customs territory, which arrives to the customs territory with the purpose of performing a particular activity. As the professional equipment from this item it shall not be possible to consider the equipment which is used for industrial production or packing of goods or (save in the event of hand tools) for exploitation of natural sources or for construction, namely repairs or maintenance of buildings for execution of agricultural or similar works.
  4. accessories and additional parts for the equipment from items 1 to 4 of this paragraph.
- (2) Temporary importation equipment referred to in paragraph 1 of this Article may be approved only if:
1. professional equipment, which is temporarily imported, is property of a person with registered office, namely permanent residence outside the customs territory;
  2. professional equipment temporarily imported by the person with registered office, namely permanent residence outside the customs territory, and if
  3. professional equipment is used in the customs territory solely by a person who has entered the customs territory, or is used under his supervision.
- (3) Requirement from item 3 paragraph 2 of this Article shall not apply to temporary importation of cinematographic equipment for recording of film, television program, or audio-video works, within the agreement on co-production between a foreign person and a person with registered office in the customs territory.

- (4) In the event of generating a common radio and television program, professional equipment may be the subject of lease or similar contract, in which one of the contractual parties is a foreign person with the registered office in the customs territory.
- (5) Inventory list of professional equipment, which may be temporarily imported without payment of customs duty in accordance with this Article is supplied in Addendum 24 hereto.

**Article 331**  
**(spare parts for temporarily imported professional equipment)**

Subsequently imported spare parts, necessary for repairs of temporarily imported professional equipment referred to in Article 330 hereof are, in temporary importation, exempted from payment of customs duty under the same conditions as the professional equipment.

**(b) Goods displayed or used at exhibitions, trade fairs, meetings and similar events**

**Article 332**  
**(term of exhibition goods and event)**

(1) Under the conditions from this Article full exemption from payment of customs debt in temporary importation pursuant to Article 329 paragraph 1 item 2 hereof shall apply to:

1. the goods, which are displayed at the exhibition or whose operation is presented;
2. the goods, which is intended for the use in connection with temporarily imported goods referred to in item 1 of this paragraph, namely:
  - a) the goods, necessary for presentation of the operation of imported equipment or devices;
  - b) constructions and decorative material, including electric installations necessary for the arrangement of the stall, namely exhibition space of a person without the registered office or permanent residence in the customs territory where it exhibits the temporarily imported goods;
  - c) advertising and informative material and other goods, intended for advertising of temporarily imported goods which is being displayed, such as audio or video recordings, films, slides, only if they are temporarily imported together with the apparatuses, namely devices needed for their use.
3. equipment, including equipment for interpretation, audio and video recording, and films of educational, scientific or cultural character, intended for the use in international gatherings, conferences, and congresses;
4. live animals, plants, exhibited or participating in the event;
5. the goods which are, during the exhibition, trade fair, or similar event, obtained from temporarily imported goods, equipment, or animals.

(2) Trade fairs, exhibitions, and similar events referred to in paragraph 1 of this Article shall be deemed to be:

1. trade, industrial, agricultural or craft fair, exhibition, or similar event;
2. fair, exhibition or similar event, organized for humanitarian purposes;
3. fair, exhibition, or similar event, organized particularly with the purpose of promoting scientific, technical, craft, artistic, educational, cultural, sports, cooperation, or for religious purposes, and for the purposes of trade union, namely tourist activities or promotion of international communication;
4. encounters of the representatives of international organizations or international associations;
5. official ceremony or gathering due to the changes, but not due to the exhibition prepared for personal intended use in shops or other business premises for the purposes of sales of imported goods.

### **(c) Teaching material i scientific equipment**

#### **Article 333**

#### **(teaching material i scientific equipment)**

(1) Under the conditions from this Article, full exemption from payment of customs debt in temporary importation in accordance with Article 329 item 3 hereof, shall apply to:

1. teaching material and scientific equipment;
2. spare parts and accessories for such material and equipment;
3. tools intended for maintenance, testing, calibration or repair of such material or equipment.

(2) The teaching material shall include any material intended exclusively for teaching or professional training, such as models, instruments, devices and machines. The list of goods included in the teaching material is supplied in Addendum 25 hereto. The list of other goods which may be temporarily imported in accordance with this Article for the requirements of educational, scientific or cultural activities is supplied in Addendum 25 hereto.

(3) The scientific equipment shall include the equipment intended exclusively for scientific research or teaching, such as models, instruments, devices and machines.

(4) Exemption from payment of customs debt in accordance with paragraph 1 of this Article may be approved solely where teaching material, scientific equipment, spare parts

and accessories for such material and equipment are imported under the following conditions:

1. they were imported by an authorized institution and used under supervision and control of such institutions;
2. they are used for non-commercial purposes;
3. they are imported in reasonable quantities, considering the intended use of the imports;
4. while in the customs territory, they remain the property of persons with registered office outside the customs territory.

(5) For the teaching material and scientific equipment from this Article, the procedure of temporary importation may be approved for maximum 12 months.

#### **Article 334 (authorized institutions)**

(1) Pursuant to Article 333 paragraph 4 item 1 hereof, authorized institutions shall include, in the case of teaching material, public and private institutions involved in educational activities or professional training as the prevailingly non-profit activity, and which obtain the authorization from the ministry responsible for education, to receive teaching material within the procedure of temporary importation.

(2) Pursuant to Article 333 paragraph 4 item 1 hereof, the authorized institutions shall include, in the case of scientific equipment, public and private scientific or educational institutions, involved in their activity as the prevailingly non-profit activity, and which obtain the authorization from the ministry responsible for science, to receive teaching material within the procedure of temporary importation.

#### **(d) Medical, surgical and laboratory equipment**

##### **Article 335 (medical, surgical and laboratory equipment)**

(1) Under the conditions from this Article full exemption from payment of customs debt in temporary importation pursuant to Article 329 item 4 hereof shall apply to medical, surgical, and laboratory equipment, intended for hospitals and other health care institutions.

(2) Procedure of temporary importation in accordance with paragraph 1 of this Article shall be approved under the following conditions:

1. above equipment is being sent from time to time to be used on temporary basis and free of charge;
2. equipment is intended for diagnostical and therapeutic purposes.

(3) It shall be deemed that the equipment is being sent from time to time if it is sent at the request of a hospital or other health care institution which found itself in specific

circumstances and which, due to the lack or business of own capacity, urgently needs the above equipment.

**(e) Material for assistance in accidents**

**Article 336  
(material for assistance in accidents)**

(1) Under the conditions from this Article, full exemption from payment of customs debt in temporary importation pursuant to Article 329 item 5 hereof shall apply to the material which is intended for the use in connection with elimination of immediate danger or removal of immediate consequences of accidents in the customs territory.

(2) Exemption from payment of customs debt in accordance with paragraph 1 of this Article may be approved only where the following requirements are met:

1. material was given for the use on temporary basis;
2. material is intended for government authorities or other departments which the government authority, in accordance with the law, authorizes for the temporary use of imported material.

**(f) Packaging**

**Article 337  
(packaging)**

(1) Under the conditions from this Article full exemption from payment of customs debt in temporary importation shall, in accordance with Article 329 item 6 hereof, apply to:

1. containers, boxes, barrels, and similar packaging, which is used in the same for in which it was imported;
2. ancillary packaging for rolling, wrapping, or fixing of goods, except for the materials such as straw, paper, glass wool, etc, which is imported in dispersed condition.

(2) Exemption from payment of customs debt in accordance with paragraph 1 of this Article may be approved only when the following requirements are met:

1. in the event that the packaging is imported filled, the approval holder shall undertake that it shall be exported filled or empty;
2. in the event that the packaging is imported empty, the declarant shall undertake that it shall be exported filled;

(3) Packaging which is in the procedure of temporary importation shall in no event be used, not even temporarily, in domestic circulation, save in the event of exportation goods from customs territory. In the event that the packaging was imported filled, this prohibition shall apply from the moment it is emptied.

(4) Procedure of temporary importation may, in accordance with this Article, be approved for maximum six months.

**(g) Other goods**

**Article 338**

**(temporary importation of goods pertaining to the production and testing,  
and samples of goods)**

(1) Under the conditions from this Article, full exemption from payment of customs debt in temporary importation pursuant to Article 329 items 7 to 12 hereof shall apply to:

1. molds, matrices, templates, images, models, sketches, and similar articles, intended to the person with registered office in the customs territory, only where at least 75% of production, in which these articles are used, are exported from the customs territory;
2. instruments for measuring and testing, and similar products, intended for the person with the registered office in the customs territory, for the use in production process, where at least 75% of production developed with the help of these articles, are exported from customs territory;
3. special tools and instruments, delivered free of charge to the person with the registered office in the customs territory, for production of goods which will be entirely exported, only if these tools and instruments remain the property of persons with the registered office outside customs territory;
4. all goods which are the subject of testing, research or presentation including testing for certification purposes, except where testing, research, and presentation are profit activities;
5. all goods which are used for the conduct of trials, research or presentations, unless the trials, research or presentations are commercial activities;
6. samples of the goods which is already produced or will be produced, except the equivalent articles which were imported by the same person, namely, which were sent to the same consignee in such quantity that, taking into account all consignments, they can no longer be deemed to be samples in routine commercial use.

(2) Goods referred to in paragraph 1 of this Article may be temporarily imported:

1. where goods referred to in paragraph 1 item 1, 2, 3 or 6 of this Article are the property of a person with the registered office outside the customs territory.
2. where samples referred to in paragraph 1 item 6, are imported exclusively for the purposes of presentation in the customs territory, to collect orders for similar goods which shall be imported to this territory. Samples may not be sold or given for routine use, except for the purposes of presentation, or used in any manner in the course of temporary importation.

**Article 339**

(1) Under the conditions from this Article, full exemption from payment of customs debt in temporary importation pursuant to Article 329 item 13 hereof shall apply to instruments, devices and machines, which the procurer or the service shop sends free of charge for temporary use until the moment of delivery or repair of similar goods.



(2) Temporary importation of replaceable production means may be approved for maximum six months.

#### **Article 340**

(1) Temporary importation for the goods exempted from payment of customs debt pursuant to Article 329 items 14 to 17 hereof, may be approved:

- in the event referred to in items 14 and 16 - for maximum 24 months,
- in the event referred to in item 15 - for maximum six months, and
- in the event referred to in item 17 - for maximum six weeks.

(2) The used goods referred to in Article 329 item 14 hereof shall be deemed to be the goods that is not new.

(3) In artistic and collectable articles and antiques referred to in Article 329 hereof shall be deemed to be the goods from Addendum 26 hereto.

#### **Article 341**

(1) Temporary importation with full exemption from payment of customs debt pursuant to Article 329 item 23 hereof shall apply under the conditions from this Article for personal articles of passengers and sports articles.

(2) In accordance with this Article, the following terms shall have the following meanings:

1. "passenger" is a person:

in importation:

- who temporarily comes to the customs territory and does not have permanent residence in the customs territory, and
- who keeps coming back to the customs territory where it has permanent residence, after it has temporarily been abroad.

in exportation:

- who temporary leaves the customs territory where it has permanent residence, and
- who leaves the customs territory, where it does not have permanent residence and in which it has temporarily resided.

2. "personal articles" are new or used articles for which, taking into account all the circumstances of travel, it is obvious that they are intended for personal use of the passenger in the course of the journey, and nor for any articles which are imported for commercial purposes;

3. "sport articles" are sport requisites and other articles which the passenger uses in the course of competition, appearance, or exercise in the customs territory.

- (3) Personal articles shall be re-exported not later than when the passenger, who has imported them, leaves the customs territory.
- (4) Sport articles may be temporarily imported for maximum twelve months.
- (5) List of goods which may be temporarily imported in accordance with this Article is supplied in Addendum 27 hereto.

**Article 342**  
**(tourist advertising material)**

- (1) Temporary importation with full exemption from payment of customs debt pursuant to Article 329 item 24 hereof shall apply under the conditions from this Article to tourist advertising material.
- (2) The tourist advertising material shall include the goods intended for encouragement of the public to visit foreign countries, with the intention to participate there in cultural, religious, tourist, sports, or professional meetings or similar events.
- (3) List of tourist advertising material is supplied in the Addendum 28 hereto.

**Article 343**  
**(equipment and animals)**

- (1) Temporary importation with full exemption from payment of customs debt, pursuant to Article 329 item 25 hereof, shall apply under the conditions from this Article to the equipment and live animals which are temporarily imported due to intended uses from Addendum 29 hereto.
- (2) Temporary importation of goods referred to in paragraph 1 of this Article shall be approved where the following requirements are met:
  - 1. animals are property of the persons with the registered office or residence outside the customs territory;
  - 2. equipment is the property of the person with the registered office in a neighboring near-border area, bordering with the customs area;
  - 3. beasts of burden, imported by the person with the registered office in a neighboring near-border area, bordering with the customs area, with the purpose of the conduct of activity on the land in the customs territory, such as agricultural or forestry activities, including clearing and transportation of wood or raising of fish;
- (3) By way of derogation from existing international agreements, near-border area means the area which, in the crow's line, does not enter the inside of the country by more than 15 km from the frontier. Local communities, whose part of the area is located in such territory, shall be in its entirety deemed to be a part of such near-border area.

**Article 344**  
**(material for entertainment of sailors)**

(1) Temporary importation with full exemption from payment of customs debt pursuant to Article 329 item 26 hereof shall apply under the conditions from this Article to the material for entertainment of sailors.

(2) In application of this Article, the following terms shall have the following meanings:

1. "entertainment material" is the material for the conduct of cultural, educational, recreational, religious, or sports activities of sailors;

2. "sailors" are persons who are on the vessel and who are responsible for the operation or services of the vessel on the sea.

(3) List of the goods which may be the material for entertainment of sailors is supplied in Addendum 30 hereto.

(4) Temporary importation of goods in accordance with paragraph 1 of this Article, may be approved only where the material for entertainment of sailors is unloaded from the ship in the international marine traffic so that the crew of such ship can temporarily use it on land which the ship is in the port.

#### **Article 345 (goods without commercial value)**

(1) Temporary importation with full exemption from payment of customs debt pursuant to Article 329 item 28 hereof shall, under the conditions from this Article, apply to the goods which were temporarily imported in the specific circumstances and without the commercial value.

(2) Sporadic temporary importation of the goods whose value does not exceed €400 shall be deemed to be for specific circumstances without economic significance, if the goods are temporarily imported for maximum three months.

#### **Subdivision 2 Specific provisions pertaining to the goods with partial exemption from payment of customs debt**

#### **Article 346 (when it is not possible to approve exemption from payment of customs debt)**

Pursuant to Article 145 paragraph 2 of the Customs Law, it shall not be possible to approve partial or full exemption from payment of import duties for:

1. consumer goods;

2. the goods for which, at the submittal of the declaration for instigation of temporary importation, it is already found that it is not intended for re-exportation from the customs territory.

**Subdivision 3**  
**Issuance of the approval for temporary importation**

**(a) routine procedure**

**Article 347**  
**(request)**

Request for instigation of the procedure of temporary importation shall be filled out pursuant to Article 176 hereof, on the form whose content corresponds to the model from Addendum 12D hereto. Request may be submitted by a person who has been issued the approval, in accordance with Articles 94 and 141 of the Customs Law.

**Article 348**  
**(issuance of approval)**

Save in the events referred to in Article 351 hereof, the approval pursuant to Article 179 hereof shall be issued by the customs authority which is territorially competent considering the registered office of the applicant, on the form whose content corresponds to the model from Addendum 13D hereto.

**Article 349**  
**(validity of approval)**

- (1) The customs authority shall define the validity period of the approval for each individual case, taking into account specific needs of the applicant.
- (2) Temporary importation with partial exemption may be approved for the goods which remain the property of a foreign person and which s not specified in Article 324 hereof.

**Article 350**  
**(the timeline for re-exportation)**

- (1) When issuing the approval, the customs authority shall specify the timeline within which temporary imported goods must be defined new, allowed use or utilization, taking into account the timelines prescribed in Article 143 paragraph 2 of the Customs Law, other timelines prescribed herein and the time needed to attain the purpose of temporary importation.
- (2) Justifiable case referred to in Article 143 paragraph 3 of the Customs Law shall be deemed to be any event because of which the goods must be used for a longer time, with the intent to attain the purpose of temporary importation.

(3) In the event of the prolongation of the timeline for temporary importation, account should be taken of the circumstances which have prevented the approval holder for re-exporting the goods within a particular timeline.

### **(b) Simplified procedure**

#### **Article 351 (customs declaration as the request)**

(1) This Article may be applied when a request for approval of temporary importation with full exemption from payment of customs debt is to be submitted, save in the event of goods without economic significance referred to in Article 345 hereof.

(2) Save in the event of the received simplified procedure referred to in Article 84 of the Customs Law, authorized customs authority may approve that the declaration for instigation of the procedure of temporary importation be deemed to be a request for approval of the customs procedure for temporary importation of goods. In such event, the receipt of the declaration shall be deemed to be the issuance of approval, provided the requirements for its issuance are met.

(3) Authorized customs authority shall issue approval for the procedure of temporary importation in the form of a note on the declaration.

(4) To the declaration referred to in paragraph 2 of this Article, the declarant shall append the document containing the following data, provided the same data are not already provided in box 44 of the unique customs document:

1. where the applicant for the approval of temporary importation is not at the same time the declarant - name, namely company and address, namely registered office of the applicant, and, if necessary, the owner of goods;
2. where the user of goods is not at the same time the applicant or the declarant - name, namely the company and address, namely registered office of the user of goods;
3. legal grounds, on the basis of which temporary importation of goods is being requested;
4. envisaged timeline for the duration of temporary importation of goods;
5. place of using the goods;
6. whether the goods will be transported within the customs territory pursuant to Article 370 hereof.

(5) Articles 177, 183 and 184 hereof shall accordingly apply to the request referred to in paragraph 1 of this Article.

#### **Article 352 (written statement upon the spoken declaration)**

(1) In the events referred to in Article 69 paragraph 1 item 3 of the Customs Law and the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law, the

declarant shall, with the customs authority with which it has submitted a spoken declaration, submit a written statement containing the following data:

- a) his name and address, namely company and registered office
- b) trade description of goods
- c) value of goods
- d) envisaged period within which the goods shall remain in the customs territory
- e) precise data about the number of copies of each individual type of goods
- f) place at which the goods referred to in this Article will be located in the course of temporary importation;
- g) date and signature of the declarant.

(2) The declarant shall submit to the customs authority the statement referred to in paragraph 1 of this Article in two copies; one copy shall be retained by the customs authority, and the other shall be confirmed and returned to the declarant.

(3) Spoken declaration for temporary importation shall, in such even, be deemed to be the request, and the statement referred to in paragraph 2 of this Article shall be deemed to the issuance of approval.

(4) Statement pertaining to the animals and equipment referred to in Article 343 hereof may be used for one year, for all the introductions in the customs territory. In such event, the statements shall be submitted with the customs authority each year before the first temporary importation was made.

### **Article 353** **(carnet)**

(1) Submittal of ATA carnet shall be deemed to be the submittal of the request for approval of temporary importation, and acceptance of ATA carnet by the customs authority shall be deemed to be the approval for the use of the procedure of temporary importation of goods.

(2) The goods which may be temporary imported in accordance with paragraph 1 of this Article are listed in Addendum 31 hereto.

(3) The customs authority may accept ATA carnet only if:

a) if it was issued in the country which is a signatory of the ATA Convention or Istanbul Convention and confirmed by the guarantor association which an integral part of the international chain of guarantor associations.

b) if it is confirmed by the customs authority at the front cover, as designated for such purposes,

c) it is valid for the entire customs territory.

### **Article 354** **(personal articles of passengers and articles for sports – conclusive act)**

(1) For personal articles of passengers and for articles for sports referred to in Article 341 hereof, temporary importation shall be approved without a written or spoken request or approval. In such event, the conclusive acts envisaged in the regulation passed on the basis of Article 69 paragraph 2 of the Customs Law, shall be deemed to be the request for temporary importation, and absence of the intervention by the customs authority shall be deemed to be the approval.

(2) Where, in the events referred to in paragraph 1 of this Article, high levels of customs debt are involved, Article 352 hereof shall apply.

(3) The high level of import duties referred to in paragraph 2 of this Article shall be deemed to be the amount exceeding €500.

#### **Subdivision 4 Instigation of procedure**

##### **(a) General**

##### **Article 355 (submittal of declaration)**

(1) Save in the event referred to in Articles 351 to 353 hereof, declaration for instigation of the procedure of temporary importation shall be submitted with one of the customs authorities of the instigation of procedure, as specified in the approval.

(2) In the events referred to in Articles 351 or 352 hereof, the declaration referred to in Article 357 hereof, or the statement, shall be submitted with the authorized customs authority.

(3) In the events referred to in Article 353 hereof, for the purposes of surrendering the goods to the procedure of temporary importation, ATA carnet shall be submitted with the authorized customs authority of entry:

- where authorized customs authority is not able to check whether all requested requirements for the procedure of temporary importation are met, or
- if the customs authority of entry is not able to act as the authorized customs authority, it shall, as the specified customs authority, approve that the goods be transferred to the customs authority of destination, which is able to check whether all requested requirements are met.

##### **Article 356 (exemption from submittal of the security instrument)**

(1) Pursuant to Article 189 of the Customs Law, the customs authority shall, when issuing the approval, decide about the level of the security instrument.

(2) By way of derogation from paragraph 1 of this Article, the customs authority shall not request the submittal of security instrument :

1. if the procedure of temporary importation was instigated on the basis of a spoken declaration;

2. if it pertains to the procedure of temporary importation of the material which is property of air, ship, or railway companies, or the property of postal services, and if they are used in international traffic, provided such materials are visibly marked.

3. if it pertains to the procedure of temporary importation of packaging which is imported empty and which is clearly marked in such a manner that those marks cannot be replaced or destroyed, provided the re-exportation of these packaging, with application of trade practice, shall not lead to the breach of regulations;

4. if it pertains to the procedure of temporary importation the material for assistance in the event of disasters pursuant to Article 336 hereof.

5. if it pertains to the procedure of temporary importation of the equipment for radio and TV broadcasting, and vehicles specially equipped for such purposes, provided they are imported by foreign media with the purpose of preparing or broadcasting the program in the customs territory.

6. if it pertains to the procedure of temporary importation of instruments and appliances needed by doctors to provide health care to the patients, provided they are declared pursuant to Article 330 paragraph 1 item 3 hereof.

7. if it pertains to the goods which is in the procedure of temporary importation on the basis of ATA carnet.

#### **Article 357 (security)**

(1) The customs authority which has issued the approval for instigation of procedure, shall be submit a security instrument for any customs debt that might be incurred.

(2) The customs authority, which has issued the approval, shall release the security after it has received a copy, confirmed by the customs authority of the conclusion of procedure, accompanied by:

- copy 3 of the declaration of re-exportation, or
- copy of the document with which other customs allowed treatment or utilization was instigated for the goods, or, if there is no such document, some other document on the basis of which the customs authority can see that other customs allowed treatment or utilization was instigated for the goods.

#### **(b) Routine procedure**

#### **Article 358 (declaration)**

(1) Declaration referred to in Article 355 hereof shall be filled out in accordance with the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law.



(2) Save in the events referred to in Article 351 hereof, description of the goods in the declaration referred to in paragraph 1 of this Article shall correspond to the data in the approval.

(3) When Article 355 paragraph 3 hereof is applied, the authority of the instigation of procedure shall:

- a) check the information from boxes A to G of the entry coupon
- b) fill out the talon and box H of the entry coupon; end date for re-exportation of goods, which is to be inserted in box H (b) shall not be the date which is after the validity date of ATA carnet;
- c) in box H (e) of the re-exportation coupon, the name of the customs authority of entry of goods shall be inserted, and
- d) entry coupon shall be retained.

### **(c) Simplified procedure**

#### **Article 359 (submittal of declaration)**

Simplified procedures referred to in Article 84 of the Customs Law shall be applied in accordance with Articles 157 and 158 hereof.

### **Subdivision 5 Conclusion procedure**

#### **(a) General provisions pertaining to the customs allowed uses or utilizations referred to in Article 97 of the Customs Law.**

#### **Article 360 (goods with partial exemption from payment of customs debt)**

Before new, customs allowed treatment or use for the goods in the procedure of temporary importation with partial exemption from payment of customs debt is approved, the customs debt shall be paid pursuant to Article 146 of the Customs Law.

#### **Article 361 (specific cases of the conclusion of procedure)**

(1) It shall be deemed that the procedure of temporary importation for the goods referred to in Article 332 hereof has been concluded when these goods are used up, destroyed or distributed among the audience at an event free of charge. The type of goods and products referred to in Article 332 paragraph 1 item 5 hereof shall be in compliance with the nature of the event, number of visitors, and the scope of the participation of exhibitors.

(2) Paragraph 1 of this Article shall not be applied for alcoholic drinks, tobacco products, and mineral oils.

### **(b) Routine procedure**

#### **Article 362**

##### **(submittal of the declaration for conclusion of procedure)**

(1) Save in the events where Articles 351 to 353 hereof apply, the declaration for conclusion of the procedure of temporary importation shall be submitted with one of the customs authorities specified in the approval.

(2) Where Articles 351 or 352 hereof apply, the declaration referred to in paragraph 1 of this Article, namely the statement, depending on the specific case, shall be submitted with the authorized customs authority.

(3) Where Article 353 hereof applies, ATA carnet shall be submitted to the authorized customs authority for the conclusion of procedure.

(4) Surveillance, namely authorized customs authority may approve that the declaration referred to in paragraph 1 i 2 of this Article be submitted with other customs authority.

#### **Article 363**

##### **(filling out the declaration)**

(1) Declaration, namely application referred to in Article 362 paragraphs 1 and 2 hereof, shall be filled out in accordance with the provisions on filling out the declaration, namely application for the requested allowed customs treatment or use.

(2) Description of the goods in the declaration referred to in Article 362 shall correspond to the data in the approval.

(3) Where Article 362 paragraph 3 hereof applies, the authority of the conclusion of procedure shall be under obligation to:

- a) fill out the talon and box H of the re-exportation coupon, and
- b) retain the re-exportation coupon and without delay return it to the authority specified in box H (e).

### **(c) Simplified procedure**

#### **Article 364**

##### **(conclusion of procedure)**

Simplified procedures referred to in Article 84 of the Customs Law shall be applied pursuant to Article 160 hereof.

### **Subdivision 6**

## **Provisions on payment of customs debt**

### **Article 365 (moment for determination of customs debt)**

In the event when the declaration is submitted for putting into free circulation the goods which were subjected to the procedure of temporary importation, the customs debt shall be calculated pursuant to Article 147 paragraphs 1 and 3 of the Customs Law. In such event, the moment applicable for determination of customs debt is the receipt of the declaration for putting the goods into free circulation.

### **Article 366 (compensation interests)**

Where the customs debt has incurred for the goods which were previously subjected to the procedure of temporary importation, the compensation interests shall not be calculated nor collected, pursuant to the provisions of the Customs Law and the provisions hereof.

### **Article 367 (irregularities in ATA carnet)**

In the event of any irregularities in the course of or pertaining to the procedure of temporary importation which was allowed on the basis of ATA carnet, the provisions pertaining to the use of ATA carnet as the transit document shall accordingly apply for the payment of incurred customs debt.

## **Subdivision 7 Administrative cooperation of customs authorities**

### **Article 368 (procedure for introduction in the free zone - warehouse)**

Where the imported goods were introduced into free zone - warehouse, or one of the procedure of disposal was instigated for such goods and the procedure of temporary importation was concluded with the latter, then in the box provided for the description of goods in the document pertaining to the customs allowed treatment or utilization, or if it pertains to simplified procedures, inserted in the commercial document or records used as the appendix to the information about specific procedure, shall be the following designation:

- PU goods

### **Article 369 (transfer of rights and obligations with regard to temporary imported goods, to other person)**

(1) Pursuant to Article 98 of the Customs Law, the customs authority may approve that the rights and obligations of the holder of approval for temporary importation of goods, be transferred to other person, provided such person meets all prescribed requirements for approval of the procedure of temporary importation, for such goods.

(2) On the transfer of rights and obligations referred to in paragraph 1 of this Article, the customs authority shall decide on the basis of the request of approval holder. If the customs authority approves the transfer, it shall indicate such fact on the declaration for instigation of the procedure of temporary importation.

(3) The approval of transfer of rights, the obligations of former approval holder, arising from the transferred procedure of temporary importation, shall cease to exist.

(4) The timeline specified in the declaration for temporary importation shall not be extended because of the transfer of rights and obligations.

#### **Article 370** **(transportation of goods in the procedure of temporary importation)**

(1) Temporarily imported goods may be transported across the customs territory in accordance with the provisions on the transit customs procedure, regardless whether the transportation of goods within one approval for temporary importation is what is taking place, or the transportation within the transfer of rights and obligations from one approval holder to the other approval holder.

(2) By way of derogation from paragraph 1 of this Article, temporarily imported goods may be transported across the customs territory on the basis of the approval for relocation of temporarily imported goods, which is issued in accordance with paragraphs 3 and 4 of this Article. The approval for relocation of temporarily imported goods shall be issued within the approval referred to in Article 348 hereof.

(3) In accordance with paragraph 2 of this Article, the transportation of temporarily imported goods from the customs authority of the instigation of procedure to the customs authority of the conclusion of procedure shall take place without specific formalities and without conclusion of the procedure. The approval holder shall be responsible for the relocated goods and under obligation to announce the transportation of temporarily imported goods in advance, in the manner which the customs authority has specified in the approval.

(4) In accordance with paragraph 2 of this Article, the customs authority may, provided proper implementation of the customs procedure of temporary importation is not adversely affected, approve that the temporarily imported goods be without specific formalities transported from the customs authority of the instigation of procedure to the place where the temporarily imported goods will be used, and from such place to the customs authority of the conclusion of procedure.

#### **Subdivision 8** **Renewal of ATA carnet**

**Article 371**  
**(spare ATA Carnet)**

(1) Where it is found that it shall not be possible for the procedure of temporary importation to be concluded within the validity period of ATA carnet because the ATA carnet holder will not be able to re-export the goods, the organization which has issued the ATA carnet shall issue a replacement of the carnet. Holder of ATA carnet shall be under obligation to return the original carnet to the organization which has issued it.

(2) Spare ATA carnet shall be submitted to the competent customs authority, according to the place where the goods are located. The customs authority shall be under obligation to perform the following formalities:

a) invalidate the original ATA carnet, in such a manner that it without delay returns the re-exportation coupon to the customs authority of the institution of the procedure of temporary importation;

b) accept the spare ATA carnet and retain the entry coupon after inserting the final date of re-exportation specified in the original document, and any extensions thereto, as well as the number of the original ATA carnet.

(3) When the procedure of temporary importation is concluded, the customs authority of the conclusion of procedure shall carry out necessary formalities pursuant to Article 363 hereof, provided the re-exportation coupon of the spare ATA carnet is without delay returned to the customs authority which has accepted the spare ATA carnet.

(4) On issuance of spare ATA carnet, the issuer shall decide. If the validity period of original ATA carnet expires and the organization which has issued it does not want to issue a spare ATA carnet, the customs authority shall request that customs formalities referred to in Articles 347 to 359 hereof be carried out.

**Division 3**  
**Temporary importation of the means of transportation**

**Subdivision 1**  
**Temporary importation with full exemption from payment of customs debt**

**Article 372**  
**(general)**

(1) Temporary importation with full exemption from payment of customs debt pursuant to Article 329 item 29 hereof shall apply to the means of transportation under this heading.

(2) Save in the events referred to in Article 373 paragraph 7 item 2, Article 374 paragraphs 10 and 11, Article 376 paragraph 5, and Article 378 paragraph 6 hereof, the means of transportation referred to in items a) to d) of this subdivision shall not be allowed to sell, lend, borrow, or give to be used by a third party, in the customs territory.

## **(a) Means of road transportation**

### **Article 373**

#### **(specific requirements for temporary importation of road commercial vehicles)**

(1) Temporary importation in accordance with this division shall apply to commercial road vehicles.

(2) In application of this Article, the term "vehicles" shall include all road vehicles and trailers which may be connected to such vehicles.

(3) Save in the events referred to in paragraph 4 of this Article, commercial road vehicles may be temporarily imported in accordance with paragraph 1 of this Article:

1. if they are temporarily imported by a person with the registered office outside the customs territory or if they are temporarily imported for his account;

2. if they are used for commercial purposes by person referred to in item 1 of this Article or if they are being used for his account;

3. if they are registered outside the customs territory on the name of the person with registered office outside the customs territory. If the vehicle is not registered, it shall be deemed that this requirement is met only if the respective vehicle belongs to a person with registered office outside the customs territory; and

4. if they are used exclusively for the transportation which starts or ends outside the customs territory.

(4) If the trailer is trailed by a vehicle registered in the customs territory, temporary importation may be approved even if the requirements from items 1 and 2 paragraph 3 of this Article are not met.

(5) Vehicles referred to in paragraph 1 of this Article may, if the requirements referred to in paragraph 3 of this Article are met, remain in the customs territory for such a time period which is needed for the repairs because of which the temporary importation (e.g. transportation, entry and exit of passengers, loading, unloading of goods, transportation and maintenance of vehicles) was requested to be performed.

(6) A person who, in accordance with paragraph 3, items 1 and 2 of this Article, temporarily imports and uses a road vehicle for the account of other person with the registered office outside the customs territory, shall hold the appropriate authorization.

(7) Without prejudice to paragraph 3 of this Article may:

1. in accordance with paragraph 6 of this Article, a commercial road vehicle may be driven by a natural person with permanent residence in the customs territory;

2. customs authorities may:

- in exceptional cases, approve to a person with the registered office in the customs territory, to temporarily import and use the commercial road vehicle in the period to be specified by the customs authority in accordance with the circumstances,

- approve to a natural person with permanent residence in the customs territory, employed with a person with the registered office outside the customs territory, to

temporarily import and use the road vehicle which is the property of his employer, for commercial purposes. Such temporarily imported vehicle may be used for private purposes, if it pertains to sporadic, additional use, besides the commercial use, and if such use was agreed in the employment contract.

3. use the commercial road vehicles in domestic traffic, provided the regulations governing traffic allow such use.

#### **Article 374**

##### **(specific requirements for temporary importation of private road vehicles)**

(1) Temporary importation in accordance with this division shall apply to all private road vehicles.

(2) In implementation of this Article, the term "vehicles" shall include all road vehicles, including caravans and trailer which are connectable to such vehicles.

(3) Temporary importation may, in accordance with this division, be approved:

1. if they are temporarily imported by a person with permanent residence or registered office outside the customs territory;

2. if they are used, for his private purposes, by a person referred to in item 1 of this Article, and

3. if they are registered outside the customs territory on the name of the person with permanent residence or registered office outside the customs territory. If the vehicle is not registered, it shall be deemed that this requirement is met only if the respective vehicle is the property of a person with registered office or residence outside the customs territory.

(4) By way of derogation from paragraph 3 of this Article:

1. the procedure of temporary importation shall be approved in the event of vehicles with the status of customs goods, which are temporarily registered in the customs territory with the intend of re-exportation and which have the registration plates issued on the name of a person with the registered office outside the customs territory;

2. the customs authority may approve, to a natural person with permanent residence outside the customs territory employed with the person with the registered office outside the customs territory, to temporarily import and use a vehicle registered on the name of the employer for personal needs or to repay the vehicle in installments, if the use is not defined as a commercial use and exclusively provided it was agreed in the employment contract.

(5) The procedure of temporary importation of a private road vehicle may be approved:

1. if private vehicle is registered in the country of permanent residence of the user of vehicle who regularly uses the vehicle in the customs territory to travel from his place of residence to the place of work and vice versa. The approval shall be issued without time restrictions;

2. if a student uses a private vehicle registered in the country of his permanent residence in the customs territory where he is staying because of his studies exclusively;

(6) Temporary importation of vehicles may, in accordance with this Article, save in the event referred to in item 1 paragraph 5 of this Article, be approved:

1. for the time period of maximum six months (with or without interruptions) in the period of twelve months, or
2. in the event referred to in item 2 paragraph 5 of this Article, for the time period in which the student, because of his studies, remains in the customs territory.

(7) For the persons who stay in the customs territory to perform some specific, time-limited activities, provisions of item 2 paragraph 5 and item 2 paragraph 6 of this Article shall be taken into account accordingly.

(8) In accordance with items 1 and 2 paragraph 3 of this Article, it shall not be allowed to lend, borrow, or give to be used by third persons in the customs territory for the purposes other than the purposes of immediate re-exportation the temporarily imported private vehicles after they are imported; namely, it shall not be allowed to, such vehicles which at the moment of importation were borrowed, rented, lent, or given to be used by a third person, again give to be used by third person for the purposes other than the purpose of immediate re-exportation.

(9) By way of derogation from paragraph 8 of this Article, passenger vehicles which are the property of a rent-a-car company with the registered office outside the customs territory may be rented to natural persons with permanent residence outside the customs territory, for the purpose of re-exportation within the timeline specified by the customs authority.

(10) By way of derogation from paragraph 8 of this Article, it shall be allowed that:

1. the temporarily imported private vehicles, which are already subjected to the procedure of temporary importation, be used by a spouse or member of immediate family of a natural person with permanent residence outside the customs territory, provided such persons also have usual residence outside the customs territory;
2. the temporarily imported private road vehicles, which are already subjected to the procedure of temporary importation, be from time to time used by persons with permanent residence in the customs territory, provided they temporarily use the private vehicle on behalf and according to the explicit instructions of the approval holder, only at the time when the approval holder is also in the customs territory.

(11) By way of derogation from Article 372 hereof:

1. procedure of temporary importation referred to in paragraph 9 of this Article may be approved to a natural person with permanent residence in the customs territory, and, also, a person employed with a rent-a-car company with the registered office in the customs territory may return the vehicle from the customs territory.
2. natural person with permanent residence in the customs territory, for the purposes of returning to the customs territory, may rent or borrow a vehicle for private use, provided the requirements referred to in item 3 paragraph 3 of this Article are met. The timeline within which the vehicle must be re-exported shall be specified by the customs authority and taking into account the circumstances.



3. the customs authority may approve temporary importation in accordance with paragraph 4 of this Article for a vehicle to be used by a natural person with permanent residence in the customs territory for the purpose of preparing to move again to his permanent residence outside the customs territory, only provided the following requirements are met:

- the person submits evidence of changing the place of residence, and
- the vehicle was exported within three months after its registration date.

(12) In application of item 1 paragraph 6 of this Article, to cease the timeline within which a temporarily imported vehicle may remain in the customs territory, the user of the procedure of temporary importation shall duly notify the customs authority and act in accordance with the measures specified by such authority with the purpose of preventing the temporary use of vehicle.

#### **Article 375 (riding animals and harness animals)**

(1) In temporary importation of riding animals and harness animals, and vehicles drawn by such animals, Article 374 paragraph 1 to 11 hereof shall accordingly apply.

(2) Temporary importation in accordance with this Article may be approved for maximum three months.

#### **(b) Means of railway transportation**

##### **Article 376 (specific requirements for temporary importation of the means of railway transportation)**

(1) Temporary importation in accordance with this division shall apply to the means of railway transportation.

(2) In implementation of this Article, the means of railway transportation shall include the fire locomotive, the railway cars and compositions, as well as railway cars of any type, as used for transportation of persons or goods.

(3) Temporary importation shall, in accordance with paragraph 1 of this Article, be approved if the means of railway transportation:

1. are property of persons with the registered office outside the customs territory, and
2. are registered in a railway network outside the customs territory.

(4) The means of railway transportation may remain in the customs territory for maximum 12 months.

(5) Without prejudice to Article 372 hereof:

1. the means of railway transportation may be put on disposal of persons with the registered office in the customs territory, provided they are using them in concert, in accordance with the contract on the basis of which any railway network may use the locomotives and railway cars of other networks as if they were the property of such network, or

2. the customs authority may, in exceptional cases, approve to a person with the registered office in the customs territory to, for a limited period of time, import and use the railway cars for transportation of goods in the procedure of temporary importation.

### **(c) Aircrafts**

#### **Article 377**

##### **(specific requirements for temporary importation of civil aircrafts)**

(1) Temporary importation in accordance with this division shall apply to aircrafts.

(2) Temporarily imported civil aircrafts may remain in the customs territory within the timeline which is required to perform the activities because of which the temporary importation of aircraft was requested (e.g. transportation, entry and exit of passengers, unloading and loading of goods, transportation and maintenance).

(3) To civil aircrafts intended for transportation by air upon payment and/or rental, Article 373 paragraphs 6 and 7 hereof shall accordingly apply. The customs authority may, in exceptional cases, approve that a person with the registered office in the customs territory temporarily imports and uses the aircraft within the timeline to be specified by the customs authority in accordance with the circumstances.

(4) To the temporarily imported civil aircrafts of general category that are used for private purposes, Article 374 paragraph 3 hereof shall accordingly apply.

(5) Civil aircrafts of general category referred to in paragraph 4 of this Article may remain in the customs territory for maximum six months (with or without interruptions) in a period of twelve months.

(6) Article 374 paragraphs 8 to 11 hereof shall accordingly apply to civil aircrafts of general category.

### **(d) Vessels in marine traffic and traffic on inland waters**

#### **Article 378**

##### **(specific requirements for temporary importation of vessels)**

(1) Temporary importation in accordance with this division shall apply to the vessels for marine traffic and traffic on inland waters.

(2) Temporary imported vessels referred to in paragraph 1 of this Article may remain in the customs territory within the timeline which is required for performance of the activities

because of which their temporary importation was requested (e.g. transportation, entry and exit of passengers, unloading and loading of goods, transportation and maintenance).

(3) To commercial vessels, Article 373 paragraphs 6 and 7 hereof shall accordingly apply. First of all, in exceptional cases, the customs authority may approve that a person with registered office in the customs territory temporarily imports and uses the commercial vessel within the time period to be specified by the customs authority in accordance with circumstances of each individual case.

(4) To vessels referred to in paragraph 1 of this Article, which are used for private purposes, Article 374 paragraph 3 hereof shall accordingly apply.

(5) Vessels referred to in paragraph 4 of this Article remain in the customs territory for maximum six months (with or without interruptions) in a period of twelve months.

(6) To the vessels for private purpose, Article 374 paragraphs 8 to 11 hereof shall accordingly apply.

#### **(e) Palettes**

##### **Article 379**

##### **(specific requirements for temporary importation of palettes)**

(1) Temporary importation in accordance with this division shall apply to the palettes.

(2) Palettes, the identity of which is possible to be determined, may remain in the customs territory for maximum twelve months, if the declarant does not request a shorter time period of temporary importation.

(3) Palettes, the identity of which it is not possible to determine, may remain in the customs territory for maximum six months, if the declarant does not request a shorter timeline for temporary importation.

#### **(f) Containers**

##### **Article 380**

##### **(specific requirements for temporary importation of containers)**

(1) Temporary importation in accordance with this division shall apply to the containers for transportation of goods, sealed with customs seals, or the containers marked with suitable marks, if they are temporarily imported for the account of their owners, users, or their respective agents.

(2) Temporary importation of containers, other than included in paragraph 1 of this Article, shall be allowed on the basis of the approval of the customs authority.

(3) Temporarily imported containers may remain in the customs territory for maximum twelve months.

(4) The containers which are in the procedure of temporary importation may be used in the domestic circulation before they are re-exported from the customs territory. Containers may be used only once in the time period within which they are located in the customs territory and then only for transportation of the goods loaded in the customs territory and to be unloaded in such territory, provided they would routinely go across this territory unloaded.

(5) By way of derogation from the provisions of Article 384 paragraph 1 hereof, additions to the container and usual equipment of the container may be imported together with the container even if they are to be re-exported separately at a later date, or they may be used together if the intent is that they are re-exported together with the container.

(6) Paragraph 4 of this Article shall be applied in accordance with the instructions issued by the Customs Administration.

### **Article 381 (additional cases)**

(1) Article 380 paragraph 1 hereof, shall apply to containers regardless whether the transportation of goods under customs seal was approved for them, provided the following data are attached to a clearly visible place:

1. data about the owner, namely user;
2. identification numbers and marks of the container, namely owner or user;
3. weight of the container, including any durably attached equipment, and
4. the country to which container belongs.

(2) The data referred to in paragraph 1 item 3 of this Article shall not be attached to the replaceable elements that are used in combined railway-road transportation, and the data referred to in item 4 of this Article shall not be attached to the containers used for transportation by air.

(3) The country to which the container belongs may be indicated by a full name or by ISO alpha-2 code for the specific country, as designated in the International Standard ISO 3166, or by characteristic initials used for the country in which the motor vehicle in international traffic is registered, or by the numbers - in the case of replaceable elements used in combined railway-road transportation. The identity of the owner or person managing the container may be indicated by full name or using specific identification, not including symbols such as emblems or flags.

### **Article 382 (containers - transportation under customs seal)**

(1) For the containers:

1. which, in addition to the data referred to in Article 381 hereof, contain the following data that refer to the verification plate in accordance with the rules referred to in paragraph 2 of this Article:

- manufacturers series number, and

- if they are covered by type verification, identification number or letter of the type;

2. which meet the technical requirements referred to in paragraph 2 of this Article, and

3. which Montenegro, or other country from Addendum 32 hereto, has confirmed in accordance with the procedure referred to in paragraph 2 of this Article, shall be deemed to be approved for transportation under the customs seal.

(2) Technical regulations for the containers which are approved for transportation under the customs seal and the procedures pertaining to such approval shall be in compliance with the rules envisaged in parts I and II of Addendum 7 to the TIR Convention. All applicable amendments to Addendum 7 of the TIR Convention shall apply and these regulations shall apply in accordance with the explanations in the part III to this Addendum.

(3) Where it is found that approved containers do not meet the requirements referred to in paragraph 2 of this Article, or if the container has a major flaw and does not meet the standards under which the transportation under the customs seal was approved, the customs authority shall take measures in accordance with Addendum 33 hereto.

### **Article 383**

#### **(temporary importation of spare parts, add-ons and usual equipment)**

(1) Temporary importation in accordance with this division shall apply to usual spare parts, add-ons and usual equipment for the means of transportation, including the tools for loading, safeguarding or storing the goods in the means of transportation, regardless whether spare parts, add-ons and equipment are imported together with the means of transportation or separately.

(2) The spare parts which are temporarily imported together or separately from the means of transportation for which they are intended may be used only for smaller repairs and smaller maintenance work on such means of transportation.

(3) Regular repairs and maintenance of the means of transportation, as required for the time period within which the means of transportation is located in the customs territory, shall not include the changes in the context of Article 142 of the Customs Law and may be performed within the procedure of temporary importation.

### **Subdivision 2**

#### **Approval for application of procedure**

### **Article 384**

#### **(Approval)**

(1) Save in the events referred to in Article 379 paragraph 3 and Article 380 paragraph 2 hereof, the procedure of temporary importation for the means of transportation shall be approved without written request or approval.

(2) In the events referred to in paragraph 1 of this Article, the conclusive acts determined by the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law shall be deemed to be the request, and the absence of intervention by the customs authority shall be deemed to be the approval for temporary importation of the means of transportation.

**Article 385**  
**(specific cases)**

(1) Approval for temporary importation of the palettes referred to in Article 379 paragraph 2 hereof and containers referred to in Article 380 paragraph 1 hereof, may be issued pursuant to Article 384 hereof, provided the participant in the procedure:

a) has a representative office in the customs territory and provides to the customs authorities the data which provide for the identification of his representative office and the scope of the representative office's authorizations;

b) at the request of the customs authority, provide the information about place and time of introduction of palette and container in the customs territory, about place and time of their removal from the customs territory, and about the movement of palette and container in the customs territory.

**Article 386**  
**(specific cases of the approval for palettes and containers)**

1) In the events referred to in Article 379 paragraph 3 and Article 380 paragraph 2 hereof, the user, namely his attorney, shall be under obligation to submit with the competent customs authority a written request for temporary importation of palette, namely container, with the following data:

a) name, namely company and address of the user, namely attorney;

b) statement by way of which he undertakes to comply with the requirements referred to in Article 385 item b) hereof; and

c) in the events referred to in Article 379 item 3 hereof, number and description of the palette.

(2) Request referred to in paragraph 1 of this Article may be general or cover several cases of temporary importation of containers, namely palettes.

(3) If it pertains to a single case of temporary importation, request referred to in paragraph 1 of this Article may be replaced by the submittal of statement referred to in Article 389 item 2 hereof.

(4) The customs authority shall decide on the request referred to in paragraph 1 of this Article and, if necessary, issue general approval for temporary importation. Specified in the approval shall be the manner in accordance with which the user of right shall be under obligation to provide the data referred to in Article 385 item b) hereof.

(5) Approval referred to in paragraph 5 of this Article may be issued only for such containers the identity of which is possible to determine at re- exportation.

(6) Where approval is issued for a single temporary importation, it shall be deemed that the customs authority has, instead of issuing the specific approval referred to in paragraph 4 of this Article, issued the approval by accepting the statement referred to in Article 389 item 2 hereof.

**Article 387**  
**(extension of timelines for temporary importation)**

(1) Pursuant to Article 143 paragraph 3 of the Customs Law, deemed to be the exceptional circumstances in temporary importation of the means of transportation shall be the circumstances referred to in Article 350 paragraph 2 hereof.

(2) Where the user of the palette referred to in Article 379 hereof or the container referred to in Article 380 hereof demonstrated that the palettes, namely containers were not used for a particular period of time, such non-use shall be deemed to be the exceptional circumstance on the basis of which the timeline for temporary importation may be extended.

**Subdivision 3**  
**Instigation of procedure**

**Article 388**  
**(instigation of the procedure for means of transportation)**

(1) Procedure of temporary importation for the means of transportation shall be instigated by the conclusive acts provided by the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law.

(2) Pursuant to Article 98 of the Customs Law, it shall not be necessary to provide a security instrument for the temporary importation of the means of transportation for which the declaration was not submitted.

**Article 389**  
**(additional measures of customs surveillance)**

By way of derogation from provisions Article 388 paragraph 1 hereof, the customs authority which at the time of the instigation of the procedure of temporary importation for the means of transportation doubts, on the basis of the conducted control, that the obligations in respect of re- exportation will be fulfilled, it may take additional measures of customs surveillance:

1. to request that written declaration be submitted in accordance with the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law, or other document which, in accordance with international covenants, may replace the declaration;

2. to, in the case of temporary importation of container, request that the declarant, when giving the spoken declaration, submits the statement containing:

- name, namely company and registered office of the user or his attorney,
- the data necessary for determination of the identity of container, and
- container number and quantity, type of spare parts, add-ons and usual equipment;

3. in the event of temporary importation of spare parts, add-ons, and equipment referred to in Article 383 hereof, which are temporarily imported separately from the means of transportation for which they are intended – submittal of declaration or other document in accordance with item 1 of this paragraph;

4. submittal of the security instrument, if it has taken any of the measures referred to in item 1 do 3 of this paragraph and doubts that the payment of the customs debt that might be incurred shall be made.

#### **Article 390**

##### **(means of transportation for which the procedure of temporary importation was instigated as the conclusion procedure of inward processing)**

(1) The means of transportation for which the procedure of temporary importation was instigated as the conclusion procedure of inward processing, shall be deemed to be the means of traffic introduced into the customs territory.

(2) The commencement date of the procedure of temporary importation for means of transportation referred to in paragraph 1 of this Article shall be date when they were first used in the procedure.

(3) For filling out of the form for the conclusion procedure of inward processing, user of the procedure of temporary importation shall issue to the approval holder, for the procedure of inward processing, a certification which shall replace the document referred to in Article 264 hereof.

#### **Subdivision 4**

##### **Conclusion procedure**

#### **Article 391**

For the parts which were replaced in the course of repair or maintenance work, and for new spare parts which were damaged or flawed, such customs allowed procedures or uses may be approved which are approved for importation of goods.

#### **Article 392**

In the event when means of railway transportation mentioned in Article 376 hereof and palettes referred to in Article 379 hereof which, in accordance with the agreement, are used in combination, the procedure shall be concluded when customs allowed use or utilization is instigated for the means of railway transportation of the same type, or palettes of the same type or equal value as those which were put on disposal of the persons with the registered office in the customs territory.



### **Article 393**

#### **(conclusion of the procedure of temporary importation for means of transportation)**

(1) Where the procedure of temporary importation for means of transportation is instigated pursuant to Article 388 hereof, the procedure shall be concluded:

1. in the event of re-exportation – by the conclusive acts provided by the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law, or

2. in the event of the submittal of declaration or application for other customs allowed use or utilization - in accordance with the regulations applicable to the submittal of declaration for the requested customs allowed use or utilization of goods.

(2) Where Article 389 hereof is applied, the procedure of temporary importation for means of transportation shall be concluded with the surrender of the means of transportation for allowed customs use or utilization, accompanied by the document referred to in Article 389 hereof within the timeline specified by the customs authority with which the declaration, namely this document was submitted.

### **Division 4**

#### **Economic policy measures**

### **Article 394**

#### **(application of economic policy measures in temporary importation)**

If applicable regulations provide that measures of economic policy be applied in:

1. putting the goods into free circulation - these measures shall not apply to the instigation of the procedure of temporary importation, nor within the time period within which the goods are in the procedure of temporary importation;

2. introduction of goods in the customs territory – these measures shall come into force when the procedure of temporary importation is instigated for the respective goods;

3. exportation of goods – these measures shall not apply when the customs goods are, for the purposes of concluding the procedure of temporary importation, re-exported from the customs territory.

### **Article 395**

In putting the imported goods into free circulation, the measures of economic policy shall apply which are applicable for such goods at the moment when the declaration for putting into free circulation is received.

### **Section 6**

#### **Procedure of outward processing**

### **Division 1**

#### **General provisions**

### **Article 396**

### **(definitions)**

In implementation of this heading, the following terms shall have the following meanings:

a) "obtained products" are the obtained products because of whose production the procedure of outward processing was allowed

b) "ancillary obtained products" are other obtained products, besides the main obtained products;

c) "loss" is such part of imported goods which is destroyed or lost in the course of outward processing, primarily through evaporation, desiccation, gas escape, or leakage into waste waters;

d) "quantitative method" the manner for determination of the share of goods subjected to the procedure of outward processing in different obtained products on the basis of the quantity of such goods;

e) "value method" is the manner for determination of the share of goods subjected to the procedure of outward processing in different obtained products on the basis of the value of these obtained products;

f) "previous importation" means procedure defined in Article 157 paragraph 4 of the Customs Law;

g) "the amount to be seized" means the value of customs debt which should be calculated for the goods subjected to the procedure of outward processing, if such goods were imported in the customs territory from a country where the goods were subjected to processing or a final production operation;

h) "costs of loading, transportation and insurance" means all costs incurred with regard to the loading, transportation and security premium for the goods, including:

- intermediary's commission and other commissions, save for procurement commissions,
- costs of packaging other than included in the goods subjected to outward proce
- packaging costs, including the labor and material,
- handling costs, incurred with regard to the transportation of goods.

### **Subdivision 1**

#### **Approval for implementation of the procedure – routine procedure**

### **Article 397**

#### **(requirements)**

(1) Pursuant to Article 151 paragraph 1 item 2 of the Customs Law, the customs authority, with the purpose of determining whether the obtained products will result from

the processing of the temporarily exported goods in the procedure after the processing, may provide for the following measures:

1. the citation and description of specific designations or production numbers of the temporary exported goods in the procedure of outward processing;
2. putting of customs seals, stamps and other identification signs;
3. taking samples, submittal of prospectuses, photographs and images or technical description of goods;
4. laboratory collation of goods put into the procedure of outward processing and obtained products;
5. checking of the documents about envisaged production operations which beyond doubt suggest that the obtained products will be produced precisely from the goods from the procedure of outward processing (contracts, Performa invoices, correspondence);
6. application of the "informative documents for facilitation of outward processing, sent from one country to other country for further processing, processing, or repairs "from the recommendation of the World Customs Organization (WCO) from the day of the 3<sup>rd</sup> of December 1963 which is in the Addendum 34 hereto.

(2) Where the procedure is requested because of a repair, regardless whether it pertains to the implementation of the replacement system or not, the customs authority shall approve such procedure only if at the temporary exportation of goods it finds that the repairs of goods from the procedure of outward processing is actually possible.

(3) If the customs authority determines that the requirement referred to in paragraph 2 of this Article is not met, it shall deny the approval.

(4) Where the applicant has request the implementation of replacement system, the customs authority may, with the purpose of the implementation of surveillance, take the measures mentioned in paragraph 1 items 1, 3, 4 or 5 of this Article. From the documents appended in accordance with paragraph 1 item 5 of this Article it should clearly arise that the repairs will be performed in such a way that the replaced goods will be delivered that meet the requirements referred to in Article 158 paragraphs 1 and 2 of the Customs Law.

(5) For the purposes of implementation of customs surveillance, the applicant shall be under obligation to demonstrate, in the first place, that the replacement was not agreed with the intent to improve technical properties of goods. The customs authority may check:

1. contracts and other accompanying documents pertaining to the repairs and
2. contracts and invoices pertaining to the temporarily exported goods or the goods in which temporarily exported goods were incorporated, and, specifically, explicitly indicted contract terms.

(6) The Customs Administration may, on the basis of a request of an interested person and positive opinion of the ministry of economy, approve that the approval for the procedure of outward processing of goods be issued, where technological determination of identity is impaired or prevented due to technological specificities of the intended production procedure for the goods.

**Article 398**  
**(request)**

(1) Request for implementation of the procedure of outward processing shall be filled out pursuant to Article 176 hereof, whose contents correspond to the model from Addendum 12 E hereto. The applicant shall be a person to whom the approval may be issued, in accordance with Article 94 paragraph 1 and Article 151 of the Customs Law.

**Article 399**  
**(Approval)**

(1) Without prejudice to Articles 408 and 409 hereof, the customs authority shall issue the approval referred to in Article 175 hereof, which is to be filled out pursuant to Article 179 hereof and whose content corresponds to the model from Addendum 13 E hereto.

(2) Without prejudice to Article 179 paragraph 3 hereof, the customs authority may, in exceptionally justifiable cases, issued the approval whose validity shall be retroactive but shall not exceed the submittal date of the request. This exception shall not be applied in the event of the use of the system of replacement by previous importation.

**Article 400**  
**(Approval for the replacement system)**

(1) Approval for the use of replacement system without previous importation may be used for re-importation of obtained products instead of spare products, if the prescribed requirements for the importation of obtained product are met.

(2) The customs authority may, after it has already accepted the declaration for instigation of the processing procedure, approve that, spare products are imported instead of the obtained products. The declarant shall, in accordance with this paragraph, submit the request not later than at the time envisaged for the importation of spare products.

**Article 401**  
**(validity period of approval)**

(1) Validity period of approval shall be determined by the customs authority which shall take into account the economic circumstances and specific needs of the applicant.

(2) Where validity period of approval referred to in paragraph 1 of this Article exceeds two years, the customs authority shall ex officio check again the requirements for issuance of approval at time intervals specified in the approval.

**Article 402**  
**(the timeline for re-importation and conclusion of procedure)**

(1) The timeline in which the obtained products shall be re-imported to the customs territory shall be calculated considering the time required for implementation of the outward processing of goods and transportation of goods from the procedure of outward

processing and obtained products. The timeline shall commence after the receipt date of the declaration for instigation of procedure.

(2) In application of the replacement system without previous importation, the timeline in which the spare products must be imported to the customs territory shall be determined considering the time required for replacement of the goods from the procedure of outward processing and for transportation of the same goods and spare products. The timeline shall commence on the receipt date of the declaration for instigation of procedure.

(3) Re-importation of obtained products referred to in paragraph 1 of this Article or importation of spare products referred to in paragraph 2 of this Article shall be deemed to be completed when the obtained products, namely spare products:

1. are put into free circulation, or
2. are introduced into duty free zone, or
3. when the customs warehousing procedure, of inward processing or transit customs procedure was instigated for them.

(4) In determination of the compliance with the timelines for approval procedure, the applicable day shall be the receipt date of the declaration for instigation of one of the procedures referred to in paragraph 3 of this Article, namely the day of introducing the goods in the duty free zone.

#### **Article 403** **(extension of timeline)**

Exceptionally, if thus required under the circumstances, the timeline referred to in Article 402 paragraph 3 hereof may be extended after expiry of the timeline that was originally specified in the approval.

#### **Article 404** **(extension of timeline for exportation in the system of replacement with previous importation)**

(1) In the events referred to in Article 157 paragraph 4 of the Customs Law, the customs outlet shall determine the timeline within which the exportation of the products to be subjected to the procedure of outward processing must be performed. This timeline may not exceed three months after the receipt date of the declaration for putting into free circulation the products for replacement.

(2) For justifiable reasons, the timeline referred to in paragraph 1 of this Article may be extended if the original timeline has already expired.

(3) For the purposes of paragraph 1 of this Article, it shall be deemed that the exportation was performed when the goods was, for the purposes of planned exportation:

- introduced to free zone or warehouse, and
- when the customs warehousing procedure was instigated for them.

**Article 405**  
**(the timeline for determination of the consumption norm)**

Save in the events referred to in Article 406 hereof, the norm referred to in Article 152 paragraph 3 of the Customs Law shall be calculated not later than at the moment when the procedure of outward processing was instigated for such goods, taking into account the technical data about specific production operations to be performed and, if it is not possible to provide such data, then the data of identical or similar production operations.

**Article 406**  
**(subsequent determination of the consumption norm)**

If it is so justified under the circumstances, the customs authority may determine the norm after the procedure of outward processing was instigated for the goods but not later than at the receipt date of the declaration for putting the obtained products into free circulation.

**Article 407**  
**(procedure for issuance of approval referred to in Article 150 paragraph 2 of the Customs Law)**

(1) Pursuant to Article 150 paragraph 2 of the Customs Law, the approval referred to in Article 399 hereof shall be issued at the request of the person is subjecting the goods to the procedure of outward processing, even when such person is not at the same time the party ordering the processing. This exception shall be realized by the submittal of the request referred to in Article 398 hereof and it enables the persons who are not approval holders to submit the declaration for putting the obtained products into free circulation and the implementation of procedure.

(2) Request referred to in paragraph 1 of this Article shall contain all data about planned production procedures and the persons taking part in organization and performance of these production operations, and in particular the data about:

1. the advantages of the realization of this procedure considering the promotion of the sales of goods which is to be exported, compared with the sales of goods under routine conditions;

2. the facts on the basis of which it may be deduced that the exception shall not adversely affect the interests of domestic manufacturers of products identical or similar to the obtained products which are to be re-imported.

**Subdivision 2**  
**Approval for the use of procedure - simplified procedures**

**Article 408**  
**(request and approval)**

(1) Where, for instigation of the procedure of outward processing, the simplifications referred to in Article 84 of the Customs Law are not applied and the processing is being

conducted with the intent to repair the goods, the authorized customs authority may approve that the submittal of the declaration for instigation of procedure be deemed to be the submittal of request.

(2) In the event referred to in paragraph 1 of this Article, the receipt of the declaration for instigation of procedure shall be deemed to the issuance of the approval for implementation of the procedure of outward processing, provided the requirements for its issuance are met.

(3) Appended to the declaration referred to in paragraph 1 of this Article shall be the document which shall contain the following data, provides such data are not covered in box 44 of the unique customs document:

- a) name and company, and address of the applicant, if a person submitting the request is not at the same time the declarant;
- b) trade or technical description of obtained products;
- c) types of production operations;
- d) time required for re-importation of obtained products;
- e) the norm of the obtained products or, where more appropriate, method for determination of the norm;
- f) measures for determination of identity.

(4) To the provisions of this Article, Articles 177, 183 and 184 hereof shall accordingly apply.

#### **Article 409** **(repairs without commercial purpose)**

(1) In the event of repairs without commercial purpose, regardless whether it pertains to the activity being repaid or not, the authorized customs authority may, at the request of the declarant, receive the declaration for putting into free circulation as the request for approval of procedure. The receipt of the declaration shall be deemed to be the approval for implementation of the procedure, provided the requirements for issuance of the latter are met.

(2) In implementation of paragraph 1 of this Article, the term "repairs without commercial purpose" shall be the repairs on the goods, including the restitution of goods to original conditions, which is:

- performed from time to time, and
- pertains exclusively to the goods for personal needs of the importer or his family, which, considering their nature and quantity, do not have commercial significance

(3) Applicant referred to in paragraph 1 of this Article shall be under obligation to prove the non-commercial nature of goods. Authorized customs authority shall not approve the simplification referred to in paragraph 1 of this Article if all requirements are not met.

**Division 2**  
**Instigation of procedure**

**Article 410**  
**(general provisions)**

The provisions governing the instigation of the procedure of outward processing shall apply to the procedure of outward processing, including temporary exportation of goods according to the replacement system, with or without previous importation.

**Subdivision 1**  
**Routine procedure**

**Article 411**

- (1) Save when Articles 408 and 409 hereof apply, the declaration for instigation of the procedure of outward processing shall be submitted to the customs authority of the instigation of procedure which is specified in the approval.
- (2) In the event of Articles 408 and 409 hereof apply, the declaration referred to in paragraph 1 of this Article shall be submitted with the competent customs authority.

**Article 412**

- (1) Declaration referred to in Article 411 hereof shall be filled out in accordance with the provisions on exportation.
- (2) Without prejudice to Article 409 hereof, description of goods in the declaration shall correspond to the text in the approval.
- (3) To the provisions of this division, Article 318 paragraph 3 hereof shall apply.

**Subdivision 2**  
**Simplified procedures**

**Article 413**

Simplified procedures referred to in Article 84 of the Customs Law shall be applied pursuant to Article 159 hereof.

**Division 3**  
**Realization of partial or full exemption from  
customs debt**

**Article 414**



For realization of full or partial exemption from payment of customs debt within the procedure of outward processing, the requirements referred to in Article 402 hereof must be met (the timeline referred to in Article 152 paragraph 1 of the Customs Law) and the declaration for putting into free circulation must be submitted.

#### **Article 415**

(1) Declaration for putting the goods into free circulation shall be submitted to the customs authority with which the procedure specified in the approval was instigated, save when Articles 408 and 409 hereof apply.

(2) Where Article 408 hereof applies, declaration referred to in paragraph 1 of this Article shall be submitted with the competent customs authority.

(3) In the event of application of Article 409 hereof, declaration referred to in paragraph 1 of this Article shall be submitted with the competent customs authority.

(4) The surveillance customs authority may approve that the declaration referred to in paragraph 1 of this Article be submitted with other customs authority and not with the authority specified in paragraphs 1 and 2 of this Article.

#### **Article 416**

(1) Declaration referred to in Article 415 hereof shall be filled out and submitted in the manner provided by the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law.

(2) Without prejudice to Article 409 hereof, description of the obtained and ancillary products in the declaration referred to in paragraph 1 of this Article shall correspond to the description in the approval.

(3) Pursuant to Article 7o of the Customs Law, appended to the declaration referred to in paragraph 1 of this Article shall be the prescribed document required for putting the goods into free circulation, specifically:

- copy of the declaration for instigation of procedure,
- where declaration for putting the goods into free circulation was submitted before expiry of the approved timeline pursuant to Article 152 of the Customs Law and with application of Article 392 paragraph 3 hereof, any document that demonstrates that approval, customs allowed use or utilization of goods was granted for the obtained or ancillary products in the period in question.

#### **Article 417**

Simplified procedures referred to in Article 84 of the Customs Law may be applied for putting the goods into free circulation in accordance with Articles 134 to 147 and Article 160 hereof.

**Division 4**  
**Calculation of customs debt**

**Article 418**

In determination of the amount which should be included pursuant to Article 154 paragraph 2 of the Customs Law, without taking into account specific import duties which should be calculated on the temporarily exported goods if the goods of the same type would be imported to the customs territory from the country in which the production activities, namely the last of such activities, took place.

**Article 419**  
**(calculation of customs debt)**

(1) Pertaining to the application of Article 154 paragraph 3 of the Customs Law, costs of loading, transportation and insurance of the goods for the procedure of outward processing, to the place where the envisaged processing shall take place or where the last processing shall take place, shall not be included in the:

- value of temporarily exported goods which shall be taken into account in determination of the customs value of obtained products in accordance with Article 38 paragraph 1 item 2 of the Customs Law;

- production costs, if it is not possible to determine the value of temporarily exported goods pursuant to Article 38 paragraph 1 item 2 of the Customs Law.

(2) Production costs referred to in paragraph 1 of this Article shall include the costs of loading, transportation and insurance of the obtained products, which shall be calculated from the place where the processing took place or where the last processing took place, to the place where the obtained products were introduced to the customs territory.

(3) The costs of repairs which are taken into account in determination of the customs debt pursuant to Article 152 of the Customs Law shall be deemed to be all payments (in money, articles, or services) pertaining to the repairs which were made or should have been made by the approval holder in favor of the person making the repairs, or indirect and direct payment which are the requirement for execution of repairs on the temporarily exported goods, provided the level of payment was not affected by the relationship between the approval holder and the person making the repairs. In determination whether the approval holder and the person who makes repairs are related, Article 77 hereof shall apply.

**Article 420**  
**(methods for determination of the share of the goods from the procedure of outward processing in the obtained products)**

(1) Share of goods from the procedure of outward processing in the obtained products shall be calculated in accordance with Articles 421 do 424 hereof, if all obtained products, except the ancillary obtained products referred to in Article 423 paragraph 3 hereof resulted from a particular production procedure, are not put into free circulation at the same time.

(2) Determination of the share of temporarily exported goods in the obtained products referred to in Articles 421 to 423 hereof shall be also made by using any of the methods that yield the same result.

**Article 421**  
**(quantitative method - obtained products)**

(1) If, in the production operation, only one type of obtained products is obtained from the temporarily exported goods, the amount shall be determined which, pursuant to Article 154 paragraph 1 of the Customs Law, should be deducted when the obtained products are put into free circulation, taking into account the quantity of goods subjected to the procedure of outward processing.

(2) In the event referred to in paragraph 1 of this Article, the quantity of each type of goods from the procedure of outward processing which corresponds to the quantity of the obtained products put into free circulation and which shall be taken into account in calculation of the amount to be deducted in accordance with paragraph 1 of this Article, shall be calculated in such a manner that total quantity of each type of goods from the procedure of outward processing is multiplied by the coefficient which corresponds to the share of the obtained products, put into free circulation, in the total quantity of obtained products.

**Article 422**  
**(quantitative method - procedure of outward processing)**

(1) Where more than one type of obtained products is obtained from one or more types of the goods from the procedure of outward processing, and where all elements of the temporarily exported goods appear in each type of the obtained products, the amount to be, pursuant to Article 145 paragraph 1 of the Customs Law, deducted when the obtained products are put into free circulation taking into account the quantity of temporarily exported goods.

(2) In determination whether to apply the method referred to in paragraph 1 of this Article, losses shall not be taken into account.

(3) In determination of the share of temporarily exported goods in the obtained products, in accordance with paragraph 1 of this Article, ancillary obtained products, such as wastes and residues, sediment, cutouts or scraps, shall be deemed to be the losses.

(4) Where paragraph 1 of this Article is applied, quantity of each type of goods from the procedure of outward processing, used in production of each type of obtained products, shall be determined in such a manner that the overall quantity of each type of goods from the procedure of outward processing is successively multiplied with the coefficient corresponding to the ratio between the quantity of goods from the procedure of outward processing in each type of obtained products and overall quantity of goods from the procedure of outward processing in overall quantity of obtained products.

(5) Quantity of each type of goods from the procedure of outward processing, corresponding to the quantity of each type of the obtained products put into free circulation,

which shall be taken into account in determination of the amount to be deducted in accordance with paragraph 1 of this Article, shall be calculated in such a manner that the coefficient calculated on the basis of Article 421 paragraph 2 hereof is multiplied by the quantity of each type of goods from the procedure of outward processing, used in the production of each type of obtained products, calculated on the basis of paragraph 4 of this Article.

### **Article 423** **(value method)**

(1) Where the method referred to in Articles 421 or 422 hereof cannot be used, the value method shall be applied. The customs authority may, upon the consent of the approval holder and with the simplification purposes, use the quantitative method referred to in Article 422 hereof instead of the value method, provide both methods yield similar results.

(2) In order to determine the quantity of each type of goods from the procedure of outward processing, used in the production of each type of obtained products, overall quantity of the goods from the procedure of outward processing shall be successively multiplied by the coefficients corresponding to the ratio between the customs value of each type of obtained products and total value of such products.

(3) Where one type of obtained products is not re-imported, taken as the value of such products in implementation of paragraph 2 of this Article, shall be the selling price of identical or similar products on the domestic market, but only if this price is not affected by the relationship between the buyer and the seller. In determination whether the buyer and the seller are related, Article 77 hereof shall apply.

(4) If it is not possible to determine the value in accordance with paragraph 3 of this Article, the customs authority shall determine it in accordance with other suitable method.

(5) Quantity of each type of temporarily exported goods, corresponding to the quantity of each type of the obtained products put into free circulation, which shall be taken into account in determination of the amount to be deducted pursuant to Article 154 paragraph 1 of the Customs Law, shall be calculated in such a manner that the coefficient, calculated pursuant to Article 121 paragraph 2 hereof, is multiplied by the quantity of each type of temporarily exported goods, used in production of such obtained products, calculated in accordance with paragraph 2 of this Article.

### **Article 424** **(determination of the approximate value of customs debt)**

(1) Where the issued approval for the procedure of outward processing does not pertain to repairs and the customs authority determines, in agreement with the approval holder, an approximate amount of the customs debt payable in accordance with the rules on partial exemption from customs debt referred to in Article 154 of the Customs Law, the customs authority may determine the average duty rate for all production operations which, in accordance with the approval, may be performed (aggregate calculation). This procedure is

possible only for the approval holders who frequently and regularly conduct the customs procedure of outward processing.

(2) Average rate of duty referred to in paragraph 1 of this Article shall be determined for the period which shall not exceed six months, on the basis of:

- in advance prepared approximate estimation of the amount of duties which should be paid within this period, or
- experience based on the payment of customs debt in particular equal periods in the past.

In order to ensure that the paid customs debt is not lower than the one prescribed by law, the rate of duty shall be increased, when necessary.

(3) Average rate of duty referred to in paragraph 1 of this Article shall be applied for the temporary calculation of customs debt in putting the obtained products into free circulation in the period which is equal to the period applied for the calculation in accordance with paragraph 2 of this Article. In such events, it shall not be required to calculate precisely the actual amount of customs debt every time the goods are put into free circulation.

(4) Temporarily calculated customs debt shall be calculated and paid in accordance with Articles 219 and 226 of the Customs Law.

(5) The customs authority shall, in agreement with the approval holder, at the end of each period, make final calculation of customs debt pursuant to Article 154 paragraph 4 of the Customs Law.

(6) Where, in making final calculation of customs debt, it is found that temporarily calculated customs debt is above or, despite the application of the provisions referred to in paragraph 2 of this Article, below the one owed by law, the refund, namely additional collection, shall be made.

## **Division 5**

### **Measures of economic policy**

#### **Article 425**

##### **(application of the economic policy measures)**

(1) Measures of economic policy, which are applied for exportation of domestic goods, shall, pursuant to Article 148 paragraph 3 of the Customs Law, apply in the receipt of the declaration for instigation of the procedure of outward processing.

(2) Where the obtained products referred to in Article 148 paragraph 1 of the Customs Law are put into free circulation and, where for products at the time of the acceptance of the declaration for putting into free circulation, the measures of economic policy are in force, such measures shall be applied for the obtained products only in the event that those products are not products of the domestic origin according to the criteria determined in accordance with Articles 23 to 27 of the Customs Law.

(3) Measures of economic policy, applicable for putting into free circulation, shall not be applied if the goods put into free circulation are the goods which were exported in the procedure of outward processing within the replacement system or which were abroad in the procedure of outward processing or performance of additional production operations pursuant to Article 127 of the Customs Law.

### **CHAPTER 3 PROCEDURE OF EXPORTATION**

#### **Section 1 Final exportation**

##### **Article 426 (the term: exporter)**

(1) The exporter referred to in Article 163 paragraph 6 of the Customs Law shall be deemed to be a person for whose account the exportation declaration was submitted and who, at the moment the export declaration was accepted, was the owner of goods, namely a person who has disposal over the goods.

(2) If, in accordance with the contract, having disposal over the goods is a person with the registered office outside the customs territory, the exporter shall be deemed to the contractual partner with the registered office or residence in the customs territory.

##### **Article 427 (subcontractor)**

Where exportation involves a subcontractor, pursuant to Article 163 paragraph 6 of the Customs Law the exportation declaration may be submitted with the customs authority which is territorially competent according to the registered office of the subcontractor.

##### **Article 428 (where the exportation procedure may be instigated)**

(1) Where, for justifiable reasons, Article 163 paragraph 6 of the Customs Law may not be applied, exportation customs procedure may be instigated with any customs authority in the customs territory, which is authorized for implementation of such procedure.

(2) In order to ensure customs surveillance for the goods intended for exportation, Articles 450, 454 and 458 hereof shall accordingly apply.

##### **Article 429 (exportation declaration)**

Where unique customs document (hereinafter referred to as: UCD) is used for exportation declaration, copies 1, 2 and 3 shall be used. The customs authority with which the exportation declaration was submitted (hereinafter referred to as: the customs authority of export clearance), shall affix the seal in box A, and, when applicable, fill out box D. After

putting the goods into free circulation, the customs authority of export clearance shall retain copies 1 and 2, and return copy 3 to the participant.

**Article 430**  
**(control of the exit of goods)**

- (1) Copy 3 of UCD and the goods shall be submitted to the customs authority of exit.
- (2) In implementation of this Article, the term: the customs authority of exit shall mean as follows:
  - a) in the event when the goods are exported by railways, post, air or sea, the customs authority which is competent according to the place in which the goods covered by the unique transportation agreement for transportation to other country is taken over by the railway company, post, airline or ship company.
  - b) in the event of exportation of goods by pipeline or the electrical energy - the customs authority which is territorially competent according to the registered office of the exporter.
  - c) in the event when the goods are exported by other means of transportation and under the conditions not covered in items a) and b) - the last customs authority before the goods left the customs territory.
- (3) The customs authority of exit shall check whether the goods correspond to the goods declared for the exportation customs procedure and confirm the actual exit of goods at the back of copy 3 of UCD, with the reference number of exit, date and seal of the customs authority.
- (4) Exit, in accordance with paragraph 3 of this Article, shall not be confirmed for the goods exported by pipeline or electric lines.
- (5) If the customs authority of exit finds that there is a deficit of goods, it shall indicate such fact as a remark in box I UCD when confirming the exit, and notify the customs authority of export clearance.
- (6) If the customs authority of exit finds that there is a surplus of goods shall not allow the exit before the exportation customs procedure is not performed for all the goods.
- (7) If the customs authority of exit finds that some other type of goods is in front of it, it shall not approve the exit before the exportation customs procedure is performed for the correct type of goods and shall duly notify the customs authority of export clearance.
- (8) Where the goods are forwarded to other country or to the customs authority of exit in the transit procedure, the customs authority of departure shall confirm the copy 3 UCD in accordance with paragraph 3 of this Article and shall return the copy to the declarant after inserting on all copies of transit documents or on other document that replaces this document the word "EXPORTATION". The customs authority of exit must supervise the physical exit of goods.

(9) Where excise products are transported under the regime of the deferred payment of excise taxes to other country with the excise document in accordance with the Law on Excise Taxes, the customs authority of export clearance shall confirm form 3 UCD in accordance with paragraph 3 of this Article and shall return it to the declarant after inserting on all copies of the accompanying excise documents the word "exportation" and confirm it by affixing the seal referred to in paragraph 3 of this Article. The note for identification of the accompanying excise documents shall be attached to the form 3 UCD and the note for identification of the copy 3 UCD shall be attached to the accompanying excise document.

(10) The customs authority of exit shall supervise actual exit of goods from the customs territory in accordance with the Law on Excise Taxes and return the accompanying excise document.

(11) In the events referred to in paragraph 5, 6 and 7 of this Article, the note shall be attached to the accompanying excise document.

(12) The customs authority of export clearance may request from the exporter to submit the evidence that the goods has actually left the customs territory.

#### **Article 431** **(declaration in exportation)**

(1) The goods which are not the subject of prohibitions or restrictions and whose total value in the individual declarant's consignment does not exceed €3,000, shall be declared in writing with the customs authority of exit.

(2) Spoken declaration for exportation of goods shall be allowed only with the customs authority of exit.

#### **Article 432** **(subsequent submittal of export declaration)**

(1) If the goods leave the customs territory without export declaration, the exporter may submit the declaration with the customs authority which is competent according to the place in which the exporter has the registered office or residence, with application of Article 428 hereof.

(2) To enable the customs authority to accept the declaration referred to in paragraph 1 of this Article, the exporter shall be under obligation to submit to the competent customs authority the suitable evidence, pertaining to the nature, quantity of respective goods, and the circumstances in which the goods left the customs territory. This customs authority confirm copy 3 UCD with the suitable note.

#### **Article 433** **(goods which left the customs territory)**



(1) Exporter shall be under obligation to without delay notify the customs authority which has accepted this declaration if the goods did not leave the customs territory and to return copy 3 UCD.

(2) If, in the events listed in Article 430 paragraph 8 hereof, the contract on transportation is subsequently amended and this causes the transportation, which should have been concluded outside the customs territory, to conclude in the customs territory, the contract on transportation may be amended only upon previous consent of the customs authority mentioned in Article 430 paragraph 2 item a) hereof, or if it is a case of transit procedure – the authority of the departure. In such event, form 3 UCD should be returned.

## **Section 2**

### **Temporary exportation with the use of ATA carnet**

#### **Article 434**

(1) ATA Carnet may be used for exportation if the following requirements are met:

- a) ATA Carnet is issued in the customs territory and must contain the note and the security instrument of the guarantor association which a part of the international guarantor chain
- b) ATA carnet is used only for domestic goods:

- which, in the event of exportation from the customs territory, was not subjected to customs formalities with the intent of getting refund or other compensations in accordance with the measures of agricultural policy;

- for which other financial benefits in accordance with the measures of agricultural policy were not approved but it is connected with the obligation to export such goods;

- for which the request for compensation or exemption from customs debt was not submitted;

- c) prescribed documents should be submitted. The customs authority may request the transportation documents are submitted;

- d) goods are intended for re-importation.

(2) For the goods which are temporarily exported on the basis of ATA carnet, the customs authority of export clearance must carry out the following formalities:

- 1. confirm that the data which is specified in the box A to G of the exportation coupon correspond to the goods which is exported on the basis of carnet ATA;

- 2. fill out, where appropriate, the box at the first page of the document entitled "Certificate of the Customs Authority";

- 3. confirm the talon and box H of the exportation coupon;

- 4. insert his name in item (b) box H in the re-importation coupon;

- 5. retain the exportation coupon.

(3) If the customs authority of export clearance is not at the same time the customs authority of exit, the customs authority of export clearance shall carry out all formalities referred to in paragraph 2 of this Article but shall not fill out box 7 of the exportation talon which is to be filled out by the customs authority of exit.

(4) The timeline for re-importation of goods which the customs authority has specified in box H (b) of the exportation coupon shall not exceed the one applicable for ATA Carnet.

**Article 435**  
**(customs declaration for final exportation of the goods covered by ATA carnet)**

Where the goods which are covered by ATA carnet are removed from the customs territory and there is no intention to have them re-imported, the exportation declaration shall be filled out in accordance with this Decree and submitted to the customs authority of export clearance. At the submittal, namely carnet, the customs authority of export clearance shall confirm in box 3 of the export declaration and invalidate the coupon for re-importation and the talon.

**CHAPTER 4**  
**TRANSIT GOODS**

**Section 1**  
**General provisions**

**Article 436**  
**(definitions)**

In application of this heading, the following definition shall apply:

1. means of transportation:
  - road vehicles, trailer or semi-trailer,
  - railway cars,
  - vessels,
  - aircrafts,
  - containers, defined pursuant to Article 328 item 7 hereof;
2. authority of departure: the customs authority with which the transit procedure starts;
3. authority of destination: the customs authority with which, for the purposes of concluding the transit procedure, the goods which are transported within the transit procedure are surrendered
4. authority of security: the Customs Administration or such customs authority whom the Customs Administration has authorized to accept the security.

**Section 2**

**Article 437**  
**(use of transit procedure for customs goods)**

In the customs territory or across it the customs goods shall be transported in the transit procedure, unless otherwise provided by other customs regulations.

**Article 438**  
**(use of transit procedure for domestic goods)**

(1) Within the transit procedure, domestic goods shall be transported pursuant to Article 99 paragraph 1 item 2 of the Customs Law.:

- in which the refund or exemption from customs debt are conditional upon the re-exportation of goods from the customs territory or their introduction into duty free zone, customs warehouse, or putting them in other customs procedure save for the procedure of putting into free circulation, or

- which was in the procedure of inward processing, within the system of the customs debt refund put into free circulation, and is being transported with the intent to export the obtained products from the customs territory, and the requirements for submittal of request in accordance with Article 132 of the Customs Law have been met and the participant intends to submit such a request.

(2) The goods declared for exportation, which did not leave the customs territory, shall be deemed to be domestic goods, provided it is demonstrated that the exportation declaration and customs formalities have been cancelled, as well the effect of such customs formalities.

**Section 3**  
**Customs status of goods**

**Article 439**  
**(passengers' personal luggage)**

The goods which the passengers transport with them or which are within their personal luggage and are not intended for commercial use are the domestic goods, provided they are declared as domestic goods and the trueness of declaration is not suspected. The customs authority may request further documents.

**Article 440**  
**(transportation of customs goods by post)**

To the customs goods which is, pursuant to Article 99 paragraph 2 item 4 of the Customs Law, transported between the two places within the customs territory by post (including the package post), the customs authority shall attach the label or request the label in accordance with Addendum 35 hereto on the package and accompanying documents.

**Section 4**  
**Implementation of transit procedure**

## **Division 1 Procedure**

### **Article 441 (documents for implementation of transit procedure)**

(1) The goods which need to be transported in the transit procedure should, in accordance with this division, be declared for the transit through the use of transit declaration. As a rule, transit declaration shall be filled out on the form UCD in accordance with this Decree.

(2) Under the conditions defined in Articles 446 to 448 hereof, as well as nomenclature from transit declaration, loading specification after the model from Addendum 36 hereto may be used. The use of these loading specifications shall not affect the obligations to be fulfilled at the dispatch, exportation, or other procedure or obligation pertaining to the forms which should be submitted in these procedures. Any commercial document in compliance with the requirements referred to in Articles 445 to 448 hereof and provisions of Articles 442 to 444 hereof, may be used in the loading specifications.

### **Article 442 (characteristics of the paper for the forms)**

(1) For the forms of loading specifications, self-copying paper should be used that weighs at least 44 g per a square meter and is sufficiently firm not to tear or crease in routine use.

(2) For the forms of certificates of security and certificates of abandonment of the security instrument submittal, woodless writing paper weighing at least 100g per a square meter should be used. The paper should be crossed out on both sides with the pattern on which any mechanical or chemical falsifying is visible. Crossing out shall be:

- in the certificate of security - green;
- in the certificate of exemption from provision of security - light blue.

(3) The paper which is used in accordance with paragraphs 1, 2 and 3 of this Article is white, save for the paper for loading specifications referred to in Article 441 hereof which the declarant may chose.

### **Article 443 (size of the form)**

(1) Size of the loading specification form: 210 x 297mm, and may be by 5mm shorter or by 8mm longer.

(2) Size of the certificate of security and the form of the certificate of exemption from the provision of security instrument is 210 x 148mm.

### **Article 444**

**(filling out and corrections of the forms)**

- (1) Any form of the certificate of security and the certificate of exemption from provision of security instrument shall be marked by a number, so that it can be distinguished from other forms.
- (2) Forms of the certificate of security and certificate of exemption from provision of security instrument shall be filled out using the typewriter or a mechanographic procedure, etc.
- (3) Loading specifications may be filled out by the typewriter or using the mechanographic procedure, etc., or in clear handwrite, and later on they may be filled out in ink and with printed letters.
- (4) Forms referred to in paragraph 1 of this Article shall not be corrected by deletions or covering of errors. The modifications shall be made in such a manner that any incorrect written data shall be crossed out and, if necessary, the correct data shall be added. Each of such modifications shall be confirmed by the person who has signed the statement. The customs authority shall certify it in explicit manner.

**Article 445**  
**(characteristics of loading specifications)**

- (1) The form of loading specifications shall contain:
  - a) the text "loading specifications"
  - b) 70 x 55mm box, divided into the upper part of 70 x 15, intended for entry of the abbreviation "TCG", and lower part of 70 x 40 mm, intended for entry of the data listed in Article 448 paragraph 3 hereof;
  - c) columns according the following sequence and with the following texts:
    - ordinal number,
    - designations, numbers, number and type of the packaging, description of goods, and designation and number of the documents from the previous procedure
    - country of dispatch/exporting country;
    - gross weight (kg)
    - space for official remarks.
- (2) The users may discretionarily determine the width of columns; the column under the heading "space for official remarks" shall be at least 30mm wide. Moreover, the users may, for their own purposes, use the blank space outside the boxes listed in paragraph 1 items a), b) and c) of this Article.

**Article 446**  
**(use of loading specifications)**

- (1) Only front side of the form may be used for the loading specification.

- (2) Every item of the goods that is indicated in the loading specification shall have an ordinal number.
- (3) Inserted next to each individual item of the goods, if necessary, shall be the remarks, appended documents, certificates and approval.
- (4) Without delay below the last inscription a horizontal line should be inserted. The empty box should be crossed out and therefore prevent that anything is inserted in it later.

**Article 447**  
**(use of incomplete loading specifications)**

- (1) The Customs Administration may, as the specification pursuant to Article 441 paragraph 2 hereof, approve the specification which fully complies with the requirements referred to in Articles 441 and 445 paragraph 2 hereof.
- (2) Specifications referred to in paragraph 1 of this Article shall be approved only if:
  - a) they are issued by the company in which the documents are being prepared through computer data processing;
  - b) they are formed and filled out in such a manner that they allow the customs authorities to control them;
  - c) inserted for each item of goods is the number, type, designations and numbers of packaging, description of goods, the country of dispatch or exportation country, and gross weight and kilograms.
- (3) Used as the specifications in accordance with paragraph 1 of this Article may also be the lists with the description of goods, which are made with the purpose of carrying out the dispatch/exportation formalities and even if such lists are issued by the companies which do not generate their documents through computer data processing.
- (4) The Customs Administration may approve that the companies and entrepreneurs which generate their business documents through computer data processing and which, in accordance with paragraphs 1 and 2 of this Article, have the approval to use the list according to a specific model, shall also use these lists in the transit procedure that concerns only one type of goods, provided this is necessary because of the data processing programs used by these companies.

**Article 448**  
**(records of the loading specifications)**

- (1) If the main payer uses the loading specification for the consignment which contains more than one type of goods, then boxes 15, 33, 38 and, if necessary, boxes 44 and 31 in the transit declaration form shall be crossed out. This form shall not be used for entry of the designation and number, number and type of the package and description of goods, and it may not be supplemented by the supplementations "bis" of the unique customs document.

(2) The loading specification referred to in paragraph 1 of this Article should be appended in a number of copies equal to the number of copies of the transit declaration to which it pertains.

(3) When accepting the declaration specifications referred to in paragraph 1 of this Article, it shall be assigned the same register number as the transit declaration to which it pertains. This number shall be inserted using the seal which also includes the name of the authority of departure, or by hand. In such case, official seal of the customs authority shall also be affixed. In addition, it may be affixed the signature of the customs officer of the authority of departure.

(4) Where one transit declaration is appended more than one specification, the main payer shall designate them with ordinal numbers. The number of appended specifications shall be inserted in box 4 "specifications" of the transit declaration.

#### **Article 449 (TCG, TCGbis)**

(1) When the goods are transported in the transit procedure through the customs territory, main payer shall insert, in the third division of the box 1 of the used form, the abbreviation "TCG". In the event the supplementary forms are used, the main payer shall insert the abbreviation "TCG bis" in the third division of box 1 of the used supplementary form. Declaration for transit procedure should be supplemented with one or more than one form in accordance with this Decree. In such event, the abbreviation "TCG bis" shall be inserted in the third division of the box 1 of the suitable form.

(2) Transit declaration shall be signed by the main payer.

(3) If the transit procedure follows some other customs procedure, such procedure or suitable customs documents should be indicated in the transit declaration TCG.

#### **Article 450 (use of transit declaration)**

(1) The same means of transportation may be used for loading of goods with more than one authorities of departure, and unloading of goods with more than one authorities of destination.

(2) Allowed to be indicated in a single transit declaration is only the goods which were or will be loaded on one means of transportation intended for transportation from the same authority of departure to the same authority of destination.

(3) In accordance with paragraph 2 of this Article, a single means of transportation shall be seemed to be the following means of transportation which are transporting the goods and which shall remain one unit:

- a) road vehicle with one or more than one trailer or semi-trailer,
- b) more than one railway car,

c) containers which were loaded on a single means of transportation.

**Article 451**  
**(procedure for transit declaration)**

(1) The authority of departure shall receive the transit declaration and enter it in the records; it shall specify the timeline within which the goods should be surrendered to the authority of destination, and, in a suitable manner, ensure the identity of goods.

(2) In the events referred to in Article 463 hereof, or if the customs authority deems it necessary, the authority of departure may determine a specific route of the transit of goods. Exceptionally, at the request of main payer, this route may be changed only by the competent customs authority. The customs authority shall insert the corresponding remark in the transit declaration and it shall without delay notify the authority of departure. The customs authority shall take all measures necessary to ensure efficacious prevention of irregularities.

(3) In the event of vis major, the carrier may abandon the specified route. The goods and the transit declaration should be without delay presented to the nearest customs authority. The customs authority shall without delay notify the authority of departure about the change and insert the corresponding remark in the transit declaration.

(4) The authority of departure shall insert in the transit declaration the corresponding data, retain a copy intended for it and hand over the remaining copies to the main payer or his agent.

**Article 452**  
**(ensuring the identity of goods)**

(1) As a rule, the identity of goods shall be ensured by affixing the customs designations.

(2) Customs designations shall be affixed:

1. to the load space, if the means of transportation already has the approval on the basis of other regulations, or if it was recognized by the authority of departure as being fit for affixation of designations,

2. and, in exceptional cases, on the packaging.

(3) The means of transportation which are fit for affixation of customs designations are those:

- to which customs designations may be affixed easily and efficaciously;
- which are made in such a manner that it is not possible to add or take the goods without leaving visible traces of damage or breakage of customs designations;
- in which there are no hidden spaces in which it would be possible to hide the goods;
- whose load spaces are accessible for customs control.



- (4) The authority of departure shall not affix customs designations where the identity of goods can be determined on the basis of the description in the transit declaration or in accompanying documents, taking into account other measures for ensuring the identity, if any.

#### **Article 453**

##### **(submittal and use of the copies of transit declaration to be returned to the payer)**

- (1) The transportation of the goods shall be accompanied by the copies of transit declaration which the authority of departure shall hand over to the main payer or his agent.
- (2) Copies of transit declaration should be at any time presented to the customs authority, at their request.

#### **Article 454**

##### **(loading and unloading under surveillance of the customs authority)**

Where the goods are loaded or unloaded with a customs authority located between the authority of departure and the authority of destination, copies of transit declaration should be submitted to the customs authority of departure.

#### **Article 455**

##### **(reloading of goods)**

- (1) In justifiable cases, the goods referred to in transit declaration may be reloaded, without a new declaration, to other means of transportation under surveillance of the customs authority. In such event, the customs authority shall insert the suitable remark in the transit declaration.
- (2) The customs authority may, under the conditions it determines at its discretion, approve the reloading of goods without direct customs surveillance. In the event of such reloading, the carrier shall insert the suitable remark in the transit declaration and notify the customs authority so that this reloading can be officially confirmed.

#### **Article 456**

##### **(damage to the customs designations)**

- (1) Where, in the course of transportation, the customs designations are damaged due to a cause beyond the control of the carrier, the carrier shall be under obligation to without delay notify the nearest customs authority, which shall compose the suitable minutes. The customs authority shall affix new customs designations.
- (2) In the event of an accident due to which the reloading to other means of transportation is necessary, paragraph 1 of this Article shall accordingly apply.
- (3) If the goods should be without delay divided or entirely unloaded due to a direct danger, the carrier may act at his own risk, which fact shall be inserted in the transit declaration. Paragraph 1 of this Article shall accordingly apply.

(4) If the carrier is not able to meet the timeline referred to in Article 451 hereof due to an accident or other event in the course of transportation, it shall without delay notify the customs authority referred to in paragraph 1 of this Article, which shall insert the suitable remark in the transit declaration.

**Article 457**  
**(procedure with the authority of destination)**

- (1) The goods and transit declaration shall be presented to the authority of destination.
- (2) The authority of destination shall, in a copy of transit declaration, insert the results of verification and without delay submit one copy to the authority of departure, while the other copy shall remain with the authority of destination.
- (3) Transit procedure may also be concluded with the customs authority other than the one which is specified in the transit declaration. In such event, this customs authority shall become the authority of destination.
- (4) In the events referred to in Article 463 hereof or, if the customs authority deems it necessary, the competent customs authority may, at the request of main payer and upon the consent of the customs authority of departure, change the authority of destination. Competent customs authority shall without delay notify the former authority of destination about this change and insert a suitable official note in the transit declaration.
- (5) The timeline for submittal of goods with the authority of destination, which is to be specified by the authority of departure, shall be binding for other customs authorities and they shall not be able to change it.
- (6) Where goods were submitted with the authority of destination only after the expiry of the timeline specified by the authority of departure, such timeline shall be approved if the authority of destination demonstrates that the timeline was exceeded due to the reasons for which neither the carrier or main payer was responsible.

**Article 458**  
**(certificate of receipt)**

- (1) Certificate of receipt shall be confirmed at the request of the person who has surrendered with the authority of destination the goods accompanied with corresponding transit declaration.
- (2) For the confirmation of the receipt, which shall demonstrate that the transit declaration and the goods listed in it are presented to the authority of destination, the cutout at the back of the copy 5 UCD shall be used.
- (3) The certificate of receipt shall be filled out by the participant in advance. Next to the part intended for the authority of destination, it may also contain other data that refer to the consignment of goods. The note of the authority of destination shall be binding only for the data in the part intended for such authority.

**Division 2**  
**Security for customs debt in the transit procedure**

**Subdivision 1**  
**General provisions**

**Article 459**

- (1) Security instruments pursuant to Article 103 of the Customs Law shall apply throughout the customs territory.
- (2) Security may be general, which applies to more than one transit procedures, or individual, which applies to a single transit procedure.
- (3) Security shall be solidary, issued by any natural or legal person meeting the requirements referred to in Article 460 hereof.
- (4) Form of the security instrument referred to in paragraph 3 of this Article shall comply with the:
  - model in Addendum 37 hereto, if it pertains to general security;
  - model in Addendum 38 hereto, if it pertains to individual security;

**Article 460**  
**(guarantors and types of security instruments)**

- (1) The bank guarantees issued by the banks with registered office in the territory of Montenegro or cash deposit may be used as the security instruments.
- (2) If the participant wishes to use the cash deposit as the general security instrument, they shall pay the funds to a specific deposit account with the Customs Administration, and, in the event of using a cash deposit for an individual security, they shall pay the funds to a specific deposit account with the customs authority requesting the security for payment of customs debt. In such event, at the request of the participant, the deposit shall be returned after the transit procedure is concluded.

**Subdivision 2**  
**General security**

**Article 461**  
**(use of general security)**

- (1) General security shall be approved only to the persons who meet the following requirements:
  - a) have the registered office, namely residence in Montenegro;

- b) have regularly used the transit procedure in preceding 6 months as main payers or consigners, and for whom the customs authority believes that they are able to fulfil their obligations.
  - c) have not gravely or repeatedly breached the customs or taxation regulations.
- (2) General security shall be deposited with the Customs Administration.
- (3) The Customs Administration shall determine the amount of security, accept the security instrument, and issue to the main payer the approval to, within the limits of the amount of general security, instigate the transit procedures with any authority of departure. The records of the approval holders and other elements of general security shall be kept with the Customs Administration.
- (4) The person who has received the approval referred to in paragraph 3 of this Article shall, under the conditions referred to in Articles 465 to 468 hereof, be issued one or more than one certificate of security, corresponding to the model from Addendum 39 hereto.
- (5) Inserted in the transit declaration shall be the number of general security from the register of approvals with the Customs Administration.
- (6) The Customs Administration shall cancel the approval and, consequently, the certificate issued on the basis of approval, when the requirements referred to in paragraph 1 of this Article are not met.

#### **Article 462** **(determination of the level of general security)**

- (1) Save in the event referred to in paragraph 2 of this Article, general security shall be determined in the manner referred to in paragraphs 4 and 5 of this Article, namely at the level of 100% of the customs debt which was incurred or which might be incurred in importation. The level of general security may not be below €5,000 and, in the event of the transit of cigarettes and strong alcoholic drinks, it may not be below €300,000.
- (2) The Customs Administration may, in the manner referred to in paragraphs 4 and 5 of this Article, determine the general security at the level of minimum 30% of the customs debt which might be incurred in importation, but not below €5,000, if:
- a) the participant has for a year regularly used the procedure with the general security;
  - b) the participant has fully complied with his financial obligations in the above period;
  - c) the security determined in this manner covers the full amount of customs debt;
  - d) the goods are not listed in Addendum 40 hereto.
- (3) The exception referred to in paragraph 2 of this Article may be rendered null and void if the specified requirements are not met.
- (4) To determine the level of general security, the Customs Administration shall, for the period of 8 days, prepare the assessment of:

- a) the transportations of goods performed under customs surveillance;
- b) the customs debt, taking into account the highest rates applied in Montenegro.

(5) The assessment referred to in paragraph 4 of this Article shall be made on the basis of commercial and financial documents of the person who has submitted the request pertaining to the transit of goods in the preceding year. The result shall be divided by 52.

(6) For the person who request the general security for the first time, the Customs Administration shall, in concert with the user of the right, through the sample method, determine the average value and customs debt for the weekly volume of transit circulation.

(7) The Customs Administration shall, on annual basis, review the level of general security, taking into account the data of the authorities of departure and the data of main payers and, if necessary, determine a new level of security.

#### **Article 463** **(temporary prohibition of the use of general security)**

(1) The Customs Administration may, for the purpose of implementing the transit procedure, temporarily prohibit the use of general security, if it pertains to the goods for which the Customs Administration has found that they present the increased risk and that there is a possibility of misuse.

(2) Prohibition of the use referred to in paragraph 1 of this Article may subsist for maximum 12 months and the Customs Administration may extend such timeline.

#### **Article 464** **(sensitive goods)**

For the sensitive goods listed in Addendum 40 hereto, the following measures shall apply:

- a) tariff mark shall be inserted in the transit declaration;
- b) in all copies of the transit declaration, the remark "SENSITIVE GOODS" shall be diagonally inserted, in red, in minimum dimension of 100 x 10mm;
- c) pages of the transit declaration containing the remark referred to in item b) of this Article shall be returned to the authority of departure not later than on the business day following the day when the consignment and transit declaration were presented to the authority of destination. Without delay after such presentation, the authority of destination shall, in the prescribed manner, notify the authority of departure about the receipt of consignment.

#### **Article 465** **(authorized persons)**

(1) The main payer shall, when the certificate of security is issued or at any time during the validity period of the certificate, put on the back of the certificate the names of persons with the power of attorney to sign the declaration for transit procedure in his name. Inserted

shall be the name and surname of the person and his signature will be attached. The appointment shall be made by inserting the surname and name of the authorized person and specimen of his signature. Any insertion of the authorized person the main payer shall confirm by affixing his signature. Main payer may, in the certification of security, cross out the box which he does not intend to use.

(2) The main payer may cancel the insertion of the authorized person on the back of the certificate.

**Article 466**  
**(authorized person)**

The person, inserted on the back of the certificate of security to be presented to the authority of departure, shall be deemed to be the authorized agent of the main payer.

**Article 467**  
**(validity period, extension)**

Validity period of the certificate of security may not exceed the validity period of security.

**Article 468**  
**(cancellation of security)**

(1) In the event of the cancellation of security instrument, the main payer shall without delay return to the Customs Administration any certificates of general security whose validity period has not expired.

(2) The Customs Administration may cancel the certificate of security and duly notify the customs authority.

**Subdivision 3**  
**Individual security**

**Article 469**  
**(individual security)**

Security instrument for the individual transit procedure shall be submitted to the authority of departure which shall specify the level of security.

**Subdivision 4**  
**Common provisions for subdivisions 1 to 3**

**Article 470**  
**(cessation of obligations)**

(1) Pursuant to Article 222 paragraph 4 of the Customs Law, the guarantor shall, upon the expiry of the timeline of twelve months after the receipt of transit declaration, be

relieved from the obligation referred to in the guarantee that was submitted, unless the customs authority has notified him that the transit procedure was not properly concluded.

(2) Where the customs authority, within the timeline referred to in paragraph 1 of this Article, has notified the guarantor that the transit procedure was not properly concluded, the guarantor shall be notified that he shall pay or may be under obligation to pay the amount for which he guarantees in the respective transit procedures. Such notification the guarantor must receive not later than three years after transit declaration was accepted. If the guarantor does not receive the notification within the above timeline, he shall be relieved from his obligations arising from the guarantee that was submitted.

### **Irregularities; proving the correctness**

#### **Article 471 (release of the security instrument)**

If the consignment was not surrendered to the authority of destination, the security instrument for transit procedure shall be released only upon the payment of customs debt or not later than after expiry of three years, unless it is demonstrated to the competent authorities that the transit procedure was properly concluded in the manner referred to in Article 472 hereof.

#### **Article 472 (procedure in undelivered consignments)**

(1) If the consignment was not surrendered to the authority of destination and the place of breach is not possible to identify, the authority of departure shall without delay notify the main payer, and not later than before expiry of the 11<sup>th</sup> month after the receipt of transit declaration.

(2) Indicated in the notification referred to in paragraph 1 of this Article shall be, in the first place, the timeline within which the authority of departure should submit the evidence that transit procedure was properly concluded. Such timeline shall be one month after the notification referred to in paragraph 1 of this Article. Where the above evidence is not submitted, customs debt shall be calculated after expiry of such deadline.

#### **Article 473 (evidence of proper implementation of transit procedure)**

The evidence of proper conclusion of transit procedure shall be submitted pursuant to Article 472 hereof to the competent authorities in such a manner that:

a) the customs or commercial document is submitted, which was confirmed by the customs authority and from which it is apparent that the goods were surrendered with the authority of destination or, in the events referred to in Article 484 hereof, with the authorized consignee. This document shall contain the data for determination of the identity of goods; or

b) the customs document is submitted, which was issued by other country, about subjecting the goods to the customs procedure, or a transcript or photocopy of such document. The transcript or photocopy shall be certified by the authority which has confirmed the original, or the competent authority of the country concerned or of Montenegro. The document shall contain the data for determination of the identity of goods.

## **Section 5**

### **Domestic transit procedure**

#### **Article 474**

##### **(transportation of goods through foreign customs territory)**

(1) Transportation of domestic goods through foreign customs territory shall be performed in accordance with the provisions about the transit procedure hereof. For such goods, the transit declaration shall be submitted with the authority of departure with which the goods temporarily enters the other country. Description of the goods in transit declaration shall be such that it unambiguously enables determination of the identity of goods at the time of their re-entry in Montenegro. The customs authority shall, at the time of the exit of goods, inspect the goods and insert in box D that actual status of goods corresponds to the data in the transit declaration. The authority of destination shall, at the time of re-entry in Montenegro, put the goods into free circulation on the basis of transit declaration, and submit copy 5 UCD to the authority of departure.

(2) Submittal of the security for transportation of goods referred to in paragraph 1 of this Article shall not be required.

(3) By way of derogation from paragraph 1 of this Article, consignment note CIM or handover note TR may be used for the transportation of goods through foreign customs territory in railway traffic. In such event, paragraph 1 of this Article shall accordingly apply.

## **Section 6**

### **Simplified procedures**

#### **Division 1**

##### **Simplification of transit procedure with the authority of departure and the authority of destination**

#### **Article 475**

##### **(general provision)**

When the goods are transported in the transit procedure, the formalities may be simplified in accordance with this division.

#### **Subdivision 1**

##### **Formalities with the authority of departure**

#### **Article 476**



**(authorized consigner)**

The Customs Administration may, to the person meeting the requirements referred to in Article 483 hereof and intending to transport the goods in the transit procedure (hereinafter referred to as: authorized consigner) approve to perform this activity without surrendering the goods and the transit declaration for such goods with the authority of departure.

**Article 477**  
**(requirements for the status of authorized consigner)**

- (1) Approval pursuant to Article 476 hereof shall be issued only to persons:
1. who are regularly dispatching the goods;
  2. who, with their records, enable the customs authorities to conduct surveillance over the transit;
  3. who have submitted the general security referred to in Article 459 hereof,
  4. who have not gravely or repeatedly breached the customs or taxation regulations.
- (2) The Customs Administration shall cancel the approval if the authorized consigner no longer meets the requirements referred to in paragraph 1 of this Article.

**Article 478**  
**(approval)**

The approval issued by the Customs Administration shall contain the following data:

- a) customs authorities, which as the authorities of departure are the competent authorities for the transit;
- b) the timeline and any other details pertaining to the notification of the consignment envisaged for the transit, which is to be performed by the authorized consigner with the authority of departure so that the latter can, before the goods are dispatched, perform the control, if necessary;
- c) the timeline within which the goods should be surrendered with the authority of destination;

**Article 479**  
**(specific provisions for transit declaration)**

- (1) It shall be determined in the approval referred to in Article 476 hereof that the box to be filled out in the transit declaration for the notification for transit procedure:
- a) should be in advance inserted the seal of the customs authority and the signature of the customs officer, or
  - b) the authorized consigner should insert in the box the imprint of the characteristic metal seal which is approved by the Customs Administration and which corresponds to the model from Addendum II hereto. The imprint of this seal may be in advance placed on the form, provided the printing is made by the print shop on the basis of the corresponding approval of the Customs Administration.

(2) Authorized consigner shall add to the box C by inserting the date of dispatch and the transit declaration number in accordance with the approval.

(3) The Customs Administration may approve that other forms be used, which shall bear a distinguishing mark.

**Article 480**  
**(filling out the transit declaration)**

(1) Not later than at the dispatch of goods, the authorized consigner shall submit the correctly filled out transit declaration in such a manner that the copies 1 and 4 in the box "Control authority of departure" is inserted the timeline for submittal of goods to the authority of destination, the measures for ensuring the identity, and the remark: "SIMPLIFIED PROCEDURE".

(2) After the dispatch, copy 1 of transit declaration should be without delay sent to the authority of departure. The Customs Administration may specify in the approval that copy 1 of transit declaration is to be sent to the authority of departure without delay when such declaration is filled out. Other copies shall accompany the goods in accordance with Articles 441, 445 and 473 hereof.

(3) If the authority of departure, when dispatching the consignment, performs the control, it shall indicate: "Control authority of departure" on copies 1 and 4 of transit declaration.

**Article 481**  
**(validity period of transit declaration)**

Properly filled out and, pursuant to Article 480 hereof, supplemented transit declaration shall have the validity period equal to that of the transit declaration for routine transit procedure. The authorized consigner, who has signed the declaration, shall become the main payer.

**Article 482**

(1) The Customs Administration may relieve the authorized consigner from the obligation to sign the transit declarations which were made through electronic or automatic data processing, provided they bear the imprint of the characteristic seal that corresponds to the model from Addendum 11 hereto. This approval shall be issued under the condition that the authorized consigner undertakes, with the Customs Administration, in writing, that they shall act as the main payer in all transit procedures in which the transit declaration with the imprint of characteristic seal will be used.

(2) The transit declaration generated in accordance with paragraph 1 of this Article shall be inserted, in the box envisaged for the signature of main payer, the remark "RELIEVED FROM SIGNATURE".

**Article 483**  
**(obligations of the authorized consigner)**

(1) Authorized consigner shall:

1. apply the customs regulations, and primarily the provisions of this division and the requirements for implementation of simplifications, as specified in the approval;
2. safeguard the specific seal or the form with the imprint of the seal of the authority of departure or the imprint of the characteristic seal.

(2) In the event the forms which were in advance affixed the imprint of the seal of the authority of departure or the imprint of the characteristic seal are misused, regardless of who has misused the forms and regardless of any demeanor or other liability, the authorized consigner shall be liable for payment of the customs debt payable for the goods which is being transported with these forms, if they fail to demonstrate to the customs authority that they have taken all measures listed in item 2 paragraph 1 of this Article.

**Subdivision 2**  
**Formalities with the authority of destination**

**Article 484**  
**(authorized consignee)**

(1) The Customs Administration may approve that the goods that are transported in the transit procedure need not be surrendered to the authority of destination, if they are intended for a person who meets the requirements referred to in Article 491 hereof (hereinafter referred to as: authorized consignee) and holds a suitable approval that is issued by the Customs Administration.

(2) In the events referred to in paragraph 1 of this Article, the main payer for the transit procedure, shall meet their obligations referred to in Article 102 paragraph 1 of the Customs Law at the time when the copies of transit declaration that have accompanied the goods and the goods in unaltered condition are surrendered to the authorized consignee within the prescribed timeline, in their company or at the place specified in the approval, taking into account the measures for ensuring the identity.

(3) For each consignment which was surrendered in accordance with paragraph 2 of this Article, the authorized consignee shall, at the request of the carrier, issue the certificate to confirm that they have received the transit declaration and the goods.

**Article 485**  
**(requirements for the status of authorized consignee)**

(1) The approval referred to in Article 484 hereof shall be issued by the Customs Administration only to the persons who:

1. regularly receive the goods through the transit procedure;

2., with their records, enable the customs authorities to perform surveillance over their business;

3. have not gravely or repeatedly breached the customs or taxation regulations.

(2) The Customs Administration may cancel the approval if the authorized consigner no longer meets the requirements referred to in paragraph 1 of this Article, namely in the approval.

#### **Article 486 (approval)**

(1) The approval which is issued by the Customs Administration shall contain the following data:

1. the customs authority, which is, as the authority of destination, the competent authority for surveillance over the consignments received by the authorized consignee.;

2. the timeline and the manner in which the authority of destination shall be notified about arrival of the consignment, in view of customs surveillance measures, if any.

(2) Save in the events referred to in Article 488 hereof, the Customs Administration may specify in the approval that the authorized consignee may have disposal over the received goods without cooperation of the authority of destination.

#### **Article 487 (obligations of the authorized consignee)**

(1) About the consignments which have reached the authorized consignee or other place specified in the approval, the authorized consignee shall:

1. without delay and in the manner which is specified in the approval, notify the authority of destination about any surplus, deficit, substitutes, or other irregularities, and about any damage to the customs designations,

2. the authority of destination shall without delay send the copies of the transit declaration that accompanied the goods and, at the same time, insert the date of arrival and the condition of affixed customs designations.

(2) The authority of destination shall insert the envisaged notes in the copies of transit declaration.

### **Subdivision 3 Restrictions in the simplification of transit procedure**

#### **Article 488 (restrictions for individual types of goods)**

For the individual types of goods, the Customs Administration may restrict the simplification formalities referred to in Article 476, namely Article 484 hereof.

**Article 489**  
**(CIM, handover note TR)**

(1) If the release from submittal of the declaration for transit procedure with the authority of departure applies to the goods that is transported in accordance with Articles 490 to 518 hereof, with the consignment note CIM or handover note TR, the customs authority shall determine the measures necessary to provide the marks on copies 1, 2 and 3 of the consignment note CIM, or copies 1, 2 and 3A of the handover note TR with the abbreviation TGG.

(2) Where the goods that are transported in accordance with Articles 490 to 518 hereof, are intended for the authorized consignee, the Customs Administration may, without prejudice to Article 484 paragraph 2 and Article 487 paragraph 1 item 2 hereof, determine that the copies 1, 2 and 3 of the consignment note CIM, and copies 1, 2 and 3A of the handover note TR, be submitted to the authority of destination directly by the railway association or transportation company.

**Division 2**  
**Simplification of the formalities in transportation of goods in railway transportation**

**Subdivision 1**  
**General provisions**

**Article 490**  
**(simplification in railway transportation)**

Where the goods are transported in the transit procedure, relevant formalities for transportation of goods, which are to be carried out by registered contractors of railway transportation services in Montenegro (hereinafter referred to as: contractors of railway transportation services), shall be, on the basis of international consignment note CIM, simplified in accordance with Articles 491 to 502 and Article 518 hereof.

**Article 491**  
**(transit declaration in railway transportation)**

Consignment note CIM shall apply for the goods that is transported in the transit procedure as if it were transit declaration.

**Article 492**  
**(railway records of consignments)**

Contractors of railway transportation services shall present the records, which are kept with the central accounting service, to the customs authority, for the purpose of control.

**Article 493**  
**(customs duty payer in railway transportation)**

(1) The contractors of railway transportation services, who assume for transportation the goods accompanied by the consignment note CIM, which is valid as the transit declaration, shall be the main payers for such transit procedure.

(2) The contractor of railway transportation services shall be the main payer for the transit procedure for the consignments which enter the customs territory and were assumed for transportation by foreign railway companies.

**Article 494**  
**(designation of consignments)**

(1) The contractor of the railway transportation services shall on mandatory basis designate the consignments in transit procedure with the label on the consignment note CIM that corresponds to the model from Addendum 47 hereto.

(2) The label referred to in paragraph 1 of this Article shall be affixed to the consignment note CIM, and in the event of the closed load - to the railway car, and in other cases - on the package, namely the packages.

(3) The label referred to in paragraph 1 of this Article may be replaced by the imprint of seal, of green color and with the inserted pictogram from Addendum 47 hereto.

**Article 495**  
**(changes to transportation)**

(1) In the event of any changes to the contract on transportation because of which:

a) the transportation which should have been concluded outside the customs territory, concludes in the customs territory, or

b) the transportation which should have been concluded in the customs territory, concludes outside the customs territory,

the contractor of railway transportation services shall realize the change to the contract on transportation only upon previous approval of the authority of departure.

(2) In all other cases, the contractor of railway transportation services may realize the amended contract on transportation and without delay notify the authority of departure about the change.

**Article 496**  
**(procedure with the authority of departure)**

(1) If the transportation in the transit procedure is instigated in the customs territory, it should be concluded in it and the consignment note CIM shall be presented to the authority of departure.

(2) The authority of departure shall clearly insert in the box intended for the customs authority, in copies 1, 2 and 3 of the consignment note CIM, the abbreviation "TGG", which shall be confirmed by the seal of the authority of departure.

(3) All copies of the consignment note CIM shall be returned to the participant.

(4) The duties of the authority of destination shall be performed by such customs authority in whose territory the railway station of destination is located. Where the goods were put into free circulation at an interim station, or if other customs procedure was determined for such goods, the duties of the authority of destination shall be assumed by such customs authority in whose territory such station is located.

(5) Because of the performance of control over the transit procedure pursuant to Article 492 hereof, the contractor of the railway transportation services shall be under obligation to put on disposal of the customs authority all consignment notes CIM.

**Article 497**  
**(sealing of vehicle)**

If the measures taken by the contractor of the railways transportation services to ensure the identity of goods are satisfactory, the authority of departure shall affix seals on the means of transportation or the packages.

**Article 498**  
**(procedure with the authority of destination)**

(1) In the events referred to in Article 496 paragraph 4 hereof, the contractor of the railway transportation services shall submit the copies 2 and 3 of the consignment note CIM to the authority of destination.

(2) The authority of destination shall return to the contractor of railway transportation services copy 2 of the consignment note CIM without delay after it inserts in the note, and shall keep copy 3.

**Article 499**  
**(transportation which concludes outside the customs territory)**

(1) If the transportation is instigated in the customs territory and it should be conclude outside it, provisions Articles 496-497 hereof shall apply.

(2) Duties of the authority of destination shall be assumed by such customs authority in whose territory the border railway station over which the consignment leaves the customs territory is located.

(3) No formalities need to be carried out with the authority of destination.

**Article 500**  
**(transportation which concludes in the customs territory)**

- (1) If the transportation is instigated outside the customs territory and it should be concluded in it, duties of the authority of departure shall be assumed by the customs authority in whose territory the border railway station over which the consignment enters the customs territory is located.
- (2) No formalities need to be carried out with the authority of departure.
- (3) Duties of the authority of destination shall be assumed by such customs authority in whose territory the border railway station is located. Procedures envisaged in Article 498 hereof shall be performed with the authority of destination.
- (4) Where the goods were put into free circulation at an interim station or where other customs procedure was implemented for such goods, duty of the authority of destination shall be assumed by such customs authority in whose territory this station is located. This customs authority shall certify copies 2 and 3 and the additional copy of the copy 3, which is submitted by the contractor of railway transportation services, and affix to them the following designation: "CLEARED". This authority shall, after certifying them, without delay return copies 2 and 3 to the contractor of railway transportation services, and retain the additional copy of copy 3.
- (5) Procedure specified in paragraph 4 of this Article shall not apply to excise products pursuant to the Law on Excise Taxes.
- (6) For the procedures mentioned in paragraph 4 of this Article, the surveillance customs authority of the station of destination shall have the right to check the text which the customs authority competent for surveillance of the interim station has inserted into copies 2 and 3.

#### **Article 501** **(transportation across the customs territory)**

- (1) If the transportation is instigated outside the customs territory and should be concluded outside it, then the duties of the authority of departure and the authority of destination shall be assumed by the customs authorities specified in Article 500 paragraph 1, namely in Article 499 paragraph 2 hereof.
- (2) No formalities need to be carried out with the authority of departure and the authority of destination.

#### **Article 502** **(domestic goods)**

In the events referred to in Articles 500 and 501 hereof, these goods shall be deemed to be the customs goods.

### **Subdivision 2** **Provisions pertaining to the goods transported in large containers**



**Article 503**  
**(transportation in large containers)**

Where the goods are transported in the transit procedure, the simplifications pursuant to Article 504 hereof shall accordingly apply to the transportation of goods in large containers which are, for the contractors of railway transportation services, performed by transportation companies on the basis of the handover note TR. Such transportation may, besides the railway transportation, include other types of transportation for the railway station of departure to the railway station of destination.

**Article 504**  
**(definitions)**

In implementation of this subdivision, the following terms shall have the following meanings:

1. "transportation company": the company founded by the contractors of railway transportation services for transportation of goods in large containers, using the bills of handover TR, whose member is the railway company;

2. "large container": the container defined pursuant to Article 328 item 7 hereof:

- with the properties that enable efficacious affixation of seals; this applies only in the event when the sealing is required pursuant to Article 531 hereof;
- of such dimensions that the area of the floor between the four outside angles is minimum 7 m<sup>2</sup>;

3. "handover note TR": a bill issued when contract of transportation was concluded, on the basis of which the transportation company transports one or more large containers in the international traffic from the consigner to the consignee. Every handover note TR shall, for the purposes of identification, have the series number inserted in its upper right corner. The number shall consist of eight digits, with letters TR before them.

Handover note TR shall consist of the following copies, in the following order:

- No. 1: copy for the management of the transportation company;
- No. 2: copy for the representative of the transportation company at the railway station of destination;
- No. 3A: copy for the customs authority;
- No. 3B: copy for the consignee;
- No. 4 : copy for the management of the transportation company;
- No. 5: copy for the representative of the transportation company at the railway station of departure;
- No. 6: copy for the consigner.

All copies of the handover note TR, except for copy 3A, shall have, on the right side, a 4 cm wide green margin;

4. "proof for large containers": hereinafter "proof": the document appended to the handover note TR, which constitutes its integral part and with which more than one large container is being transported from the railway station of departure to the same railway station of destination, with which customs formalities are to be carried out.

Proof shall be issued in the number of copies identical to the number of copies of the handover note TR to which it pertains.

Number of the proofs shall be inserted in the box intended for the insertion of the number of proofs and in the right upper corner of the handover note TR.

In the upper right corner of each proof, series number of the pertaining handover note TR shall be inserted.

5. "nearest suitable railway station": the railway station or terminal that is nearest to the place of loading or unloading and where the containers specified in item 2 of this Article can be reloaded.

#### **Article 505** **(handover note TR as the transit declaration)**

Handover note TR, used by the transportation company, shall, for the goods that is transported in the transit procedure, have the effect of the transit declaration.

#### **Article 506** **(records)**

(1) Transportation company shall be under obligation to put the records, kept with the central accounting services, on disposal of the customs authorities for the control purposes.

(2) Transportation company shall be under obligation to submit to the customs authority, at its request, all documents, records or information pertaining to the consignments that are concluded or are in progress, as required by this authority.

(3) In the event when, pursuant to Article 505 hereof, the bills of handover TR have the effect of the transit declaration or transit documents, the transportation company or his agent shall notify:

a) the authority of destination, if they receive copy 1 of the handover note TR without a note;

b) the authority of departure, if they did not receive copy 1 of the handover note TR and the transportation company is not able to determine whether a particular consignment was surrendered with the authority of destination in accordance with regulations or not, or whether the consignment has, in the events pursuant to Article 514 hereof, left the customs territory.

#### **Article 507** **(railways as the main payer)**

(1) The contractors of railway transportation services shall be the main payers for the consignments they have assumed for transportation.

- (2) The contractors of railway transportation services shall be the main payers for the transit procedure for consignments referred to in Article 503 hereof that enter the customs territory and were assumed for transportation by foreign railways.

**Article 508**  
**(transportation which takes place outside the railway traffic)**

Where, in the course of transportation which does not take place in the railway traffic, to the railway station of departure or from the railway station of destination, it is necessary to carry out the customs formalities, then it shall be allowed to insert only one large container in the individual handover note TR.

**Article 509**  
**(designation of transportation)**

- (1) Transportation company shall designate the transportation that takes place pursuant to the transit procedure, with a label with the pictogram supplied in the model in Addendum 47 hereto. The label shall be attached to the handover note TR and to the large containers.
- (2) The label referred to in paragraph 1 of this Article may be replaced by the imprint of seal, in green and with the pictogram from Addendum 47 hereto.

**Article 510**  
**(amendment to the contract on transportation)**

- (1) In the event of the amendment of the contract on transportation because of which:
- a) the transportation which should be concluded outside the customs territory concludes in the customs territory, or
  - b) the transportation which should have concluded in the customs territory concludes outside the customs territory, the transportation company shall perform the amended contract on transportation solely upon previous approval of the authority of departure.
- (2) In all other events, the transportation company may perform the amended contract on transportation and shall without delay notify the authority of departure about the change.

**Article 511**  
**(presentation of the handover note TR to the authority of departure)**

- (1) Where transportation in the transit procedure is instigated in the customs territory and should be concluded in the customs territory, the handover note TR shall be submitted to the authority of departure.
- (2) The authority of departure shall in the box intended for the customs, in copies 2, 3A and 3B of the handover note TR, clearly insert the abbreviation TCG. The abbreviation "TCG" shall be confirmed by the stamp of the authority of departure.
- (3) All copies of the handover note TR shall be returned to the participant.

(4) For all goods specified in paragraph 2 of this Article, the handover note TR shall be submitted to such authority of destination with which the goods are to be subjected to the customs procedure of putting into free circulation or other customs procedure.

**Article 512**  
**(ensuring the identity of goods)**

Identity of goods shall be ensured pursuant to Article 452 hereof. With regard to the regulations in the railway traffic, in order to ensure the identity of goods, the authority of departure shall, as a rule, affix seals on large containers. However, if the container is sealed, such fact is to be inserted in the box intended for customs notes, in copies 3A and 3B of the handover note TR.

**Article 513**  
**(submittal of copies 1, 2 and 3A of the handover note TR to the authority of destination)**

(1) In the events referred to in Article 511 paragraph 4 hereof, the transportation company shall submit the copies 1, 2 and 3A of the handover note TR to the authority of destination.

(2) The authority of destination shall return copies 1 and 2 to the transportation company without delay after inserting the note, and shall keep the copy 3A.

**Article 514**  
**(instigation of transportation in the customs territory)**

(1) If the transportation is instigated in the customs territory and should be concluded outside it, provisions of Articles 511 and 512 hereof shall apply.

(2) The duty of the authority of destination shall be assumed by the customs authority in whose territory the border railway station over which the consignment leaves the customs territory is located.

(3) No formalities need to be carried out with the authority of destination.

**Article 515**  
**(instigation of transportation outside customs territory)**

(1) If the transportation is instigated outside the customs territory and should be concluded in the customs territory, duties of the authority of departure shall be assumed by the customs authority in whose territory the border railway station over which the consignment enters the customs territory is located. No formalities need to be carried out with the authority of departure.

(2) Duties of the authority of destination shall be assumed by such customs authority with which the goods shall be submitted.

- (3) The formalities envisaged in Article 513 hereof need to be carried out with the authority of destination.

**Article 516**  
**(instigation and conclusion of transportation outside the customs territory)**

- (1) If the transportation is instigated outside the customs territory and should be concluded outside the customs territory, then duties of the authority of departure and the authority of destination shall be assumed by the customs authorities specified in Article 515 paragraph 1 and Article 514 paragraph 2 hereof.
- (2) No formalities need to be carried out with the authority of departure and the authority of destination.

**Subdivision 3**  
**Other provisions**

**Article 517**  
**(loading specifications)**

- (1) Where appended to the consignment note CIM or the handover note TR are the loading specifications, Articles 441 paragraph 2 and 445 to 447 hereof shall apply. The number of appended specifications shall be inserted in the box in which the appendices are to be inserted in the consignment note CIM or handover note TR. Also inserted in the specifications should be the number of the train to which the consignment note CIM pertains, or, if applicable, the number of the large container that contains the goods.
- (2) In the events referred to in paragraph 1 of this Article, the specifications appended to the consignment note CIM or handover note TR are the integral part thereof and have equal legal effect.
- (3) Originals of specifications shall contain the note of the railway station of departure.

**Subdivision 4**  
**Scope of routine and simplified procedures**

**Article 518**  
**(application of routine procedures)**

- (1) In the events when the goods are transported in the transit procedure, application of Articles 490 to 517 hereof shall not exclude the possibility of application of the procedures specified in Articles 441 and 445 to 473 hereof. In any case, Articles 492 and 509 hereof shall apply.
- (2) In the event referred to in paragraph 1 of this Article, when filling out the consignment note CIM or handover note TR, it shall be necessary to insert, in the box for insertion of addendum, the data about used transit declarations. This data shall contain the

type of document, name of the customs authority which has issued the document, and the date and registration number of each individual transit declaration.

(3) Where transit procedure is performed through the handover note TR in accordance with Articles 503 to 516 hereof, paragraphs 1 and 2 of this Article and Articles 490 to 502 hereof shall not apply to the used consignment note CIM. In the consignment note CIM, in its box for addenda, referent to the handover note TR shall be clearly made. This note shall contain the text "Handover note TR", after which series number shall be inserted.

## **Section 7**

### **Provisions for specific types of transportation**

#### **Article 519**

##### **(transit procedure in pipelines and electric lines)**

(1) Transit procedure in transportation of goods through pipelines shall be performed in accordance with paragraphs 2 to 6 of this Article.

(2) For the goods that are transported through pipelines, the transit procedure shall be instigated at their entry in the customs territory if they reach the territory through electric line, or at the entry into the electric lines if the goods are already located in the customs territory.

(3) Main payer for the goods referred to in paragraph 2 of this Article shall be the owner of pipelines.

(4) The owner of electric lines shall be the carrier.

(5) Transit procedure shall be concluded when the goods that are transported through electric lines reach the consignee's facilities or the consignee's distribution network, and this fact is duly entered in the business documentation.

(6) The companies which are involved in transportation of goods in accordance with this Article shall keep records and enable to the customs authorities to review their business documentation.

(7) To the transmission through electric line, paragraphs 2 to 6 of this Article shall accordingly apply.

## **Section 8**

### **Transportation in the procedures with TIR or ATA carnets**

#### **Article 520**

##### **(use of TIR or ATA carnets)**

(1) TIR carnet, namely ATA carnet may be used as the transit declaration for transportation of customs goods across the customs territory or from one place to the other place in the customs territory in accordance with applicable international covenants.

(2) For the goods for which the TIR and ATA carnets are used for the transportation of goods referred to in paragraph 1 of this Article, the security referred to in Article 459 hereof shall not apply.

## **CHAPTER 5**

### **OTHER USES OR UTILIZATIONS ALLOWED BY CUSTOMS REGULATIONS**

#### **Section 1**

#### **Duty free zones – free warehouse**

#### **Division 1**

#### **General provisions**

#### **Article 521**

#### **(measures of economic policy)**

The regulations governing the measures of economic policy provide that the measures of economic policy shall apply:

2. at placement of the goods into free circulation, these measures shall not apply to the goods which were introduced into the duty free zone – free warehouse (hereinafter referred to as: free zone) for as long as these goods remain the zone, except when these goods were put into free circulation in the free zone;
3. at introduction of the goods in the customs territory, these measures shall apply when the customs goods are introduced into the free zone;
4. at exportation of the goods, these measures shall apply when domestic goods from the free zone are exported from the customs territory. These goods shall be subjected to customs surveillance.

#### **Division 2**

#### **Implementation of customs surveillance in the free zone**

#### **Subdivision 1**

#### **Article 522**

#### **(competence for customs surveillance)**

For the implementation of customs surveillance, the competent authority shall be such customs authority which is territorially competent considering the place where free zone is located.

#### **Article 523**

#### **(surveillance over free zone and immediate surroundings)**

- (1) Free zone shall, in accordance with the instructions of the Customs Administration, be fenced in such a manner that customs surveillance is facilitated in the free zone and outside it, and that illegal removal of goods from the free zone is prevented.
- (2) Customs surveillance shall be ensured in the six meters wide belt along the outside fence of the free zone.

**Article 524**  
**(customs control)**

The customs authority shall implement the customs control referred to in Article 169 paragraphs 2 and 4 of the Customs Law from time to time, namely when suspecting that regulations governing business in the free zone have been breached.

**Subdivision 2**  
**Activities in the zone and approval of records**

**Article 525**  
**(submittal of the users' records)**

It shall be deemed that the user of free zone (hereinafter referred to as: the user) has notified the customs authority about the planned conduct of business activity in the free zone pursuant to Article 172 paragraph 2 of the Customs Law, if it has, with the competent customs authority referred to in Article 522 hereof, submitted the request for approval of the records referred to in Article 176 of the Customs Law.

**Article 526**  
**(users' measures)**

The user shall implement the measures required to ensure that a person whom they have employed to conduct their business activity complies with the customs regulations.

**Article 527**  
**(approval of records – requirement for commencement of business activity)**

- (1) Before commencing the business activity in the free zone, the user shall have to obtain the approval of the customs authority in respect of the scope and contents of the records referred to in Article 176 of the Customs Law.
- (2) The customs authority shall approve the selected form and content of records keeping only to such person who offer all required guarantees for the conduct of business in the free zone, in accordance with customs regulations.

**Article 528**  
**(request for approval of records)**

- (1) In the request for approval of the form and content of records keeping, the user shall indicate which business activities referred to in Article 176 paragraph 1 of the Customs Law they plan to conduct in the free zone. The request shall contain an



accurate description of the records, and the data about nature and customs status of the goods which shall be the subject of the indicated business activities, and, if applicable, the data about the customs procedures to be applied for the implementation of indicated business activities. It shall contain all other data necessary to the customs authority to ensure proper implementation of the provisions of the Customs Law and this Decree with regard to the business transactions in the free zone.

- (2) Requests and other documents pertaining to the individual request, shall be kept by the customs authority for minimum three years after the end of the calendar year in which the user has ceased to conduct the business activity in free zone.

#### **Article 529 (approval of records)**

- (1) The customs authority shall approve the selected form and content of records keeping, if the proposed form and content of records keeping are in accordance with this Decree and contains the prescribed minimum data and enables the suitable customs surveillance over business operations of the users in the free zone in accordance with customs regulations.
- (2) If the user requests, in the course of business operations, the modification of the approved manner of records keeping referred to in paragraph 1 of this Article, such modification shall be approved by the competent customs authority in accordance with this Article.

#### **Article 530 (modification and cancellation of the approval of records)**

- (1) The customs authority which has issued the approval referred to in Article 529 hereof, may modify or cancel this approval if, taking into account business operations of the user, the approved records keeping no longer enable appropriate customs surveillance, or if they have prohibited or restricted the conduct of a business activity pursuant to Article 172 paragraphs 3 and 4 of the Customs Law.
- (2) In addition to the events referred to in Articles 9 and 10 of the Customs Law, the customs authority shall also cancel the approval of the records when they find that the goods to which the records pertain repeatedly and inexplicably disappear, or when they find that the records were repeatedly kept in an erroneous manner.
- (3) After the customs authority cancels the approval of records in accordance with paragraph 1 of this Article, the user shall not conduct the activities to which the cancelled approved records pertained, and the remaining stocks shall be treated as the goods which were introduced or re-introduced into the customs territory.

#### **Article 531 (restriction or prohibition of the conduct of business activity)**

Measures referred to in Article 172 paragraphs 3 and 4 of the Customs Law shall apply if the customs authority establish the repeated disappearance of goods or other gross repeated violations of customs, namely taxation regulations.

**Article 532**  
**(restriction or prohibition of access to free zone)**

The customs authority may, pursuant to Article 169 paragraph 3 of the Customs Law, prohibit or restrict the access to free zone to a person, in the events referred to in Article 531 hereof.

**Article 533**  
**(discontinuation of business operations or individual business activity of the user in free zone)**

The user discontinuing the business operations or the conduct of individual business activity in the free zone shall without delay notify the competent customs authority and submit to them the records for review.

**Subdivision 3**  
**Introduction of goods in the free zone**

**Article 534**  
**(introduction of goods in the free zone and entry into records)**

(1) Save in the events referred to in Articles 535 and 536 hereof, the goods introduced into the free zone shall not be necessary to surrender to the customs authority, nor shall it be necessary to submit the declaration for such goods; however, the user shall without delay enter such goods in the records referred to in Article 527 hereof.

(2) Where the consignment was introduced into the free zone by the carrier which is not at the same time the user of free zone, the user which has assumed the goods shall enter such goods in the records referred to in Article 527 hereof and, not later than the business day that follows the day when the goods were assumed, submit to the competent customs authority the certificate on assumption.

**Article 535**  
**(transportation documents)**

Transportation documents referred to in Article 169 paragraph 5 of the Customs Law may be any documents pertaining to the transportation, such as consignment note, ship load or postal order, if they provide all information necessary for identification of goods.

**Article 536**  
**(introduction of goods in the free zone as the conclusion of the customs procedure with economic effect)**

(1) Where goods pursuant to Article 171 paragraph 2 item 1 of the Customs Law are surrendered to the customs authority, the prescribed documents shall be submitted along

with the goods. Taken into account shall be the exceptions that are envisaged in any simplifications prescribed for the conclusion of individual customs procedure.

(2) Where procedure of inward processing or temporary importation for the obtained products, namely the temporarily imported goods, concludes with the transit procedure followed by the introduction of goods in the free zone with the intent of later exportation from the customs territory, the customs authority shall from time to time check whether the data referred to in Article 541 paragraph 2 item 6 hereof have been entered in the records.

**Article 537**  
**(transfer of goods to other users)**

The user of the free zone may assign the goods they have introduced into the free zone to other user. The assignment and the assumption shall be indicated by both users in their respective records. The user assigning the goods to the other user shall be under obligation to without delay notify the customs authority.

**Article 538**  
**(certificate of introduction of goods in the free zone)**

Where, on the basis of the introduction of goods in the free zone, it is possible to request the refund of the paid customs debt or write-off of outstanding customs debt, the customs authority shall confirm the introduction of goods on the declarations that were submitted.

**Article 539**  
**(application of the goods that are subject to payment of export duties)**

The customs authority may, pursuant to Article 171 paragraph 3 of the Customs Law, request that the goods which are subject to payment of export duties or the subject of other export measures or to which other measures of economic policy apply be notified at their introduction in the free zone.

**Article 540**  
**(certificate of the customs status of goods)**

For the confirmation of the customs status of goods pursuant to Article 171 paragraph 4 of the Customs Law, the form whose specimen is supplied in Addendum 41 hereto shall be used, as a rule.

**Subdivision 4**  
**Treatment of goods in the free zone**

**Article 541**  
**(minimum data in the records)**

(1) The user of the free zone shall be under obligation to, in the approved records referred to in Article 527 hereof, indicate all the data required for the surveillance over proper implementation of customs regulations.

(2) The records referred to in paragraph 1 of this Article shall contain the following data:

1. about the trademarks, identification numbers, quantity of goods, usual commercial description of goods, and the data about the number of packages and the type of packaging, and, if such data are available, the identification mark of the packaging (container);
2. which enables supervision of the movement and circulation of goods in the free zone, particularly the traceability of goods;
3. about the transportation document which is used at introduction and removal of goods;
4. about the customs status of goods and, when necessary, about the certificate of the customs status of goods referred to in Article 540 hereof, or other proof of customs status of goods;
5. about routine procedures and treatment of goods pursuant to Article 115 paragraphs 1 and 2 of the Customs Law.;
6. date of the entry of introduction in, namely removal of goods from the free zone;
7. where the introduction goods in the free zone concludes the procedure of inward processing, procedure of temporary importation, or transit procedure, that followed after one of the previously mentioned procedures, one of the texts from:

- Article 273 paragraph 1 hereof, or
- Article 368 hereof.

8. about the goods which were put into free circulation at the introduction in the free zone, namely, when the temporary importation was approved without calculation and payment of customs debt or without any measures of economic policy applicable to them, and which, because of their intended use or the place of use, should be checked.

(3) Items 1 to 6 paragraph 2 of this Article shall apply to warehousing of domestic goods pursuant to Article 170 of the Customs Law.

(4) Obligation of records keeping pursuant to Article 176 of the Customs Law shall not apply to the goods which is being directly handled in the free zone.

#### **Article 542** **(difference between actual stocks and the records)**

(1) If the user finds that the status of actual stocks of goods and the status in the records referred to in Article 541 hereof are not in compliance, they shall be under obligation to without delay notify the customs authority.

(2) In the event referred to in paragraph 1 of this Article, the customs authority shall establish that the customs debt was incurred and calculate such debt in accordance with the Customs Law.

#### **Article 543** **(routine procedures and treatment of goods in free zone)**

(1) Routine procedures and treatment referred to in Article 173 paragraph 1 item 2 of the Customs Law are such procedures and treatment which are specified in Addendum 14 hereto.

(2) In the event when Article 178 paragraph 3 of the Customs Law applies, the customs authority shall, at the request of the declarant, issue the document INF 8. The declarant may request to be issued the documents when declaring the goods which, while being retained in the free zone, were subjected to routine procedures and treatments together with one of the treatments or utilizations allowed by customs regulations.

(3) Document INF 8 referred to in paragraph 2 of this Article may be used for determination of the data to be taken into account in determination of the level of the customs debt.

(4) For implementation of paragraph 3 of this Article, the customs authority shall fill out boxes 11, 12, 13, confirm box 15 of the INF 8 document, and return the original to the declarant.

(5) A sample the INF8 document is supplied in Addendum 42 hereto.

#### **Article 544**

##### **(putting the goods into free circulation while in the free zone)**

(1) With the goods referred to in Article 168 of the Customs Law, it shall not be allowed to utilize or treat the goods different than in the manner prescribed in Article 173 paragraph 1 of the Customs Law.

(2) By way of derogation from paragraph 1 of this Article, treatment may be approved in the free zone for the goods for which no obligation to pay the customs debt arises when they are put into free circulation.

(3) By way of exception from the goods referred to in paragraph 2 of this Article, when the customs goods are put into free circulation in the free zone, the procedures referred to in Article 131 paragraph 3 hereof shall apply without previous approval of the customs authority. In such a case, the approval of the records referred to in Article 527 hereof shall also imply their use for the purposes of the control over simplified procedure for putting the goods into free circulation.

(4) Customs status of the goods referred to in paragraph 3 shall be demonstrated by the certificate of customs status of goods, which the user shall generate on the form referred to in Article 540 hereof.

#### **Article 545**

##### **(possibility of using the goods in the free zone to supply vessels in international traffic)**

The goods introduced into the free zone may, in accordance with the approval of the customs authority, be used for supplying the vessels and their crews in the international traffic.

**Article 546**  
**(equipment which is the customs goods and which is used in the free zone)**

(1) The equipment which constitutes the customs goods and which is intended for the conduct of approved business activity in the free zone, shall be submitted by the user in the procedure for putting into free circulation for specific intended uses, pursuant to Article 90 of the Customs Law. The customs debt determined and calculated for such equipment shall not be payable as long as the equipment remains in the free zone.

(2) Certificate of the status of domestic goods for the equipment referred to in paragraph 1 of this Article may be issued after the customs debt is paid.

(3) If the user removes the equipment referred to in paragraph 2 of this Article from the free zone to other part of the customs territory, he shall have to notify such fact to the customs authority for the customs debt payment purposes and shall submit the declaration for putting the goods into free circulation under preferential rate of duty.

(4) The customs debt referred to in paragraph 3 of this Article shall be payable in accordance with the regulations applicable at the time when the equipment was introduced to the free zone.

(5) The equipment referred to in paragraph 1 of this Article shall include only such equipment which is required for the conduct of approved production or service business activity in the free zone, provided the user states it in his books at the equipment, in accordance with accounting standards.

(6) Never shall the following be deemed to be the equipment referred to in paragraph 5 of this Article:

1. office furniture and equipment for offices and other administrative premises,
2. private motor vehicles and other motor vehicles, which are not intended exclusively for the use in the free zone.

(7) To spare parts for the equipment referred to in paragraph 1 of this Article, for tools and accessories for this equipment, provisions of paragraphs 1, 2 and 3 of this Article shall apply.

**Subdivision 5**  
**Removal of goods from the free zone**

**Article 547**  
**(removal of goods and entry in the records)**

The data about removal of goods from the free zone, namely from the space where the user conducts the business activity with such goods, should be without delay entered in the records referred to in Article 527 hereof.

**Article 548**  
**(re-exportation of the non-unloaded goods)**

It shall not be needed to previously notify the customs authority about the planned re-exportation of the customs goods which were not unloaded or restacked at other means of transportation in the context of Article 541 paragraph 4 hereof.

**Subdivision 6**  
**Specific provisions for the goods referred to in Article 168 paragraph 1**  
**item 2 of the Customs Law.**

**Article 549**  
**(submittal of declaration)**

(1) The goods referred to in Article 168 paragraph 1 item 2 of the Customs Law shall be at the time of their introduction in the free zone surrendered to the customs authority and the declaration shall be submitted for such goods.

(2) Declaration referred to in paragraph 1 of this Article shall be generated pursuant to Article 214 hereof.

**Article 550**  
**(specific requests in respect of records)**

The records referred to in Article 527 hereof shall, in addition to the data referred to in Article 541 hereof, contain the date when the goods referred to in Article 168 paragraph 1 item 2 of the Customs Law were introduced into the free zone and the data about the declaration referred to in Article 549 hereof.

**Article 551**  
**(timelines for actual exportation of goods)**

(1) Goods referred to in Article 168 paragraph 1 item 2 of the Customs Law shall be exported within 3 months after the day they were introduced into the free zone.

(2) Exportation declaration referred to in paragraph 1 of this Article shall be filled out in accordance with Article 216 hereof.

**Subdivision 7**  
**Procedures to be taken care of if the procedure of inward processing, namely**  
**processing under customs surveillance, takes place in the free zone**

**Article 552**  
**(approval for the conduct of the procedure of processing under customs surveillance,**  
**namely inward processing)**

(1) Production operations within the procedure of inward processing (system of the deferred customs duty payment), namely processing under customs surveillance, shall not be allowed in the free zone before the user obtains the approval referred to in Articles 227 or 311 hereof.

(2) The approval referred to in paragraph 1 of this Article shall designate the free zone in which such production operations shall be allowed.

**Article 553**  
**(rejection of the request for issuance of approval)**

(1) The customs authority shall not approve the use of simplifications from this subdivision, if the user does not provide the required guarantees for proper implementation of the procedures.

(2) The customs authority may refuse to issue approval to the persons who conduct the production operations within the procedure of inward processing or processing under customs surveillance only from time to time.

**Article 554**  
**(records of the approval holder)**

(1) Approval holder shall keep separate records of the procedure of inward processing, namely procedure of processing under customs surveillance pursuant to Article 228 paragraph 1, namely Article 312 paragraph 2 hereof. The records shall include the data about the approval.

(2) When filling out the form for the calculation procedure referred to in Article 264, namely Article 324 hereof, the data about entry in records referred to in paragraph 1 of this Article shall replace the data about declarations, namely other documents referred to in paragraph 3 Article 274 and paragraph 3 Article 324 hereof.

**Article 555**  
**(instigation of the procedure of inward processing, namely processing under customs surveillance, when introducing the goods in the free zone)**

(1) If the procedure of inward processing, namely procedure of processing under customs surveillance is instigated in the free zone at the moment when the goods are introduced into the free zone, the declaring on the basis of bookkeeping entries referred to in Article 158 hereof shall be implemented.

(2) By way of derogation from paragraph 1 of this Article, the user may request that routine procedure for instigation of the procedure of inward processing, namely processing under customs surveillance be implemented.

(3) Where the declaring on the basis of bookkeeping entries is used pursuant to paragraph 1 of this Article, entry in the records referred to in Article 554 shall replace the entry in the records about entry of goods in the free zone referred to in Article 527 hereof.



(4) Entry in the records about the procedure of inward processing, namely processing under customs surveillance shall contain the data about transportation document.

#### **Article 556**

**(instigation of the procedure of inward processing, namely processing under customs surveillance when the goods are already introduced into the free zone)**

If the procedure of inward processing, namely processing under customs surveillance is instigated for the goods which are already located in the free zone, the declaring on the basis of bookkeeping entries referred to in Article 158 hereof shall be used.

#### **Article 557**

**(entry in the records in the event referred to in Article 556)**

In the records of goods in the free zone referred to in Article 527 hereof, in the event referred to in Article 556 hereof, the note shall be inserted that the goods, due to the instigation of the procedure of inward processing, namely instigation of the processing under customs surveillance, are entered in the suitable records procedure.

#### **Article 558**

**(conclusion of the procedure of inward processing, namely procedure of the processing under customs surveillance in the free zone)**

(1) Procedure of inward processing, namely procedure of processing under customs surveillance for the obtained, namely processed products, namely for the goods in unaltered condition, which are located in the free zone, shall be concluded by entry of such goods in the records of the goods in the free zone referred to in Article 527 hereof. Inserted in the records of the procedure of inward processing, namely procedure of processing under customs surveillance, shall be the note about entry in the records of the goods in the free zone referred to in Article 527 hereof.

(2) Also inserted in the records of the goods in the free zone shall be the data referred to in Article 273 hereof.

#### **Article 559**

**(conclusion of the procedure of inward processing, namely procedure of processing under customs surveillance with removal of goods from the free zone)**

(1) Where procedure of inward processing of goods, namely procedure of processing under customs surveillance in respect of the obtained, namely processed products, namely goods in unaltered condition, is concluded by removal of such products, namely goods from the free zone for the purpose of their re-exportation, declaring on the basis of bookkeeping entries referred to in Article 165 hereof shall apply.

(2) Where procedure of inward processing of goods, namely procedure of processing under customs surveillance in respect of the obtained, namely processed products, namely goods in unaltered condition, is concluded by removal of such products, namely goods

from the duty free zone for the purpose of their putting into free circulation, the declaring on the basis of bookkeeping entries referred to in Articles 143 to 147 hereof shall apply.

(3) Where procedure of inward processing of goods, namely procedure of processing under customs surveillance in respect of the obtained, namely processed products, namely goods in unaltered condition, is concluded by removal of such products, namely goods from the free zone for the purpose of instigation of any customs procedure other than putting the goods into free circulation, namely exportation, routine, or simplified procedures envisaged for these customs procedures shall apply.

(4) In implementation of this Article, Article 555 paragraph 2 hereof shall accordingly apply.

(5) In the events referred to in paragraphs 1 and 2 of this Article, there shall be no need to enter the removal of the obtained, namely processed products or goods in unaltered condition from the free zone, in the records of the goods in the free zone referred to in Article 527 hereof.

#### **Article 560** **(application of other provisions)**

Paragraphs 2 and 5 Article 559 hereof shall not prejudice the application of Article 126, namely Articles 138 and 139 of the Customs Law in respect of the calculation of customs debt for the goods or products for which the procedure of inward processing, namely processing under customs surveillance was instigated.

#### **Article 561** **(proving the status of domestic goods)**

(1) The status of domestic goods for the obtained, namely processed products or for the goods in unaltered condition, which were put into free circulation in the free zone or at removal from the free zone, shall be proved by the certificate from Addendum 41 hereto, which is issued by the user.

(2) Paragraph 1 of this Article shall apply in the event that the goods are put into free circulation in accordance with paragraph 3 Article 251 hereof.

#### **Article 562** **(requests in respect of entry in the records)**

Entries in the records of the procedure of inward processing, namely records of the processing under customs surveillance shall enable the customs authority to, at any time, check the precise status pertaining to the goods or products for which one of the two procedure was instigated in the free zone.

### **Section 2** **Re-exportation, destruction or assignment of goods in favor of the country**

#### **Article 563**

### **(declaration for re-exportation of goods)**

If, because of re-exportation of goods, it is necessary to submit the declaration, Articles 426 to 433 hereof shall accordingly apply, as well as the specific provisions which apply when the re-exportation concludes the previous customs procedure with economic effect.

### **Article 564**

(1) Pursuant to Article 182 paragraph 5 of the Customs Law, the user of the rights shall be under obligation to announce to the customs authority the destruction goods in writing, so much in advance as it is necessary to enable surveillance over the destruction of goods.

(2) If the declaration was received for the goods intended for destruction, the customs authority which has received such declaration shall make a note on it that the goods are destroyed and, pursuant to Article 74 of the Customs Law, it shall be deemed that such declaration is withdrawn.

(3) The customs authority attending the destruction of goods shall indicate in the document about the announcement, namely declaration, the type and quantity of any wastes and residues remaining after the destruction, in the intent of determining the customs value for any calculation of the customs debt for wastes and residues, when they shall be determined a new treatment or utilization allowed by customs regulations.

### **Article 565**

#### **(suitable utilization of other decisions for assignment of goods to the customs authority)**

Paragraph 2 Article 564 hereof shall accordingly apply to the customs goods which was assigned to the customs authority for its free disposal.

## **PART III RETURN OF GOODS**

### **Article 566**

(1) Pursuant to Article 185 paragraph 6 item 2 of the Customs Law, exemption from payment of customs debt may be approved if the goods are returned:

1. where, due to the exportation of goods, the return was approved or other amount, envisaged within the economic policy, was paid, or

2. where, for the goods, on the basis of its exportation, in accordance with economic policy, other financial relief was approved, only if the declarant demonstrates that he has returned the refund or other paid amount that was obtained due to exportation of the goods which are being returned, or that the competent authority has taken suitable measures to prevent disbursement of such amount, namely demonstrates that other approved financial reliefs were cancelled.

(2) The declarant requesting the exemption from payment of customs duty when the goods are returned, in accordance with paragraph 1 of this Article, shall present to the customs authority the evidence that:

1. due to the legislation in force in the country of their destination, is not possible to place the goods under the requested procedure in such country;
2. the goods were rejected by the buyer because they were faulty or deviated from the contractual provisions;
3. the goods are being returned to the customs territory because they could not be used for the agreed purposes for the reasons specified in items 1 and 2 of this paragraph, but the exporter did not have control over such reasons.

(3) The reasons referred to in item 3 paragraph 2 of this Article shall include the following:

1. the goods are being returned because, before they were delivered to the consignee, they or their means of transportation or means of transmission, have suffered a damage;
2. it concerns the goods which were exported for consumption or sales at a trade fair or a similar exhibition and they were not consumed or sold;
3. the goods could not be delivered to the consignee because of his actual or legal inability to take over the goods pursuant to the contractual provisions on the basis of which the goods were exported;
4. the goods which, due to natural disasters, political or social unrests, could not be delivered to the consignee or were delivered after the expiry of the agreed delivery term;

(4) The declarant shall demonstrate that he has returned the refund of customs debt or other paid amount that was obtained for the purpose of exportation of the goods which are being re-imported, or that the competent authority has taken suitable measures to stop the disbursement of such amount, namely demonstrate that other approved financial reliefs were cancelled, by a suitable certificate issued by the authority which has approved the disbursement of the refund or other paid amount. The certificate shall contain all the data necessary to determine the identity of the goods for which the refund of customs debt or other amount was returned with the goods which are being returned.

(5) Goods referred to in paragraph 1 of this Article shall not be relieved from payment of customs debt, except when they were put into free circulation in the customs territory within the prescribed timeline.

#### **Article 567** **(partial re-importation, parts and accessories)**

(1) Returned goods may be relieved from payment of customs debt even if only a part of the previously exported goods are being re-imported.

(2) Exemption from payment of customs debt pursuant to Article 185 of the Customs Law may also be approved for the parts and additional equipment, if they belonged to the previously exported machines, instruments, appliances, or other goods.

#### **Article 568** **(unaltered goods)**

(1) It shall be deemed that the goods are unaltered in accordance with paragraph 1 Article 185 of the Customs Law, in the following events:

1. after they were exported from the customs territory, the goods were subjected solely to such procedures and treatment which were necessary for the purpose of conservation of the goods, or to the procedures and treatment which have changed solely the appearance of goods;
2. after they were exported from the customs territory, the goods were subjected to the procedures and treatment other than those mentioned in item 1 of this paragraph, but the declarant have demonstrated that the goods are flawed or unfit for the planned purpose, provided one of the following requirements is met:
  - a) procedure or treatment of the goods took place exclusively with the intent to improve or remedy the goods;
  - b) only after commencement of a particular procedure, namely treatment, it was established that the goods are unfit for such planned purpose.

(2) If the goods, within the procedure of outward processing, were subjected to procedures and treatment identical to the procedures and treatment that are allowed in accordance with item 2 paragraph 1 of this Article and therefore the customs debt was incurred, such customs debt shall be calculated if the goods are treated as the returned goods, namely pursuant to the regulations applicable to the calculation of customs debt in the procedure of outward processing.

(3) By way of derogation from paragraph 2 of this Article, the exemption from payment of customs debt shall be approved if the customs authority demonstrates that the exported goods were subjected to necessary repairs or remedy, due to the unpredictable circumstances arising outside the customs territory, and if value of the goods returned because of such procedure or treatment does not exceed the value of goods at the time when the declaration for exportation was received.

(4) In implementation of paragraph 3 of this Article, it shall be deemed that:

1. "necessary repairs or remedy of goods" is any procedure for removal of flaws in operation or removal of the damage the goods has suffered outside the customs territory, if the goods, without such repairs or remedy, could no longer be used for the purposes for which they were intended;
2. "value of re-imported goods does not exceed the value of goods at the time when declaration for exportation was received", if the procedures and treatment, pertaining to the goods, do not exceed such procedures and treatment which are really necessary for further use of goods to the extent equal to that at the time of exportation.

(5) When, for the repairs or remedy, it is necessary to use spare parts, such spare parts shall be limited to the parts which are really necessary for the use of goods to the extent equal to that at the time of their exportation from the customs territory.

## **Article 569**

**(certificate of identity)**

- (1) The customs authority may, at the request of the declarant, issue for the exportation of domestic goods the document containing the data required for determination of the identity of goods, in case such goods are returned to the customs territory (certificate of identity).
- (2) Certificate of identity shall be issued on the form supplied in Addendum 43 hereto. In the passenger traffic, the Customs Administration shall allow the use of simplified forms of the certificate supplied in Addendum 43 A hereto.

**Article 570  
(documents)**

- (1) The returned goods shall be treated as such in accordance with this Decree, only provided:

1. the declarant submits to the customs authority, in addition to the declaration for putting the goods into free circulation, the following documents:

- a) declaration or other document, on the basis of which the goods which are being returned were exported from the customs territory, or
- b) certificate of identity or other documents demonstrating compliance with the requirements for realization of the exemption from payment of customs debt when the goods are returned and, primarily, demonstrating the identity of the exported and returned goods;

The customs authority of the return of goods shall not request the evidence referred to in indents a) or b) of this item if it already has available the evidence or is able to verify them with the applicant, on the basis of which it is possible to establish that the goods which were declared for putting into free circulation were originally exported from the customs territory and that the requirements were met for the return of goods.

2. instead of documents referred to in item 1 of this Article, the declarant may submit the ATA Carnet issued in Montenegro.

- (2) In accordance with item 2 paragraph 1 of this Article, the returned goods may be treated as such and released from payment of customs debt, if the validity period of ATA carnet has already expired and the requirements specified in Article 185 of the Customs Law and the criteria specified in this Decree are fulfilled. In any case, the formalities referred to in paragraph 2 Article 170 hereof shall be carried out.

- (3) Item 1 paragraph 1 of this Article shall not apply to:

1. international circulation of packaging and means of transportation, and circulation of particular goods which may be put into free circulation on the basis of

specific customs regulations, national or international, which provide that the documents need not be submitted.

2. the cases when utilization of spoken declaration or other form of declaration for putting into free circulation or for exportation is allowed.

(4) Customs authorities request that the declarant submits additional evidence to demonstrate the identity of the returned goods.

#### **Article 571**

##### **(return of the goods which, at the time of exportation, were subjected to specific measures of agricultural policy)**

(1) For the agricultural products and foodstuffs for which the user of the right has, on the basis of exportation, exercised the right to a monetary incentive pursuant to the envisaged measures of agricultural policy, submitted in addition to the documents referred to in Article 570 hereof shall be the certificate of the authority which is competent for approval of the right to monetary incentives. The certificate shall contain all the data required for the customs authority with which the goods were declared for putting into free circulation to be able to check whether the certificate pertains to the declared goods. The certificate shall contain one of the following notes:

- "monetary incentives returned for ... (quantity and type of goods to be inserted)" or
- "the right to monetary incentive cancelled for ...( quantity and type of goods to be inserted)",

depending on whether the incentives were already disbursed or not.

(2) Certificate referred to in paragraph 1 of this Article may be issued on the certificate of identity from Addendum 43 hereto.

(3) The certificate of the competent authority referred to in paragraph 1 of this Article shall not be necessary to submit if the customs authority which the goods were surrendered for the purpose of putting into free circulation is able to, using other measures, ascertain that no incentive could be disbursed for the respective goods and that there is not possibility for them to be disbursed at a late date.

#### **Article 572**

The timeline for re-importation of exported goods shall commence on the day when the customs authority receives the declaration for exportation goods.

#### **Article 573**

##### **(declarant)**

The declarant submitting the request for exemption from payment of customs debt pursuant to Article 185 of the Customs Law may be any person with the registered office, namely permanent residence in Montenegro, who submits or is able to submit the returned goods to the customs authorities, accompanied with all the documents required for the

implementation of customs procedure and the decision on exemption from payment of customs debt.

**Article 574**  
**(competence)**

(1) The declaration for return of goods shall be submitted to the customs authority with which the declaration was submitted on the basis of which the goods were exported from the customs territory.

(2) Paragraph 1 of this Article shall not apply if spoken declaration is allowed or if the goods were re-imported on the basis of the ATA carnet issued in Montenegro.

**PART IV**  
**CUSTOMS DEBT**

**CHAPTER 1**  
**SECURITY INSTRUMENT FOR CUSTOMS DEBT**

**Section 1**  
**General provisions**

**Article 575**

Provisions of this Chapter shall not apply to Division 2, Section 4, Chapter 4, Part II hereof (security instrument for customs debt in the transit procedure), except for Article 582 hereof.

**Article 576**  
**(definition of customs debtor)**

In implementation of this Chapter, the "customs debtor" shall be deemed to be a person who is actually a customs debtor, as well as a person who could become a customs debtor in the context of Article 5 of the Customs Law.

**Article 577**  
**(obligations for which security may be provided)**

In accordance with this Decree, the security instruments may be provided for:

1. payment of already incurred customs debt, other duties and fees paid at the importation (hereinafter referred to as: the customs debt);
2. payment of the customs debt that might be incurred;
3. payment of interest that have accrued or might accrue pertaining to the customs debt for which the security instrument was provided.

**Article 578**  
**(restriction of the application of security in the event of unsettled customs debts)**



(1) Pursuant to Article 195 paragraph 3 of the Customs Law, if the customs debtor did not settle the outstanding customs debts, it shall be deemed that the security instrument does not provide adequate guarantee that the customs debt will be paid within the prescribed timeline.

(2) By way of derogation from paragraph 1 of this Article, the customs authority may accept the security instrument and approve the requested procedure for live animals, quickly deteriorating goods, and spare parts for essential current maintenance of the equipment that is being used.

## **2. Section**

### **The events when provision of security instrument shall not be required**

#### **Article 579**

(1) The customs authority, namely the Customs Administration, shall relieve the customs debtor from the obligation to provide security instrument if it is so prescribed by the Customs Law or this Decree.

(2) The customs authority shall not relieve the customs debtor from provision of security instruments in the events pertaining to:

- the goods whose value exceeds €20,000, regardless of the type of treatment or utilization allowed by customs regulations;
- the following types of goods: tobacco products, alcohol or alcoholic drinks, mineral oils.

#### **Article 580**

##### **(security in the event of temporary storage of goods)**

In the event of temporary storage of goods, the customs authority shall not relieve the customs debtor from provision of security instrument when tobacco products, alcohol, alcoholic drinks, or mineral oils are the goods that are temporarily stored.

## **Section 3**

### **Collective and individual security**

#### **Article 581**

##### **(instrument for individual security and instrument for collective security)**

(1) Customs debtor may provide a security instrument for payment of individual customs debt (hereinafter referred to as: instrument for individual security) or for payment of more than one customs debt that were incurred, or could be incurred in a particular period, namely in a particular customs procedure (hereinafter referred to as: instrument of collective security).

- (2) At the request of the participant, it shall be possible to replace a deposited security instrument in the customs procedures.

**Article 582**  
**(use of security instrument)**

Used as the instrument for individual and collective security referred to in Article 193 of the Customs Law shall be a cash deposit and a guarantee of a business bank with the registered office in Montenegro whose operations were approved by the Central Bank of Montenegro.

**Division 1**  
**Depositing of the security instrument**

**Article 583**

- (1) The customs debtor shall deposit the instrument for individual security, at the request of the customs authority.
- (2) The customs debtor shall deposit the instrument for collective security with the Customs Administration which shall determine the level of security.

**Article 584**  
**(instrument for collective security)**

- (1) The Customs Administration shall confirm the receipt of the security instruments on the form of the instrument that was deposited. Reference number of the received security instrument shall be inserted in the customs documents.
- (2) The Customs Administration shall without delay notify the customs authorities about the instruments for collective security it has received.
- (3) The customs debtor may, in the customs procedure, refer to the instrument of collective security, on the business day that follows the day when the Customs Administration has accepted the security instrument as a suitable security instrument.

**Article 585**  
**(level of the instrument for collective security)**

- (1) When deciding on the level of the instrument of collective security, if the security is not mandatory, the Customs Administration shall take into account the scope and manner of the performance of previous customs procedures and reliability of the customs debtor.
- 2) When determining the scope of the customs debtor's previous performance of customs procedures, the account shall be taken of the monthly average of calculated customs debts in the period of six months before the security instrument was deposited, namely the level of the customs debt which could be incurred for goods which is under the

procedure of temporary importation, inward processing, namely customs warehousing of goods (considering the status of stocks).

(3) The level of the instrument of collective security for customs debt that has been determined in accordance with paragraph 2 of this Article may be reduced to 40% if the Customs Administration finds that the customs debtor meets the following criteria:

- he has good reputation, he is reliable and financially stable,
- he has a suitable scope of business operations,
- he keeps all prescribed records, which facilitates unimpaired control,
- in previous business, he has not gravely breached the customs or taxation regulations.

(4) By way of derogation from paragraph 3 of this Article, value of the instrument of collective security may not be below €5,000.

## **Division 2**

### **Requirements for the use of security instrument**

#### **Subdivision 1**

#### **Bank guarantee**

#### **Article 586**

(1) The customs authority may accept a bank guarantee as the security instrument only if such guarantee was issued by a bank with the registered office in Montenegro, whose operations were approved by the Central Bank of Montenegro.

#### **Article 587**

(1) By issuing the bank guarantee, the guarantor undertakes to settle the customs debt which the customs debtor failed to settle before it came due.

(2) Validity period of the bank guarantee with which the payment of debt, if any, is secured, shall not be less than three months, namely less than the timeline within which such debt may be incurred, extended by 60 days.

(3) If the validity period of the bank guarantee has expired and the customs debts that were secured were not settled or were not settled in full, namely, customs debt may still be incurred, the new security instrument to be deposited by the customs debtor shall contain the clause that the debts that were secured by the previous guarantee may also be settled against such security instrument.

(4) It shall be possible to extend the bank guarantee before expiry of its validity period, but the extended guarantee must contain the clause that debts may be settled against it which were secured by the principal guarantee.

#### **Article 588**

#### **(content of bank guarantee)**

Bank guarantee for the security of customs debt shall contain the following data:

1. number of the guarantee,
2. validity period of the guarantee,
3. the amount up to which the guarantor guarantees,
4. guarantee clause "upon first demand" and without objection,
5. data about the guarantor (name, personal identification number/fiscal number, registered office, gyro account, competent organization with which the guarantor's gyro account is kept),
6. data about the customs debtor (company, registered office, personal identification number/fiscal number)
7. date and place of the issuance of guarantee,
8. indication of the type of the customs procedure for which the security is requested, and indication whether it is possible to use the guarantee as security for customs debts of other customs debtor (e.g. in the event of direct or indirect representation),
9. signature of the authorized person and seal of the guarantor,
10. the text of the competent customs authority's confirmation of the receipt of guarantee, number, date, seal.

## **Subdivision 2**

### **Article 589**

The guarantor shall issue the guarantee referred to in paragraph 1 of this Article on the form "CG - bank guarantee for customs debt", of A-4 size, which is supplied in Addendum 44 hereto. The form has one or more than one copies.

## **Subdivision 3**

### **Cash deposit**

### **Article 590**

(1) The customs debtor may make a cash deposit as the instrument for security of the payment of customs debt, by paying the funds to the deposit account of the Customs Administration, namely the customs outlet.

(2) Customs debtor shall receive the confirmation of the payment of cash to the account referred to in paragraph 1 of this Article, containing the following data:

1. number certificate,
2. the timeline within which the funds shall be deposited at the account; if the funds are deposited for an unlimited period of time, insert the corresponding information;
3. the amount of deposit;
4. data about the customs debtor (company, registered office, personal identification number/fiscal number)
5. date when the funds were deposited on the account;

6. the customs procedure to which the deposit applies, and the text whether it is possible to use the cash deposit as the security for a customs debt of other customs debtor (e.g. in the event of indirect or direct representation);
  7. list of the customs authorities with which the cash deposit shall be used as the security for payment of customs debt;
  8. signature of the authorized person,
  9. certificate of the customs authority in the form of a note, confirming the acceptance of such instrument.
- (3) The certificate referred to in paragraph 2 of this Article shall be issued by the Customs Administration on the form "Certificate of cash deposit" which is supplied in Addendum 45 hereto.
- (4) Customs debtor shall make the cash deposit in the legal tender.
- (5) No interest shall accrue on the cash deposit.

### **Division 3**

#### **Return of the security instrument**

#### **Article 591**

**(return of the security instrument at the time of its validity)**

At the request of the customs debtor, the Customs Administration shall return the deposited security instrument if it previously determines that the customs debtor has settled all customs debts he had secured by the respective security instrument, and have already determined that the customs debt can no longer be incurred.

#### **Article 592**

**(return of cash deposit)**

Customs debtor may not use the cash deposit as the security instrument for the customs debt after the date on which he has submitted the request for the return of deposited funds. Where customs debtor has submitted the request for partial return of the deposited funds, he may, from the submittal date of such request, continue to use the cash deposit as the security instrument only in the amount reduced by the returned security.

#### **Article 593**

**(return of cash deposit u specific cases)**

The customs debtor which has made the cash deposit as the security for payment of customs debt in the customs procedure of temporary importation of goods, namely in the procedure of inward processing, or other time-limited procedure, may request the return of the deposited funds when the above customs procedures are concluded, provided such procedures are concluded in accordance with the customs law and provided any debts that might have incurred are settled.

## **CHAPTER 2 INCURRENCE OF CUSTOMS DEBT**

### **Section 1**

#### **Errors i omissions without essential impact on incurrence of customs debt**

#### **Article 594**

(1) The errors which, pursuant to Article 204 of the Customs Law, did not have any essential impact on the prescribed implementation of the temporary storage, namely the customs procedure, shall be deemed to be the events referred to in paragraph 2 of this Article, if:

- they do not constitute an attempt to illegally remove the goods from customs surveillance;
- they do not include obvious untimeliness by the persons in the procedure, and
- all formalities required for determination of the status of goods were subsequently fulfilled.

(2) The events referred to in paragraph 1 of this Article are the following:

1. overstepping the timeline within which the temporarily stored goods or the goods under the customs procedure must be assigned one of the envisaged treatments or utilizations of goods provided by the customs regulations, when such timeline could have been extended if the request for extension of the timeline had been timely submitted;

2. if it pertains to the goods which is under the transit procedure, and the timeline for submittal of goods to the authority of destination has been overstepped, provided this was done subsequently;

3. treatment of temporarily stored goods or the goods under the customs warehousing procedure, and such treatment was not in advance allowed by the customs authority, provided such treatment could have been approved if the request had been submitted;

4. use of the goods under the procedure of temporary importation in contravention with the requirements specified in the approval of the customs authority, provided such use could have been approved if the request had been submitted;

5. relocation of temporarily stored goods without the approval of the customs authority, provided such goods could have been submitted to the customs authority, at its request;

6. removal of the temporarily stored goods or goods under the customs procedure from the customs territory, or introduction of such goods into the free zone, while the prescribed formalities have not been fulfilled;

7. if, in the course of temporary storage of goods or customs warehousing before putting the goods into free circulation, there occurs any of the reasons referred to in Article 204 paragraph 1 of the Customs Law, and it pertains to the goods which, at the time they were put into free circulation in accordance with Article 148 of the Customs Law, could have been, in part or in full, relieved from payment of customs debt;

8. if, in the event of the implementation of the procedure of inward processing for a longer period of time, no extension of the required approval was requested and provided all requirements for its extension were met.

#### **Article 595** **(non-fulfillment of obligations)**

The customs authority shall deem that the customs debt has incurred pursuant to Article 204 paragraph 1 of the Customs Law, unless the person who would have become the customs debtor demonstrates that the requirements referred to in Article 594 hereof are met.

#### **Article 596** **(impact on penal provisions)**

The fact that, due to the errors referred to in Article 594 hereof, the customs debt is not incurred, shall not affect the application of penal provisions or provisions on termination, namely cancellation of the approval for the approved customs procedure.

### **Section 2** **Natural losses**

#### **Article 597** **(customs debt in the event of natural losses)**

(1) Pursuant to Article 206 of the Customs Law, the customs authority shall, at the request of the person who has the relevant right, take into account the deficit of goods, where it is possible to demonstrate that such deficit was incurred exclusively as a result of the nature of goods rather than of any untimeliness or manipulation of the applicant.

(2) The untimeliness and manipulation in accordance with paragraph 1 of this Article shall be deemed to include primarily the incompliance with the rules and obligations in respect of transportation, warehousing, treatment or processing, or handling the goods, which the customs authority have determined in accordance with the Customs Law and this Decree, or which such authority should take into account as the common practice.

#### **Article 598** **(release from submittal of evidence that the goods are irreparably lost)**

The customs authority may relieve the applicant from submitting the evidence that the goods are, due to their nature, irreparably lost, provided the truthfulness of such fact is not suspected.

**Article 599**  
**(taking into account the usual losses)**

If the amount of losses exceeds the amount of the losses that are usual in the practice for the respective goods and if the person fails to demonstrate that, due to the specific circumstances, the greater losses than the usual were actually incurred, the customs authority shall, in determination of the customs debt, take into account the usual losses.

**Section 3**  
**Customs debt for the goods which is in specific situations**

**Article 600**  
**(erroneously assigned customs status goods)**

Submittal of the declaration or other action with identical legal effect, and submittal of the documents to the competent authority for confirmation shall constitute the taking out of goods from under the customs surveillance referred to in Article 203 of the Customs Law, where the consequence of such action is putting the goods into free circulation.

**Article 601**  
**(goods, which shall be deemed to be the domestic goods)**

If the customs debt has incurred in accordance with Art. 203 - 206 of the Customs Law and provided the customs debt was paid, it shall be deemed that the respective goods are domestic goods and that it is not necessary to submit the declaration for putting the goods into free circulation, save in the event of the application of the regulations with regard to the prohibitions and restrictions which may apply to the respective goods. In such event, the declaration for putting the goods into free circulation shall not be necessary.

**Article 602**  
**(seizure of goods; status)**

Seizure of goods pursuant to Article 227 paragraph 1 items 3 and 4 of the Customs Law shall not affect the customs status of such goods.

**Article 603**  
**(goods assigned to the customs authority for free disposal)**

(1) In the case of the customs goods which was assigned to the customs authority for free disposal, or were seized or confiscated, it shall be deemed that the customs warehousing procedure has been instigated for it.

(2) The goods referred to in paragraph 1 of this Article may be sold by the customs authority in accordance with regulations referred to in Article 19 paragraph 2 of the



Customs Law, provided the buyer without delay carries out the formalities for the approval of handling or utilization of goods that is allowed by customs regulations.

(3) If the selling price does not include the customs debt, it shall be deemed that the goods were, through the sales, put into free circulation. The customs authority shall by itself calculate the customs debt.

(4) If it decides that the goods referred to in paragraph 1 of this Article shall not be offered for sales, the customs authority shall without delay commence the implementation of all formalities so as to ensure that any allowed handling or utilization referred to in Article 5 paragraph 1 indent 14 of the Customs Law would be approved for such goods.

### **CHAPTER 3**

#### **PAYMENT OF CUSTOMS DEBT**

#### **Section 1**

##### **About calculation and payment of customs debt in general**

#### **Article 604**

##### **(calculation and payment of customs debt)**

(1) The customs authority shall, in a suitable form and soonest possible, notify the customs debtor about the level of customs debt he must pay (calculation of customs debt). It shall be deemed that the customs debtor has been notified about the customs debt on the day the proper declaration is submitted.

(2) If the customs debt is calculated in the declaration, the customs authority shall submit to the customs debtor the notification referred to in paragraph 1 of this Article only in the event that the level of calculated customs debt is different than the level calculated by the declarant.

(3) If the declaration was submitted through a system of computer data exchange, it shall be deemed that the declarant has taken over the declaration at the moment when he received the electronic message that the declaration was confirmed and calculated.

(4) The calculated customs debt shall be paid by the customs debtor to the account of the Customs Administration within the timelines referred to in Article 223 of the Customs Law, which shall commence on the day when proper declaration was submitted, namely after the receipt date of the calculation referred to in paragraph 2 of this Article.

(5) Without prejudice to the provisions of this Article, the customs authority which issues the approval for simplified declaring procedure or declaring on the basis of bookkeeping entries, may determine that the customs debtor by himself calculate the customs debts incurred in a particular period. In such event, the customs authority shall determine the timeline within which the customs debtor shall pay the debt calculated in this manner.

#### **Article 605**

##### **(payment date)**

The customs debt payment date is the date when the competent organization is submitted the payment order for the calculated customs debt.

**Article 606**  
**(warning)**

(1) If the customs debtor does not calculate the customs debt within the prescribed timeline, the Customs Administration shall send a warning to the customs debtor, accompanied with a review of outstanding obligations, warning him that, in the event the customs debtor fails to settle his debt within two days, the submitted security instrument shall be cased, namely the enforced payment procedure shall be implemented.

(2) The costs pertaining to the warning shall be paid by the customs debtor.

**Section 2**  
**Payment of the customs debt by the security instrument**

**Article 607**  
**(collection of the security instrument)**

Collection of the bank guarantee referred to in Article 582 hereof shall be made in accordance with the regulations applicable to the collection of bank guarantees "at first demand" and "without objection".

**Article 608**  
**(collection from the cash deposit)**

Customs debt shall be collected from the cash deposit in such a manner that the owed amount of customs debt is calculated and entered in the books in a suitable manner.

**Section 3**  
**Subsequent calculation of customs debt**

**Article 609**  
**(when subsequent calculation of customs debt shall not be made)**

(1) If the customs authority determines that:

- a) due to illegal handling of goods, the customs debt was incurred, or
- b) the incurred customs debt was not calculated;
- c) the calculated customs debt is below that which was determined by regulations.

It shall, ex officio or at the request of customs debtor, issue an administrative decision about the subsequent calculation of customs debt.

(2) Customs goods referred to in paragraph 1 of this Article may be put into free circulation if the customs debt is paid, namely if the prescribed security instrument was deposited with the customs authority.

(3) Subsequent calculation of customs debt in accordance with item a) paragraph 1 of this Article, may be made within 5 years after the incurrence of customs debt.

Subsequent calculation of customs debt in accordance with items b) and c) of this Article may be made within 3 years after incurrence of customs debt.

(4) Customs debt shall not be calculated if its amount does not exceed the amount of € 20,00.

#### **Section 4 Enforced collection**

##### **Article 610 (when the enforced collection of unpaid customs debt shall not be made)**

(1) If the customs debtor has not paid the customs debt within the prescribed timeline, the customs authority may collect such debt pursuant the regulations on enforced collection.

The enforceable titles for enforced collection are the following:

- a) enforceable decision of the customs authority,
- b) customs declaration, namely calculation of customs debt,
- c) calculation of customs debt in the passenger traffic,

with the inserted enforceability clause.

(2) The customs authority shall not execute enforced collection of unpaid customs debt if the owed amount, with the accrued default interest, does not exceed €20,00.

(3) If the enforced collection is executed only for the payment of default interest, such collection shall not be executed if the amount of default interest, at the date of the decision on enforced collection, does not exceed €20,00.

#### **CHAPTER 4 REFUND OR WRITE-OFF OF CUSTOMS DEBT**

##### **Section 1 General provisions**

##### **Article 611 (competence)**

(1) Request for refund or write-off of customs debt shall be submitted with the customs authority with which the declaration by way of which the refund or write-off of customs debt is requested. Such customs authority shall decide on the request.

(2) If the request for refund or write-off of customs debt pertains to the debt which was calculated on the basis of simplifications referred to in Article 84 paragraph 1 items 2 and 3 of the Customs Law, such request shall be submitted with the surveillance customs authority specified in the approval for simplification, which shall decide on the request.

## **Section 2**

### **Implementation of the provisions for application of Articles 228 to 231 of the Customs Law**

#### **Division 1**

#### **Request for refund or write-off customs debt**

##### **Article 612**

##### **(who may submitted the request)**

(1) Request for the refund or write-off of customs debt (hereinafter referred to as: request for refund or write-off) shall be submitted by the person who paid or is responsible for the payment of customs debt or the person who assumed his rights and obligations.

(2) Request for refund or write-off may be submitted by the representative of the person referred to in paragraph 1 of this Article.

(3) Save in the events referred to in Article 616 hereof, request for refund or write-off shall be submitted in two copies (original and copy) and must be completed in the form the contents of which shall conform to the template in the Addendum 46 hereto.

(4) Exceptionally the customs authority may in justifiable cases approve that the request for refund or write-off is not submitted on the form referred to in paragraph 3 of this Article, provided that the submitted request contains all the data listed in Addendum 46 hereto.

##### **Article 613**

##### **(submittal of request and procedure therewith)**

(1) Request for refund or write-off, containing all the relevant facts and accompanied with all necessary proofs referred to in Article 8 of the Customs Law, shall be submitted to the customs authority referred to in Article 611 hereof.

(2) The customs authority receiving the request for refund or write-off, shall insert the date of receipt in both copies of the request for refund or write-off. The original shall be retained by it for the purpose of decision making, and the copy returned to the applicant.

(3) Where Article 612 paragraph 4 hereof applies, the customs authority shall confirm the receipt of the request for refund or write-off on the request copy.

**Article 614**  
**(agricultural products and foodstuffs)**

(1) Except where specific regulations pertaining to the implementation of agricultural policy stipulate otherwise, the request relating to the goods pertaining to which the import or export license was submitted with the declaration, should be accompanied with the certificate of the licensing body to the effect that the necessary measures were adopted to neutralize the consequences of license issuance.

(2) By way of derogation from paragraph 1 of this Article, such certificate is not necessary if :

1. the customs authority, to which the request is submitted, issued the relevant license itself, or

2. the request was submitted due to errors in the contents which does not affect the obtaining of the relevant license.

**Article 615**  
**(receipt of incomplete request)**

(1) The customs authority may receive the request for refund or write-off, which does not comply with Article 612, paragraph 3 i 4 hereof, or which is not accompanied with all the necessary documents, but the same must contain the data in boxes 1 through 3 and 7 of the form from Addendum 46 hereto.

(2) In the event referred to in paragraph 1 of this Article the customs authority shall specify the timeline, within which the applicant shall supplement the request for refund or write-off with all the missing data, namely proof.

**Article 616**  
**(specific elements of refund of exportation customs debt)**

(1) The manner of the refund or write-off of exportation customs debt shall be determined in accordance with the regulation governing the payment of exportation customs debt.

(2) If the regulation referred to in paragraph 1 of this Article does not contain provisions on the manner of refund or write-off, the refund shall be performed on the basis of the request in accordance paragraphs 3 through 5 of this Article. The provisions of this chapter pertaining to the refunds and write-off of importation customs debt shall apply accordingly.

(3) The request for refund or write-off of exportation customs debt in the event of return of goods should be accompanied by:

a) proof of payment of exportation customs debt, if payment was made;

b) certified original or certified copy of the declaration for putting into free circulation the goods returned.

The declaration shall bear the following text "Goods put into free circulation as returned goods in accordance with Article 185 paragraph 6 of the Customs Law.";

c) certified original or certified copy of export declaration (held by goods exporter) for the goods returned.

(4) Declaration referred to in item a), b) or c), paragraph 3 of this Article need not be accompanied with the request for refund or write-off of customs debt if the customs authority already has the data stated therein.

(5) Request for refund or write-off of exportation customs debt may be submitted within 12 months after the export declaration receipt date.

## **2. Division**

### **Procedure for the approval of refund or write-off of customs debt**

#### **Article 617**

##### **(completion of customs formalities before deciding on the request)**

The customs authority may allow for certain customs formalities, necessary for the approval of possible refund or write-off of customs debt, to be completed before it decides on the request for refund or write-off. The approval of previous completion of customs formalities shall not affect the decision of the customs authority on the request.

#### **Article 618**

##### **(prohibition of the movement of goods)**

(1) Save in the events referred to in Article 617 hereof, the goods to which the request for refund or write-off pertains may not be moved from the place stated in the request for refund or write-off until the customs authority decides on the request.

(2) By way of derogation from paragraph 1 of this Article the refund or write-off applicant may move the goods he notifies thereof the customs authority deciding on the request for refund or write-off in advance and when the above authority agrees with such movement.

#### **Article 619**

##### **(decision on request for refund or write-off)**

(1) The customs authority decides on the request for refund or write-off by way of a decision.

(2) The positive decision on the submitted request shall contain all the data necessary for the implementation thereof.

(3) The Decision shall, depending on the circumstances of the case, contain all or at least some of the following data:

- a) the data necessary for the identification of goods to which the decision pertains;
- b) the reasons for the refund or write-off of customs debt with reference to the relevant Article of the Customs Law, and, if necessary, relevant Article hereof;
- c) the amount of refund, namely write-off of debt;
- d) data on the type of utilization of goods which may be imported, or the destination where the goods may be shipped considering the available possibilities in accordance with the Customs Law for the particular case and, where necessary, on the basis of a specific approval of the customs authority;
- d) the timeline for the completion of the formalities necessary for the paid customs debt to be refunded or written-off;
- f) statement to the effect that the customs debt will be refunded, namely written-off, only when the necessary formalities are completed and when the customs authority deciding on the refund is notified thereof;
- g) data on all the requirements pertaining to the goods that the applicant shall comply with until the decision is executed;
- h) information to the applicant for refund or write-off that upon submittal of goods he must enclose the original decision or certified copy.

(4) Where obligations referred to in item d), e) and g) paragraph 3 of this Article cannot be fulfilled with the customs authority that issued the decision on refund or write-off of customs debt, the same shall specify the customs authority or customs authorities where these obligations must be fulfilled.

#### **Article 620** **(ex officio decision making)**

- (1) If the customs authority pursuant to Article 228 paragraph 6 of the Customs Law decides on the refund namely write-off of customs debt ex officio, it shall make a decision thereon.
- (2) Article 619 hereof shall apply accordingly.

#### **Article 621** **(surveillance over fulfillment of obligations from the decision)**

The customs authority referred to in Article 619 paragraph 4 hereof shall adopt all the necessary measures to ensure that:

- the obligations pertaining to the individual case referred to in Article 619 paragraph 3 item g) hereof, are fulfilled,
- in all the cases the goods were actually utilized in accordance with the requirements from the decision, namely that they were dispatched in accordance with the decision.

(2) Where the decision stipulates that the goods may be introduced into the customs warehouse or free zone, and the person to whose name the decision is issued uses this opportunity, it shall complete the necessary formalities with the customs authority that has issued the decision, namely with the customs authority referred to in Article 619 paragraph 4 hereof.

(3) When the customs authority establishes that all the obligations referred to in paragraph 1 of this Article are fulfilled, it shall confirm it on the original decisions or the certified copy thereof.

#### **Article 622 (making of refund)**

(1) The customs authority that has issued the decision on refund or write-off of customs debt shall write-off the customs debt or refund it into the account specified by the applicant in the request without delay after the receipt of the original decision with the enforceability clause.

(2) The refund of the paid customs debt shall not be possible if the right holder has any outstanding liabilities for customs debt. The refund and due customs debt shall be set off in this case ex officio.

#### **Article 623 (preferential treatment of goods and refund and write-off customs debt)**

(1) Where request for refund or write-off is based on the fact that at the time of receiving the declaration there existed the right to preferential treatment of goods (reduced or rate of duty "free" for the goods within the tariff quota as well as under the concluded free trade agreements), the customs authority shall issue a positive decision on the request for refund and write-off only where the submitted request is accompanied with the proof to the effect that:

- in the event of tariff quota, the volume is not exceeded,
- in other cases, the usual rate of duty has not been reintroduced.

(2) By way of derogation from paragraph 1 of this Article, the request for refund or write-off may be positively decided even when the prescribed requirements are not met, when for such the goods the reduced or rate of duty "free" was not applied due to the error of the customs authority, and declaration for putting the goods into free circulation contained all the data and was accompanied with all the documents required for such treatment.

#### **Article 624 (refund and subsequent submittal of preferential treatment proof)**



(1) If the applicant for refund or write-off submits the original certificate on preferential origin of goods as proof that the imported goods at the time of receiving the declaration for putting the goods into free circulation met the prescribed requirements for preferential treatment, the customs authority will positively decide on the request for refund or write-off, where it is demonstrated that:

- the submitted certificate on preferential origin of goods actually relates to the imported goods and that the requirements for the receipt of the submitted certificate are met, and
- all other requirements for the preferential treatment of goods are met.

(2) Paid customs debt shall be refunded, namely debt is written-off, upon the submittal of goods to the customs authority. When the goods can no longer be submitted to the customs authority, the refund or write-off may be approved only in the event that on the basis of available data it is established beyond doubt that the subsequently submitted certificate of preferential origin refers to these particular goods.

#### **Article 625** **(refusal of request)**

In accordance with Article 230 paragraphs 1, 2, 3, 5 and 6 of the Customs Law, it is not possible to refund the paid customs debt or write it off, if:

1. the damage to goods was already taken into consideration in laying down the terms and conditions of the contract, in setting the contract price of the goods, on the basis of which it was submitted to the customs procedure, from which the obligation to pay the customs debt arose, or
2. the importer sold the goods, after it was established that the goods were damaged, namely spoiled or that it does not conform to the agreed contractual requirements.

#### **Article 626** **(the timeline for the completion of formalities for refund or write-off)**

(1) By way of derogation from the provisions Article 633 paragraph 1 item c) hereof, the customs authority shall specify the timeline for the completion of formalities necessary for refunding or writing off of the paid customs debt, which may not exceed two months from the date of serving the decision on the applicant.

(2) Upon expiry of the time referred to in paragraph 1 of this Article, the right to the refund or write-off customs debt shall cease except where it is proved that the obligation could not be fulfilled within the timeline prescribed due to force majeure, namely unforeseeable circumstances, beyond the power of the applicant.

#### **Article 627** **(waste and residue of goods after destruction)**

Where after the destruction of goods required by the customs authority in order to meet the request for the refund or write-off of customs debt, there remains waste or residue, the same shall be regarded, from the moment the positive decision is made on the request, as customs goods.

**Article 628**  
**(status of goods in the free zone or customs warehouse)**

Where the customs authority approves the application of Article 230 paragraph 2 item 2 and paragraph 3 of the Customs Law, and adopts measures allowing the goods introduced into the free zone or customs warehouse to be retroactively recognized as customs goods.

**Article 629**  
**(refund or write-off of part or component of a product)**

Where the complete product is not exported, re-exported or destroyed, namely where another customs allowed treatment or utilization is not approved for the complete product, but only for one or more parts, namely components of such product, the amount which is to be refunded or written-off shall be set as the difference between the amount of the importation customs debt for the complete product and the amount of importation customs debt, that would have to be paid for the remaining part of the product, if the customs allowed treatment or utilization from which arises the obligation to pay the customs debt would begin for it in unaltered condition on the day when such treatment or utilization is approved for the complete product.

**Article 630**  
**(minimum amount of debt for the instigation of procedure)**

Pursuant to Article 232 of the Customs Law, the customs authority shall not conduct the procedure for the refund of excessively paid customs debt, namely for write-off of payment, if the amount to be refunded or written off does not exceed €20.00.

**Section 3**  
**Specific provisions pertaining to the application of Article 231 of the Customs Law**

**Article 631**  
**(general requirements)**

The customs authority deciding on the request for refund or write-off, to be submitted pursuant to Article 231 paragraph 2 of the Customs Law.:

- shall refund or write-off the payment of customs debt, where request is based on the circumstances referred to in Articles 632 - 635 hereof and such circumstances are not the consequence of fraud or gross carelessness of the person in the procedure;

The term " a person in the procedure" means a person or persons referred to in Article 612 paragraph 1 hereof, representatives of such persons or any other person, involved in the

completion of customs formalities pertaining to the person in the procedure, or has given instructions for the completion of such formalities.

- shall not make the refund or approve the write-off 636 hereof.

**Article 632**  
**(approval of the refund or write-off of customs debt )**

(1) Refund or write-off of customs debt may be approved:

- a) where customs goods, for which the customs procedure has been initiated with partial or full write-off of payment of customs debt, or where goods which on putting into free circulation is subject to preferential treatment due to the intended use, were stolen. Refund or write-off customs debt in accordance with this item may be approved only provided that the stolen goods were without delay found, and that they are given the same customs status they had at the moment they were stolen;
- b) where customs goods are erroneously taken from under customs surveillance in the customs procedure with partial or full exemption of payment of customs debt, only provided that without delay after the error is discovered, the goods in unaltered condition are given the same customs status;
- c) when due to technical difficulties, they were not put into free circulation, and goods cannot be unloaded even at their destination, provided that such goods are re-exported;
- d) where goods, that was put into free circulation is subsequently returned to the supplier outside customs territory in the procedure of outward processing for the purposes of free repair or elimination of errors which were present prior to the putting of goods into free circulation (regardless of whether such errors were discovered after the putting of goods into free circulation) or free of charge bringing them into line with the provisions of the purchase contract, where the supplier decided to permanently retain the goods since the errors, namely deficiencies cannot be remedied, namely the remedying thereof would be uneconomical;
- e) where at the moment when the customs authority is deciding on the subsequent calculation of the customs debt pertaining to the goods which were put into free circulation with full exemption from payment of customs debt, it is established that the goods have been re-exported from the customs territory without customs surveillance, only where it is established that all the requirements were met as prescribed by the Customs Law for the refund or write-off of such importation customs debt, at the moment of re-exportation of goods and so that the importation debt might be refunded if it were calculated upon the putting of the goods into free circulation;
- f) where the court prohibited the trade in the goods for which the customs procedure was initiated, from which arose the obligation to pay the customs debt, only where such goods have been re-exported from the customs territory

or destroyed under customs surveillance and, where it has been proved that the goods were not utilized in the customs territory;

- g) where the customs procedure was initiated for the goods, from which arose the obligation to pay the importation debt, and the customs debt is independently settled by the declarant, if such goods, without any fault of the declarant, could not be delivered to the consignee;
- h) where the goods were addressed to a consignee by mistake;
- i) where it is established that the goods, due to obvious, actual errors may not be used for the purposes intended by the consignee;
- j) where it is proved that the goods after entering the customs procedure, from which arises the customs debt, at the moment of entering were not in compliance with the applicable regulations governing the utilization of and trade in goods, and that due to it such goods may not be used for the purposes intended by the consignee;
- k) if the consignee of the goods may not use or is substantially limited in the use of the goods for intended purposes due to the measures of competent authorities adopted after the goods entered the customs procedure from which arises the obligation of payment of customs debt;
- l) where the customs authority may not approve partial or full exemption from the payment of customs debt, to be exercised by the respective person, but not due to the fault of his own, on which occasion the customs authority calculates the customs debt that should be paid;
- lj) where the goods were delivered to the consignee within the binding delivery term, as specified in the contract on the basis of which instigated for the goods was the customs procedure from which the customs debt payment obligation have arisen;
- m) where it was not possible to sell the goods in the customs territory and, therefore, it was conceded to charitable or humanitarian organizations for free:
  - which conduct their business activity outside the customs territory and have representative offices in the customs territory, or
  - which conduct their business activity in the customs territory, but, in putting of similar goods into free circulation, may have the right to be fully exempted from payment of customs debt;
- n) where the customs debt payment obligation was incurred for reasons other than those defined in Article 201 of the Customs Law and the person involved in the procedure submits the certificates of origin of goods, transit documents of internal transit, or other suitable document which demonstrates that, if these goods were put into free circulation, account could be taken of the preferential treatment for them, or such goods could be

deemed to be domestic goods, provided other requirements referred to in Article 624 hereof are met.

(2) By way of derogation from paragraph 6 of this Article, it is possible to approve the refund of paid or written-off customs debt in the events referred to in items c) and f) to n) paragraph 1 of this Article only where the goods under customs surveillance are re-exported from the customs territory. This requirement shall not apply where the goods were destroyed due to the decision of the competent authority, or where they were conceded for free to charitable or humanitarian organizations which conduct their business activity in the customs territory.

(3) At the request of the person involved in the procedure, the customs authority may approve that the goods, instead of being re-exported, be destroyed under pod customs surveillance, or that, pending the planned re-exportation, the transit procedure or customs warehousing procedure be instigated for such goods, namely that such goods be introduced into the free zone.

(4) By way of derogation from paragraphs 2 and 3 of this Article, the customs authority may, in the events referred to in items g), i) and l) paragraph 1 of this Article, at the request of the person involved in the procedure, approve that the obligation to re-export the goods be replaced by the instigation of customs warehousing procedure or by the introduction of goods into the free zone.

(5) Goods referred to in paragraphs 3 and 4 of this Article shall be deemed to be the customs goods. The customs authority shall adopt the measures necessary to enable that the goods which were introduced into the free zone or customs warehouse be later recognized as the customs goods.

(6) Refund or write-off of the customs debt payment shall be approved, in the event referred to in item h) paragraph 1 of this Article, provided the goods are re-exported to the same foreign consignee or to the address designated by him.

(7) In addition to the measures referred to in this Article, the evidence shall be provided that the goods were not used, utilized, or sold before their re-exportation.

### **Article 633**

#### **(more cases when refund or write-off may be approved)**

(1) Refund or write-off of the customs debt payment may be approved:

- a) where the goods, for which instigated by error was the customs procedure on the basis of which the customs debt payment obligation has incurred, were re-exported from the customs territory without instigation of the exportation customs procedure for the goods, provided the requirements referred to in Article 229 of the Customs Law are met;
- b) where the goods were, without customs surveillance, re-exported or destroyed pursuant to Article 230 paragraphs 2 and 3 of the Customs Law, provided other prescribed requirements are met;

- c) where the goods were, without customs surveillance, re-exported or destroyed in accordance with items c) and f) to n) Article 632 hereof, provided other requirements specified in paragraphs 2 to 5 and paragraph 7 Article 632 hereof are met.

(2) For the refund or write-off of customs debt in accordance with paragraph 1 of this Article, the following requirements shall be met:

- a) the customs authority deciding on the request for refund or write-off shall be submitted all necessary evidence that the goods, pertaining to which the refund or write-off of customs debt is requested:
  - were actually re-exported from the customs territory, or
  - were destroyed under the surveillance of competent authorities or the persons authorized for such surveillance;

the customs authority deciding on the request for refund or write-off shall be returned all documents which were confirming the customs status of domestic goods and with which such goods were removed from customs territory, namely it shall be submitted all evidence, which the customs authority deems necessary, so that these documents could not be used for any importation of such goods at a later time.

#### **Article 634**

#### **(document which proves the right to the refund or write-off in accordance with Article 632 hereof)**

(1) In implementation of paragraph 2 Article 633 hereof:

- a) the following shall be deemed to be the proof for the goods for which the refund or write-off of the customs debt payment is requested:
  - original or certified copy of export declaration, and
  - certificate of the customs authority through which the goods have actually left the customs territory.

Where it is not possible to submit the above certificates, taken as the proof that the goods have left the customs territory may be anything that proves the above fact, such as:

- certificate of the customs authority of the country to which the goods were exported, or
- original, namely a certified copy of the declaration of the destination country.

Appended to these documents should be the commercial or administrative documents which prove the identity of the exported goods and the goods for which the refund or write-off of customs debt is requested:

- original or a certified copy of the declaration for the above procedure, and

- at the request of the customs authority, the commercial and other administrative documents (e.g. invoices, dispatch notes, transit documents, phytosanitary or other certificates), containing detailed description of the goods (trade name of the goods, quantity, identification and other designations) specified in the declaration for the above procedure, in the exportation declaration, or in the declaration of the destination country;
- b) as the proof that the goods for which the refund or write-off of the customs debt payment is requested were actually destroyed under the surveillance of competent authorities or other persons authorized for such surveillance:
- original or a certified copy of the minutes or statement about the destruction of goods, issued by the authority under whose surveillance the goods were destroyed, or
  - the certificate issued by the person authorized for the surveillance over the destruction of goods, accompanied with the suitable evidence of the authorization for surveillance.

The documents referred to in this item shall contain sufficiently accurate description of goods (trade description of goods, quantity, identification and other designations) to allow the customs authorities to establish that the destroyed goods are identical to the goods which were submitted under the customs procedure due to which the customs debt payment obligation have arose.

#### **Article 635** **(refund of the export customs debt)**

- (1) Where the regulations governing the payment of export customs debt do not provide otherwise, it shall be possible to approve the refund of paid export debt when the returned goods, for which the export debt was paid at the time of their exportation, are put into free circulation and provided the requirements referred to in this Article are met.
- (2) In the events referred to in Article 566 hereof paragraph 1 of this Article shall apply.
- (3) The customs authority which receives the declaration for putting of returned goods into free circulation shall be submitted the evidence that the goods in question are the goods for which it was necessary to pay the export duty at the time they were exported.
- (4) Paragraph 1 of this Article shall also apply in the event of the return solely of such part of goods for which the export duty was paid at the time of exportation.

#### **Article 636** **(refusal of the refund or write-off)**

The customs authority shall not approve the refund or write-off of the customs debt if the request is based solely on one of the following facts:

- a) the goods, for which the customs procedure due to which the customs debt payment obligation has incurred was instigated in the customs territory, are re-exported from the customs territory for the reasons other than those specified in Article 229 and Article 230 paragraphs 1, 2, 3, 5 and 6 of the Customs Law, primarily due to the unsuccessful sales of the goods;
- b) destruction of the goods which the customs authority has already subjected to the selected customs procedure on the basis of which the customs debt payment obligation has incurred, unless such destruction is explicitly provided by other applicable regulations,
- c) submittal of the documents on the basis of which the preferential treatment of the goods was realized at the time of their putting into free circulation but for which it was later found that they were false, counterfeited or invalid, provided they were submitted in good will.

**Article 637**  
**(payment of interest for paid customs debt)**

- (1) The customs authority referred to in Article 613 paragraph 2 hereof shall, when deciding on the request for refund of paid customs debt, check whether the interest was calculated, pursuant to Article 228 paragraph 1 and Article 233 paragraph 2 of the Customs Law.
- (2) If the requirements were met for calculation of interest, the customs authority shall calculate the interest in accordance with the regulations applicable to default interests.
- (3) The interest shall, in accordance with this Article, be calculated for the period between the day the import customs debt was paid and the day the decision on refund was made.
- (4) Payment of interest shall be made in the same manner as the refund of paid import customs debt.

**V. PART**  
**TRANSITIONAL AND FINAL PROVISIONS**

**Article 638**  
**(application of issued certificates of classification of goods into the Customs Tariff Schedule)**

Certificate of classification of goods into the Customs Tariff Schedule, which the Customs Administration have issued before the coming into force of this Decree, may still be used, until their validity period expires.

**Article 639**  
**(validity period of former certificates of origin goods)**



(1) Certificates of origin of goods which were issued before the coming into force of this Decree may be used after the coming into force of this Decree in accordance with Part I, Section 3 hereof.

(2) Forms and certificates of origin of goods which were printed before the coming into force of this Decree may be used, in accordance with this Decree, until their stocks are used up but not later than the 1<sup>st</sup> of July 2004.

**Article 640**  
**(validity period of former forms of the unique customs document)**

UCD and UCD bis forms that were printed before the coming into force of this Decree may be used, in accordance with this Decree, until their stocks are used up but not later than the 1<sup>st</sup> of July 2004.

**Article 641**  
**(further use of administrative decisions and certificates issued before the coming into force of this Decree)**

Administrative decisions and certificates which were issued by the customs authorities before the coming into force of this Decree may be used in accordance with this Decree until the expiry of their respective validity periods, unless the Customs Law and this Decree provide otherwise.

**Article 642**  
**(validity period of security instrument)**

The security instruments, accepted by the customs authorities pending the coming into force of this Decree, may be used as follows:

- instruments for individual security – until the conclusion of customs procedure, namely the transaction because of which they were provided,
- instruments for general and collective security – until the expiry of their validity periods.

**Article 643**

Addenda Nos. 1 to 47 have been printed together with this Decree and constitute its integral part.

**Article 644**  
**(cessation of the validity period)**

On the day of coming into force of this Decree, the Decision on Security Instruments for Customs Duty, other Import Duties, Taxes and Excise Taxes ("Official Gazette of the Republic of Montenegro", number 56/02) shall cease to apply.

**Article 645**

This Decree shall come into force on the eighth day after its publication in the “Official Gazette Of the Republic of Montenegro”.

Number: 02-1559

Podgorica, 06 March 2003

**THE GOVERNMENT OF THE REPUBLIC OF MONTENEGRO**

**PRESIDENT**

**Milo Djukanović**