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THE CUSTOMS LAW

TITLE I
GENERAL PROVISIONS

CHAPTER 1

SCOPE OF THE CUSTOMS LEGISLATION, MISSION OF CUSTOMS AND
DEFINITIONS

Subject matter and scope

Article 1

This Law shall regulate the general rules and procedures applicable to goods brought into or taken out of the customs territory of the Republic of Serbia.

This Law shall:

- 1) apply to circulation of goods between the customs territory of the Republic of Serbia and other customs territories without prejudice to legislation in other fields pertaining to trade in goods;
- 2) regulate customs activities and procedures, as well as rights and obligations of the persons and of the customs authority arising therefrom;
- 3) apply uniformly throughout the entire customs territory of the Republic of Serbia, unless otherwise provided under this Law, other law or an international agreement binding on the Republic of Serbia;
- 4) provisions of the customs legislation may apply outside the customs territory of the Republic of Serbia within the framework of international conventions.

Mission of customs authority

Article 2

Customs authority shall be responsible for the control of international trade, thereby contributing to open trade, to the implementation of the external aspects of the internal market, of the principles having a bearing on trade, and to overall supply chain security. Customs authority shall put in place measures aimed, in particular, at the following:

- 1) protecting the financial interests of the Republic of Serbia;
- 2) protecting the Republic of Serbia from unfair and illegal trade while supporting legitimate business activity;
- 3) ensuring the security and safety of the Republic of Serbia and its residents, and the protection of the environment, where appropriate in close cooperation with other authorities;
and
- 4) maintaining a proper balance between customs controls and facilitation of legitimate trade.

Customs Territory of the Republic of Serbia

Article 3

The customs territory of the Republic of Serbia shall comprise the territory of the Republic of Serbia, including its internal waters and airspace and is defined by the customs line which is identical to the frontier line of the Republic of Serbia.

Definitions

Article 4

For the purposes of this Law, the following definitions shall apply:

1) "customs authority" means the Customs Administration, customs office and its organisational units responsible for implementation of customs and other legislation, as well as authorised customs officer;;

2) "customs legislation" means the body of legislation made up of all of the following:

(1) this Law and the provisions adopted to implement it;

(2) the Law on Customs Tariff and the provisions adopted to implement it;

(3) international agreements and provisions adopted to implement them;

3) "customs controls" means specific acts performed by the customs authority in order to ensure compliance with the customs legislation and other legislation governing the entry, exit, transit, movement, storage and end-use of goods moved between the customs territory of the Republic of Serbia and countries or territories outside that territory, and the presence and movement within the customs territory of the Republic of Serbia of non-domestic goods and goods placed under the end-use procedure;

4) "person" means a natural person, entrepreneur, a legal person, and any association of persons which is not a legal person but which is recognised under law as having the capacity to perform legal acts;

5) "economic operator" means a person who, in the course of his or her business, is involved in activities covered by the customs legislation;

6) "customs representative" means any person appointed by another person to carry out the acts and formalities required under the customs legislation in his or her dealings with customs authority;

7) "risk" means the likelihood and the impact of an event occurring, with regard to the entry, exit, transit, movement or end-use of goods moved between the customs territory of the Republic of Serbia and countries or territories outside that territory and to the presence within the customs territory of the Republic of Serbia of non-domestic goods, which would:

(1) prevent the correct application of customs and other legislation;

(2) compromise the financial interests of the Republic of Serbia; or

(3) pose a threat to the security and safety of the Republic of Serbia and its residents, to public moral, to human, animal or plant health, to items of national historic, artistic and archaeological value, to intellectual property rights, to the environment or to consumers;

8) "customs formalities" means all the operations which must be carried out by a person and by the customs authority in order to comply with the customs legislation;

9) "entry summary declaration" means the act whereby a person informs the customs authority, in the prescribed form and manner and within a specific time-limit, that goods are to be brought into the customs territory of the Republic of Serbia;

10) "exit summary declaration" means the act whereby a person informs the customs authority, in the prescribed form and manner and within a specific time-limit, that goods are to be taken out of the customs territory of the Republic of Serbia;

11) "temporary storage declaration" means the act whereby a person indicates, in the prescribed form and manner, that goods are in temporary storage;

12) "customs declaration" (hereinafter called „declaration“) means the act whereby a person indicates, in the prescribed form and manner, a wish to place goods under a given customs procedure, with an indication, where appropriate, of any specific arrangements to be applied;

13) "re-export declaration" means the act whereby a person indicates, in the prescribed form and manner, a wish to take non-domestic goods, with the exception of those under the free zone procedure or in temporary storage, out of the customs territory of the Republic of Serbia;

14) "re-export notification" means the act whereby a person indicates, in the prescribed form and manner, a wish to take non-domestic goods which are under the free zone procedure or in temporary storage out of the customs territory of the Republic of Serbia;

15) "declarant" means the person lodging a customs declaration, a temporary storage declaration, an entry summary declaration, an exit summary declaration, a re-export declaration or a re-export notification in his or her own name or the person in whose name such a declaration or notification is lodged;

16) "customs procedure" means any of the following procedures under which goods may be placed in accordance with this Law:

- (1) release for free circulation;
- (2) special procedures;
- (3) export;

17) 'temporary storage' means the situation of non-domestic goods temporarily stored under customs supervision in the period between their presentation to customs and their placing under a customs procedure or re-export;

18) "customs debt" means the obligation on a person to pay the amount of import or export duties which applies to specific goods under the customs legislation in force;

19) "debtor" means any person liable for a customs debt;

20) "import duties" means customs duties payable on the import of goods;

21) "export duties" means customs duties payable on the export of goods;

22) "customs status" means the status of goods as domestic or non-domestic goods;

23) "domestic goods" means goods which fall into any of the following categories:

(1) goods wholly obtained in the customs territory of the Republic of Serbia and not incorporating goods imported from countries or territories outside the customs territory of the Republic of Serbia;

(2) goods brought into the customs territory of the Republic of Serbia from countries or territories outside that territory and released for free circulation;

(3) goods obtained or produced in the customs territory of the Republic of Serbia, either solely from goods referred to in subpoint (2) or from goods referred to in subpoints (1) and (2);

24) "non-domestic goods" means goods other than those referred to in point 23 of this Article or which have lost their customs status as domestic goods;

25) "risk management" means the systematic identification of risk, including through random checks, and the implementation of all measures necessary for limiting exposure to risk;

26) "release of goods" means the act whereby the customs authority makes goods available for the purposes specified for the customs procedure under which they are placed;

27) "customs supervision" means action taken in general by the customs authority with a view to ensuring that customs legislation and, where appropriate, other provisions applicable to goods subject to such action are observed;

28) "repayment" means the refunding of an amount of import or export duties that has been paid;

29) "remission" means the waiving of the obligation to pay an amount of import or export duties which has not been paid;

30) "processed products" means goods placed under a processing procedure which have undergone processing operations;

31) "person established in the customs territory of the Republic of Serbia " means:

(1) in the case of a natural person, any person who has his or her habitual residence in the customs territory of the Republic of Serbia;

(2) in the case of a legal person or an association of persons, any person having its registered office, central headquarters, representative office or a permanent business establishment in the customs territory of the Republic of Serbia;

32) "permanent business establishment" means a fixed place of business, where both the necessary human and technical resources are permanently present and through which a person's customs-related operations are wholly or partly carried out;

33) "presentation of goods to customs" means the notification to the customs authority of the arrival of goods at the customs office or at any other place designated or approved by the customs authority and the availability of those goods for customs controls;

34) "holder of the goods" means the person who is the owner of the goods or who has a similar right of disposal over them or who has physical control of them;

35) "holder of the procedure" means:

(1) the person who lodges the declaration, or on whose behalf that declaration is lodged;
or

(2) the person to whom the rights and obligations in respect of a customs procedure have been transferred;

36) "commercial policy measures" means non-tariff measures governing export and import of goods;

37) "processing operations" means any of the following:

(1) the working of goods, including erecting or assembling them or fitting them to other goods;

(2) the processing of goods;

(3) the destruction of goods;

(4) the repair of goods, including restoring them and putting them in order;

(5) the use of goods which are not to be found in the processed products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process (production accessories);

38) "rate of yield" means the quantity or percentage of processed products obtained from the processing of a given quantity of goods placed under a processing procedure;

39) "decision" means any act by the customs authority pertaining to the customs legislation giving a ruling on a particular case, and having legal effects on the person or persons concerned;

40) "carrier" means:

(1) in the context of entry, the person who brings the goods, or who assumes responsibility for the carriage of the goods, into the customs territory of the Republic of Serbia. However,

- in the case of combined transportation - the person who operates the means of transport which, once brought into the customs territory of the Republic of Serbia, moves by itself as an active means of transport;

- in the case of maritime or air traffic under a vessel-sharing or contracting arrangement - the person who concludes a contract and issues a bill of lading or air waybill for the actual carriage of the goods into the customs territory of the Republic of Serbia;

(2) in the context of exit, the person who takes the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Republic of Serbia. However:

- in the case of combined transportation, where the active means of transport leaving the customs territory of the Republic of Serbia is only transporting another means of transport which, after the arrival of the active means of transport at its destination, will move by itself as an active means of transport - the person who will operate the means of transport which will move by itself once the means of transport leaving the customs territory of the Republic of Serbia has arrived at its destination;

- in the case of maritime or air traffic under a vessel-sharing or contracting arrangement - the person who concludes a contract, and issues a bill of lading or air waybill, for the actual carriage of the goods out of the customs territory of the Republic of Serbia;

41) "buying commission" means a fee paid by an importer to an agent for representing him or her in the purchase of goods being valued.

*RIGHTS AND OBLIGATIONS OF PERSONS WITH REGARD TO THE CUSTOMS
LEGISLATION*

SECTION 1
PROVISION OF INFORMATION

**Means for the exchange and storage of information
and data requirements**

Article 5

All exchanges of information, such as declarations, applications or decisions, between customs authorities and between economic operators and customs authority, and the storage of such information, as required under the customs legislation, shall be made using electronic data-processing techniques.

Data requirements regarding type, formats, the structure and codes of the data shall be drawn up for the purpose of the exchange and storage of information referred to in paragraph 1 of this Article.

Means for the exchange and storage of information, other than the electronic data-processing techniques referred to in paragraph 1 of this Article, may be used as follows:

- 1) on a permanent basis where duly justified by the type of traffic or where the use of electronic data-processing techniques is not appropriate for the customs formalities concerned;
- 2) on a temporary basis, in the event of a temporary failure of the computerised system of the customs authority or of the economic operators.

The customs authority shall specify the conditions for economic operators to communicate with the Customs Administration using electronic data-processing techniques.

Conferral of implementing powers

Article 6

The Government shall prescribe the following:

- 1) the specific cases where means for the exchange and storage of information, other than electronic data-processing techniques, may be used in accordance with Article 5 paragraph 3 point 1 of this Law;
- 2) the type of information and the particulars that are to be contained in the records referred to in Article 131 paragraphs 6 to 8 and Article 186 paragraphs 1 and 2 of this Law;
- 3) the procedural rules on the exchange and storage of information which can be made by means other than the electronic data-processing techniques referred to in Article 5 paragraph 3 of this Law.

The minister in charge of finance (hereinafter called „the minister“) shall prescribe requirements regarding type, formats, the structure and codes of the data referred to in Article 5 paragraph 2 of this Law, taking into account the need to accomplish the customs formalities laid down in the customs legislation and the nature and purpose of the exchange and storage of information referred to in Article 5 paragraph 1 of this Law.

Registration

Article 7

Economic operators established in the customs territory of the Republic of Serbia shall register with the customs authority responsible for the place where they are established.

In specific cases, economic operators which are not established in the customs territory of the Republic of Serbia shall register with the customs authority responsible for the place where they first lodge a declaration or apply for a decision.

Persons other than economic operators shall not be required to register with the customs authority unless otherwise provided.

Where persons referred to in paragraph 3 of this Article are required to register, the following shall apply:

- 1) where they are established in the customs territory of the Republic of Serbia, they shall register with the customs authority responsible for the place where they are established;
- 2) where they are not established in the customs territory of the Republic of Serbia, they shall register with the customs authority responsible for the place where they first lodge a declaration or apply for a decision.

In specific cases, the customs authority shall invalidate the registration.

Conferral of implementing powers

Article 8

The Government shall prescribe:

- 1) the cases referred to in Article 7 paragraph 2 of this Law, where economic operators which are not established in the customs territory of the Republic of Serbia are required to register with the customs authority;
- 2) the cases referred to in Article 7 paragraph 3 of this Law, where persons other than economic operators are required to register with the customs authority;
- 3) the cases referred to in Article 7 paragraph 5 of this Law where the customs authority invalidates a registration.
- 4) which customs authority is responsible for the registration referred to in Article 7 of this Law.

Communication of information and data protection

Article 9

The customs authority shall act in accordance with the legislation governing the confidentiality of data and the protection of business secrets when dealing with data which are by their nature confidential or which are provided on a confidential basis.

Data in possession of the customs authority designated with certain degree of confidentiality may be made available to the public in accordance with the law regulating free access to information of public importance.

The processing of personal data by the customs authority shall be made in accordance with the law governing personal data protection.

The processing of personal data of disabled persons, in the case of application for the use of customs relief, relates only to identification of the act of the competent authority, medical institution or medical specialist which determines disability.

Exchange of additional information between customs authorities and economic operators

Article 10

Customs authority and economic operators may exchange any information not specifically required under the customs legislation, in particular for the purpose of mutual cooperation in the identification and counteraction of risk. That exchange may take place under a written agreement and may include access to the computer systems of economic operators by the customs authority.

Any information provided by one party to the other in the course of the cooperation referred to in paragraph 1 of this Article shall be confidential unless both parties agree otherwise.

Provision of information by the customs authorities

Article 11

At the written request by the person concerned, the customs authority shall issue information concerning the application of customs legislation within 30 days from the date when the application was submitted.

Any person may request information concerning the application of the customs legislation from the customs authority. Such a request may be refused where it does not relate to an activity pertaining to international trade in goods that is actually envisaged.

Customs authority shall maintain a regular dialogue with economic operators and other authorities involved in international trade in goods. The customs legislation, general administrative rulings and application forms shall be freely available, wherever practical without charge, and through the Internet.

Provision of information to the customs authority

Article 12

Any person directly or indirectly involved in the accomplishment of customs formalities or in customs controls shall, at the request of the customs authority and within any time-limit specified, provide that authority with all the requisite documents and information, in an appropriate form, and all the assistance necessary for the completion of those formalities or controls.

It shall be considered that the person referred to in paragraph 1 of this Article has not provided the customs authority with necessary information if the person brings in or takes the

goods outside the customs territory out of the border crossing or at the time when the border crossing is not open for traffic, or brings in or takes out the concealed goods.

The lodging of a declaration, temporary storage declaration, entry summary declaration, exit summary declaration, re-export declaration or re-export notification to the customs authority, or the submission of an application for an authorisation or any other decision, shall render the person concerned responsible for all of the following:

1) the accuracy and completeness of the information given in the declaration, notification or application;

2) the authenticity, accuracy and validity of any document supporting the declaration, notification or application;

3) where applicable, compliance with all of the obligations relating to the placing of the goods in question under the customs procedure concerned, or to the conduct of the authorised operations.

Paragraph 3 of this Article shall also apply to the provision of any information in any other form required by, or given to, the customs authority.

Where the declaration or notification is lodged, the application is submitted, or information is provided, by a customs representative of the person concerned, as referred to in Article 13 of this Law, that customs representative shall also be bound by the obligations set out in paragraph 3 of this Article.

SECTION 2

CUSTOMS REPRESENTATION

Customs representative

Article 13

Any person may appoint a customs representative.

Representation may be either direct, in which case the customs representative shall act in the name of and on behalf of another person, or indirect, in which case the customs representative shall act in his or her own name but on behalf of another person.

A customs representative shall be established within the customs territory of the Republic of Serbia.

That requirement shall be waived where the customs representative acts on behalf of persons who are not required to be established within the customs territory of the Republic of Serbia, except where otherwise provided by this Law.

Empowerment

Article 14

When dealing with the customs authority, a customs representative shall state that he is acting on behalf of the person represented and shall specify whether the representation is direct or indirect.

Persons who fail to state that they are acting as a customs representative or who state that they are acting as a customs representative without being empowered to do so shall be deemed to be acting in their own name and on their own behalf.

The customs authority may require persons stating that they are acting as a customs representative to provide evidence of their empowerment by the person represented.

In cases prescribed by the Government, the customs authority shall not require evidence referred to in paragraph 3 of this Article to be provided.

The customs authorities shall not require a person acting as a customs representative, carrying out acts and formalities on a regular basis, to produce on every occasion evidence of empowerment, provided that such person is in a position to produce such evidence on request by the customs authority.

Indirect Representation

Article 15

Indirect representation in customs proceedings, within the meaning of Article 13 of this Law, may be carried out by a legal person that:

- 1) has a central headquarters in the customs territory of the Republic of Serbia;
- 2) is registered to perform activities regarding the international forwarding,
- 3) has at least one employee with the licence for the customs representation.

The licence for the customs representation shall be granted to a natural person, employed by legal person that has the authorisation for representation in customs proceedings, who has:

- 1) at least 6 months of working experience in the field of customs clearance;
- 2) at least high school professional education;
- 3) passed a special professional exam for representation in customs proceedings; and
- 4) never been convicted or punished for criminal acts or for the violation of foreign trade, foreign exchange, customs or tax legislation.

The Minister shall determine the program and contents of the special exam for representation in the customs proceedings as well as the procedures for issuing and taking away a license for the customs representation.

Special professional exam for representation in customs proceedings shall be taken before the commission formed by the Minister upon the proposal of the Director of the Customs Administration.

The Customs Administration shall be responsible for issuing and taking away a license for the customs representation.

The Customs Administration shall take away a license for the customs representation from the person who performs representation in contravention of the law, inaccurately and

unprofessionally, provided he has been notified of this in writing and provided there are grounds for such warning based on the illegal, inaccurate and unprofessional performance in the last three years.

The Customs Administration shall take away a license for the customs representation where, after issuance of the license, circumstances referred to in paragraph 2 point 4 of this Article have changed.

The Customs Administration shall not grant a license for the customs representation to any dismissed customs officers. Where the employment has ceased based on a resignation or retirement of a customs officer, the Customs Administration may grant a license for the customs representation where two years have elapsed since the resignation or retirement, as the case may be, in compliance with conditions prescribed in paragraph 2 of this Article.

Where the license for the customs representation was taken away in accordance with paragraph 6 of this Article, the persons it was taken away from will be allowed to take the exam for representation in the customs proceedings, again, where two years have elapsed from the day the licence was taken away. Where the license has been taken away two times from the person, that person will not be allowed to take another exam for representation in the customs proceedings, which shall be monitored ex officio by the Customs Administration.

Conferral of implementing powers

Article 16

The Government shall prescribe:

- 1) the cases where the requirement that a customs representative shall be established within the customs territory of the Republic of Serbia is waived;
- 2) the cases where the evidence of empowerment, referred to in Article 14 paragraphs 3 and 4 of this Law, is not required by the customs authorities.

SECTION 3

DECISIONS RELATING TO THE APPLICATION OF THE CUSTOMS LEGISLATION

Decisions taken upon application

Article 17

The person who applies for a decision relating to the application of the customs legislation shall supply all the information required by the competent customs authority in order to enable it to take that decision.

A decision may also be applied for by, and taken with regard to, several persons, in accordance with the conditions laid down in the customs legislation.

Except where otherwise provided, the competent customs authority shall be that of the place where the applicant's main accounts for customs purposes are held or accessible, and where at least part of the activities to be covered by the decision are to be carried out.

Customs authority shall, without delay and at the latest within eight days of receipt of the application for a decision, verify whether the conditions for the acceptance of that application are fulfilled.

Where the customs authority establishes that the application contains all the information required in order for it to be able to take the decision, it shall communicate its acceptance to the applicant within the period specified in paragraph 4 of this Article.

The competent customs authority shall take a decision as referred to in paragraph 1 of this Article, and shall notify the applicant without delay, and in compliance with the provisions of the law that regulates general administrative procedure. Exceptionally, the time limit for taking decisions relating to binding tariff information or decisions relating to binding origin information, granting the status of authorised economic operator, granting the simplification or decision relating to application for protection of intellectual property rights shall not exceed 120 days of the date of acceptance of the application.

Where the customs authorities are unable to comply with the time-limit for taking a decision, they shall inform the applicant of that fact before the expiry of that time-limit, stating the reasons and indicating the further period of time which they consider necessary in order to take a decision. Except where otherwise provided, that further period of time shall not exceed 30 days.

Without prejudice to paragraph 7 of this Article, the customs authority may extend the time-limit for taking a decision where the applicant requests an extension to carry out adjustments in order to ensure the fulfilment of the conditions and criteria. Those adjustments and the further period of time necessary to carry them out shall be communicated to the customs authority, which shall decide on the extension.

Except where otherwise specified in the decision or in the customs legislation, the decision shall take effect from the date on which the applicant receives it, or is deemed to have received it. Except in the cases provided for in Article 31 paragraph 2 of this Law, decisions adopted shall be enforceable by the customs authority from that date.

Except where otherwise provided in the customs legislation, the decision shall be valid without limitation of time.

Before taking a decision which would adversely affect the applicant, the customs authority shall communicate the grounds on which they intend to base their decision to the applicant, who shall be given the opportunity to express his or her point of view within a period prescribed from the date on which he or she receives that communication or is deemed to have received it. Following the expiry of that period, the applicant shall be notified, in the appropriate form, of the decision.

Paragraph 11. of this Article shall not apply in any of the following cases:

- 1) where it concerns a decision referred to in Article 23 paragraph 1 of this Law;
- 2) in the event of refusal of the benefit of a tariff quota where the specified tariff quota volume is reached, as referred to in Article 41 paragraph 5 of this Law;
- 3) where the nature or the level of a threat to the security and safety of the Republic of Serbia and its residents, to human, animal or plant health, to the environment or to consumers so requires;
- 4) where the decision aims at securing the implementation of another decision for which paragraph 11 of this Article has been applied;

- 5) where it would prejudice investigations initiated for the purpose of combating fraud;
- 6) in other specific cases prescribed by the Government.

A decision which adversely affects the applicant shall set out the grounds on which it is based and shall refer to the right of appeal provided for in Article 30 of this Law.

Save as otherwise provided for by this Law, the provisions of the law that regulates general administrative procedure shall apply to the proceedings carried out by the customs authority.

Management of decisions taken upon application

Article 18

The holder of the decision shall comply with the obligations resulting from that decision.

The holder of the decision shall inform the customs authority without delay of any factor arising after the decision was taken, which may influence its continuation or content.

Without prejudice to provisions laid down in other fields which specify the cases in which decisions are invalid or become null and void, the customs authority which took a decision may at any time annul, amend or revoke it where it does not conform to the customs legislation.

In specific cases prescribed by the Government, the customs authority shall carry out the following:

- 1) re-assess a decision;
- 2) suspend a decision.

The customs authority shall monitor the conditions and criteria to be fulfilled by the holder of a decision as well as compliance with the obligations resulting from that decision. Where the holder of the decision has been established for less than three years, the customs authority shall closely monitor it during the first year after the decision is taken.

The Government shall prescribe:

- 1) the exceptions to Article 17 paragraph 3 of this Law;
- 2) the conditions for the acceptance of an application, referred to in Article 17 paragraphs 4 and 5 of this Law;
- 3) the time-limit to take a specific decision, including the possible extension of that time-limit, in accordance with Article 17 paragraphs 6-8 of this Law;
- 4) the cases, referred to in Article 17 paragraph 9 of this Law, where the decision takes effect from a date which is different from the date on which the applicant receives it or is deemed to have received it;
- 5) the cases, referred to in Article 17 paragraph 10 of this Law, where the decision is not valid without limitation of time;
- 6) the duration of the period referred to in Article 17 paragraph 11 of this Law;
- 7) the specific cases, referred to in Article 17 paragraph 12 point 6 of this Law, where the applicant is given no opportunity to express his or her point of view;
- 8) the cases and the rules for re-assessing and suspending decisions in accordance with paragraph 4 of this Article;

- 9) the submission and the acceptance of the application for a decision, referred to in Article 17 paragraphs 1-5 of this Law;
- 10) taking the decision referred to in Article 17 of this Law;
- 11) monitoring a decision, in accordance with **paragraph 5 of this Article**.

Annulment of favourable decisions

Article 19

The customs authority shall annul a decision favourable to the holder of the decision if all the following conditions are fulfilled:

- 1) the decision was taken on the basis of incorrect or incomplete information;
- 2) the holder of the decision knew or ought reasonably to have known that the information was incorrect or incomplete;
- 3) if the information had been correct and complete, the decision would have been different.

The holder of the decision shall be notified of its annulment.

Annulment shall take effect from the date on which the initial decision took effect, unless otherwise specified in the decision in accordance with this Law.

Revocation and amendment of favourable decisions

Article 20

Customs authority shall revoke or amend a favourable decision where, in cases other than those referred to in Article 19 of this Law:

- 1) one or more of the conditions for taking that decision were not or are no longer fulfilled; or
- 2) upon application by the holder of the decision.

Except where otherwise provided, a favourable decision addressed to several persons may be revoked only in respect of a person who fails to fulfil an obligation imposed under that decision.

The holder of the decision shall be notified of its revocation or amendment.

Article 17 paragraph 9 of this Law shall apply to the revocation or amendment of the decision.

However, in exceptional cases where the legitimate interests of the holder of the decision so require, the customs authority may defer the date on which revocation or amendment takes effect up to one year. That date shall be indicated in the revoking or amending decision.

Decisions taken without prior application

Article 21

Article 17 paragraphs 9-13, Article 18 paragraph 3 and Articles 19 and 20 of this Law shall also apply to decisions taken by the customs authority without prior application by the person concerned.

Limitations applicable to decisions on goods placed under a customs procedure or in temporary storage

Article 22

Except where the person concerned so requests, the revocation, amendment or suspension of a favourable decision shall not affect goods which, at the moment where the revocation, amendment or suspension takes effect, have already been placed and are still under a customs procedure or in temporary storage by virtue of the revoked, amended or suspended decision.

The Government shall prescribe the cases, referred to in Article 20 paragraph 2 of this Law, where a favourable decision addressed to several persons may be revoked also in respect of persons other than the person who fails to fulfil an obligation imposed under that decision and the exceptional cases, in which the customs authority may defer the date on which revocation or amendment takes effect in accordance with Article 20 paragraph 5 of this Law.

Decisions relating to binding information

Article 23.

The customs authority shall, upon written application, take decisions relating to binding tariff information (BTI decisions), or decisions relating to binding origin information (BOI decisions)

The customs authority shall not accept application referred to in paragraph 1 of this Article:

- 1) where the application is made, or has already been made, by or on behalf of the holder of a decision in respect of the same goods and, for BOI decisions, under the same circumstances determining the acquisition of origin;
- 2) where the application does not relate to any intended use of the BTI or BOI decision or any intended use of a customs procedure.

BTI or BOI shall be binding, only in respect of the tariff classification or determination of the origin of goods:

- 1) on the customs authorities, as against the holder of the decision, only in respect of goods for which customs formalities are completed after the date on which BTI or BOI takes effect;
- 2) on the holder of the decision, as against the customs authorities, only with effect from the date on which he or she receives, or is deemed to have received the decision.

BTI or BOI shall be valid for a period of three years from the date on which the decision takes effect.

For the application of a BTI or BOI in the context of a particular customs procedure, the holder of the decision shall be able to prove that:

- 1) in the case of a BTI, the goods declared correspond in every respect to those described in the decision;

2) in the case of a BOI, the goods in question and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in the decision.

Management of decisions relating to binding information

Article 24.

A BTI shall cease to be valid before the end of the period referred to in Article 23 paragraph 4 of the of this Law where it no longer conforms to the regulations, as a result of:

1) the adoption of an amendment to the nomenclatures referred to in Article 41 paragraph 3 points 1 and 2 of this Law;

2) publication of regulations referred to in Article 42 paragraph 5 of the of this Law;

In the cases referred to in paragraph 1 of this Article, BTI shall cease to be valid from the date of the beginning of application of regulations.

A BOI shall cease to be valid before the end of the period referred to in Article 23 paragraph 4 of the of this Law:

1) where it no longer conforms to the regulations or international agreement due to amendments thereof or due to a conclusion of international agreement;

2) where it is no longer compatible with the Agreement on Rules of Origin established in the World Trade Organisation (WTO) or with the explanatory notes or an origin opinion adopted for the interpretation of that Agreement.

In the cases referred to in paragraph 3 of this Article, BOI shall cease to be valid from the date of the beginning of application of adopted regulation or international agreement, or explanatory note or an origin opinion.

BTI or BOI shall not cease to be valid with retroactive effect.

By way of derogation from Article 18 paragraph 3 and Article 19 of this Law, BTI and BOI shall be annulled where they are based on inaccurate or incomplete information from the applicants.

BTI and BOI shall be revoked in accordance with provision of Article 18 paragraph 3 and Article 20 of this Law. BTI and BOI shall not be revoked upon application by the holder of the decision.

BTI and BOI may not be amended.

The customs authority shall revoke BTI:

1) where they are no longer compatible with the interpretation of any of the nomenclatures referred to in Article 41 paragraph 3 points 1 and 2 of this Law, resulting from any of the following:

(1) Explanatory notes to the Combined Nomenclature with effect from the date of their publication in the Official Journal;

(2) a judgment of the Administrative Court, with effect from the date of final decision;

(3) classification decisions, classification opinions or amendments of the explanatory notes to the Nomenclature of the Harmonized Commodity Description and Coding System, adopted by the Organization set-up by the Convention establishing a Customs Co-operation

Council, done at Brussels on 15 December 1950, referred to in Article 42 paragraph 4, with effect from the date of their publication in the Official Journal; or

2) in other specific cases.

The customs authority shall revoke BOI:

1) where they are no longer compatible with the judgment of the Administrative Court, with effect from the date of final decision; or

2) in other specific cases.

In the cases referred to in paragraph 1 point 2 or paragraphs 3, 9 or 10 of this Article, a BTI or BOI may still be used in respect of binding contracts which were based upon them and were concluded before they ceased to be valid or were revoked. That extended use shall not apply where a BOI is taken for goods to be exported.

The extended use referred to in paragraph 11 of this Article shall not exceed six months from the date on which the BTI or BOI ceases to be valid or is revoked. Notwithstanding paragraph 11 of this Article, a regulations referred to in Article 42 paragraph 5 of this Law or measures referred to in Article 50, may exclude that extended use or lay down a shorter period of time. In the case of products for which an import or export certificate is submitted when customs formalities are carried out, the period of six months shall be replaced by the period of validity of the certificate.

In order to benefit from the extended use of a BTI or BOI, the holder of that decision shall lodge an application to the customs authority that took the decision within 30 days of the date on which it ceases to be valid or is revoked, indicating the quantities for which a period of extended use is requested. Customs authority shall take a decision on the extended use and notify the holder, without delay, and at the latest within 30 days of the date on which it receives all the information required in order to enable it to take that decision.

Decisions relating to binding information with regard to elements on the basis of which import or export duties and other measures in respect of trade in goods are applied

Article 25.

In the cases prescribed by the Government, the customs authority shall, upon written application, may take decisions relating to binding information with regard to elements on the basis of which import or export duties and other measures in respect of trade in goods are applied.

The provisions of Article 24 of this Law shall apply accordingly to the procedures for cessation, revocation, annulment, suspension and extended use of the decisions referred to in paragraph 1 of this Article.

Conferral of implementing powers

Article 26.

The Government shall prescribe in more detail conditions for:

1) the specific cases referred to in Article 24 paragraph 9 point 2 and Article 25 point 2 of of this Law, where BTI and BOI are to be revoked;

2) the cases referred to in Article 25 of this Law, where decisions relating to binding information are taken with regard to elements on the basis of which import or export duties and other measures in respect of trade in goods are applied.

3) using BTI and BOI after they cease to be valid or were revoked, in accordance with Article 24 paragraphs 11, 12 and 13 of this Law;

4) using decisions referred to in Article 25 and determined in accordance with point 2 of this Article, after they cease to be valid;

5) suspending decisions referred to in Article 25 of this Law and determined in accordance with point 2 of this Article.

SECTION 4

AUTHORISED ECONOMIC OPERATOR

Application and authorisation

Article 27

An economic operator who is established in the customs territory of the Republic of Serbia and who meets the criteria set out in Article 28 of this Law may apply for the status of authorised economic operator.

The customs authority shall, following consultation with other competent authorities if necessary, grant that status, which shall be subject to monitoring.

The status of authorised economic operator shall consist in the following types of authorisations:

1) that of an authorised economic operator for customs simplifications, which shall enable the holder to benefit from certain simplifications in accordance with the customs legislation; or

2) that of an authorised economic operator for security and safety that shall entitle the holder to facilitations relating to security and safety.

Authorisations referred to in paragraph 3 of this Article may be held at the same time.

Customs authority shall, on the basis of the recognition of the status of authorised economic operator for customs simplifications and provided that the requirements related to a specific type of simplification provided for in the customs legislation are fulfilled, authorise the operator to benefit from that simplification. Customs authorities shall not re-examine those criteria which have already been examined when granting the status of authorised economic operator.

The authorised economic operator referred to in paragraph 3 of this Article shall enjoy more favourable treatment than other economic operators in respect of customs controls according to the type of authorisation granted, including fewer physical and document-based controls.

The customs authority shall grant benefits resulting from the status of authorised economic operator to persons established in countries or territories outside the customs territory

of the Republic of Serbia, who fulfil conditions and comply with obligations defined by the relevant legislation of those countries or territories, insofar as those conditions and obligations are recognised by the Republic of Serbia as equivalent to those imposed to authorised economic operators established in the customs territory of the Republic of Serbia. Such a granting of benefits shall be based on the principle of reciprocity, and shall be supported by an international agreement.

Granting of status

Article 28

The criteria for the granting of the status of authorised economic operator shall be the following:

1) the absence of any serious infringement or repeated infringements of customs legislation and taxation rules, including no record of serious criminal offences relating to the economic activity of the applicant;

2) the demonstration by the applicant of a high level of control of his or her operations and of the flow of goods, by means of a system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;

3) financial solvency, which shall be deemed to be proven where the applicant has good financial standing, which enables him or her to fulfil his or her commitments, with due regard to the characteristics of the type of business activity concerned;

4) with regard to the authorisation referred to in Article 27 paragraph 3 point 1 of this Law, practical standards of competence or professional qualifications directly related to the activity carried out; and

5) with regard to the authorisation referred to in Article 27 paragraph 3 point 2 of this Law, appropriate security and safety standards, which shall be considered as fulfilled where the applicant demonstrates that he or she maintains appropriate measures to ensure the security and safety of the international supply chain including in the areas of physical integrity and access controls, logistical processes and handling of specific types of goods, personnel and identification of his or her business partners.

Conferral of implementing powers

Article 29

The Government shall prescribe:

- 1) the simplifications referred to in Article 27 paragraph 3 point 1 of this Law;
- 2) the facilitations referred to in Article 27 paragraph 3 point 2 of this Law ;
- 3) the more favourable treatment referred to in Article 27 paragraph 6 of this Law;
- 4) the modalities for the application of the criteria referred to in Article 28 of this Law.

SECTION 5 LEGAL REMEDY

Right of appeal

Article 30

An appeal against the first instance decision taken by the customs authority in the administrative proceedings may be lodged to the to the Ministry in charge of finance (hereinafter referred to as: the Ministry).

Person who has applied to the customs authority for a decision and has not obtained a decision on that application within the time-limits referred to in Article 17 paragraphs 6-8 of this Law shall be entitled to exercise the right of appeal.

Suspension of implementation

Article 31

The submission of an appeal shall not cause implementation of the disputed decision to be suspended.

The customs authority which has taken the first instance decision, may suspend implementation of the disputed decision, in whole or in part if the submitted evidence and facts indicate that the disputed decision is inconsistent with customs legislation or that irreparable damage is to be feared for the person concerned, this justifying the suspension.

In the cases referred to in paragraph 2 of this Article, where the disputed decision has the effect of causing import or export duty to be payable, suspension of implementation of that decision shall be conditional upon the provision of a guarantee. Security shall not be required if such a requirement would be likely to cause an inappropriate burden for the debtor or where it could cause substantial economic injury.

Administrative Dispute

Article 32

An administrative dispute against the second instance decision taken in the administrative proceedings may be initiated before the competent court in compliance with the Law on administrative disputes.

SECTION 6

CUSTOMS CONTROLS

Risk management and customs controls

Article 33

The customs authority may carry out any customs controls they deem necessary.

Customs controls may in particular consist of examining goods, taking samples, verifying the accuracy and completeness of the information given in a declaration or notification and the existence, authenticity, accuracy and validity of documents, examining the accounts of economic operators and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official enquiries and other similar acts.

Customs controls, other than random checks, shall primarily be based on risk analysis using electronic data-processing techniques, with the purpose of identifying and evaluating the risks and developing the necessary counter-measures, on the basis of criteria developed at national and, where available, international level.

Customs authorities shall undertake risk management to differentiate between the levels of risk associated with goods subject to customs control or supervision and to determine whether the goods will be subject to specific customs controls, and if so, where.

The risk management shall include activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regularly monitoring and reviewing that process and its outcomes, based on international and national sources and strategies.

Customs authorities shall exchange risk information and risk analysis results where:

1) the risks are assessed by a customs authority as being significant and requiring customs control and the results of the control establish that the event triggering the risks has occurred; or

2) the control results do not establish that the event triggering the risks has occurred, but the customs authority concerned considers the threat to present a high risk outside the customs territory of the Republic of Serbia.

For the establishment of the risk criteria and standards, the control measures and the priority control areas, account shall be taken of all of the following:

- 1) the proportionality to the risk;
- 2) the urgency of the necessary application of the controls;
- 3) the probable impact on trade flow and on control resources.

The risk criteria and standards shall include all of the following:

- 1) a description of the risks;
- 2) the factors or indicators of risk to be used to select goods or economic operators for customs control;
- 3) the nature of customs controls to be undertaken by the customs authority;
- 4) the duration of the application of the customs controls referred to in point 3 of this paragraph.

Priority control areas shall cover particular customs procedures, types of goods, traffic routes, modes of transport or economic operators which are subject to increased levels of risk analysis and customs controls during a certain period, without prejudice to other controls usually carried out by the customs authority.

Cooperation between competent authorities

Article 34

Where, in respect of the same goods, controls other than customs controls are to be performed by competent authorities other than the customs authorities, customs authority shall,

in close cooperation with those other authorities, endeavour to have those controls performed, wherever possible, at the same time and place as customs controls (one-stop-shop), with customs authority having the coordinating role in achieving this.

In the framework of the controls referred to in Articles 33-36 of this Law, customs and other competent authorities may, where necessary for the purposes of minimising risk and combating fraud, exchange with each other data received in the context of the entry, exit, transit, movement, storage and end-use of goods, including postal traffic, the results of any control and the presence of non-domestic goods.

Post-release control

Article 35

For the purpose of customs controls, the customs authority may verify the accuracy and completeness of the information given in a declaration, temporary storage declaration, entry summary declaration, exit summary declaration, re-export declaration or re-export notification, and the existence, authenticity, accuracy and validity of any supporting document and may examine the accounts of the declarant and other records relating to the operations in respect of the goods in question or to prior or subsequent commercial operations involving those goods after having released them. Customs authority may also examine such goods and/or take samples where it is still possible for them to do so.

Such controls may be carried out at the premises of the holder of the goods or of the holder's representative, of any other person directly or indirectly involved in those operations in a business capacity or of any other person in possession of those documents and data for business purposes.

Where the post-clearance examination of the declaration or of the clearance indicates that the provisions governing the customs procedure concerned have been applied on the basis of incorrect or incomplete information, the customs authority shall, in accordance with customs and other provisions in force, take the measures necessary and issue appropriate decisions to regularize the situation and align the legal situation with the newly established circumstances.

The provisions of the law governing the implementation of inspection supervision shall apply *mutatis mutandis* to post - clearance examination by the customs authority.

Conferral of implementing powers

Article 36

The Government may adopt measures to ensure uniform application of the customs controls, including the exchange of risk information and risk analysis results, the risk criteria and standards, the control measures and the priority control areas referred to in Article 33 of this Law.

SECTION 7

KEEPING OF DOCUMENTS AND OTHER INFORMATION, AND CHARGES AND COSTS

Keeping of documents and other information

Article 37

The person concerned shall, for the purposes of customs controls, keep the documents and information referred to in Article 12 paragraph 1 of this Law, for at least three years, by any means accessible by and acceptable to the customs authority.

In the case of goods released for free circulation in circumstances other than those referred to in paragraph 3 of this Article, or goods declared for export, the time-limit referred to in paragraph 1 of this Article shall run from the end of the year in which the customs declarations for release for free circulation or export are accepted.

In the case of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use, the time-limit referred to in paragraph 1 of this Article shall run from the end of the year in which they cease to be subject to customs supervision.

In the case of goods placed under another customs procedure or of goods in temporary storage, the time-limit referred to in paragraph 1 of this Article shall run from the end of the year in which the customs procedure concerned has been discharged or temporary storage has ended.

Without prejudice to Article 90 paragraph 4 of this Law, where a customs control in respect of a customs debt shows that the relevant entry in the accounts has to be corrected and the person concerned has been notified of this, the documents and information shall be kept for three years beyond the time-limit provided for in paragraph 1 of this Article.

Where an appeal has been lodged or where court proceedings have begun, the documents and information shall be kept for the period provided for in paragraph 1 of this Article or until the appeals procedure or court proceedings are terminated, whichever is the later.

Charges and costs

Article 38

Customs authority shall not impose charges for the performance of customs controls or any other application of the customs legislation during the official opening hours of their competent customs offices.

Customs authorities may impose charges or recover costs where specific services are rendered, in particular the following:

- 1) attendance, where requested, by customs staff outside official office hours or at premises other than customs premises;
- 2) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions taken pursuant to Article 23 of this Law or the provision of information in accordance with Article 11 paragraph 1 of this Law;
- 3) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using customs staff are involved;
- 4) exceptional control measures, where these are necessary due to the nature of the goods or to a potential risk.

CHAPTER 3

CURRENCY CONVERSION AND TIME-LIMITS

Currency conversion

Article 39

The competent authorities shall publish and/or make available on the Internet the rate of exchange applicable where the conversion of currency is necessary because factors used to determine the customs value of goods are expressed in a foreign currency where the customs value is determined.

Where the conversion of foreign currency is necessary for reasons other than those referred to in paragraph 1 of this Article, the rate of exchange to be applied within the framework of the customs legislation shall be fixed at least once a year.

The Government shall prescribe the rules on currency conversions for the purposes of this Article.

Periods, dates and time-limits

Article 40

Unless otherwise provided, where a period, date or time-limit is laid down in the customs legislation, such period shall not be extended or reduced and such date or time-limit shall not be deferred or brought forward.

TITLE II

FACTORS ON THE BASIS OF WHICH IMPORT OR EXPORT DUTIES AND OTHER MEASURES IN RESPECT OF TRADE IN GOODS ARE APPLIED

CHAPTER 1

CUSTOMS TARIFF AND TARIFF CLASSIFICATION OF GOODS

Customs Tariff and surveillance

Article 41

Import and export duties shall be based on the Customs Tariff.

Other measures prescribed by provisions governing specific fields relating to trade in goods shall, where appropriate, be applied in accordance with the tariff classification of those goods.

The Customs Tariff shall comprise all of the following:

1) Nomenclature of goods as laid down in the Law on Customs Tariff and bylaws adopted in accordance with that law;

2) any other nomenclature which is wholly or partly based on the Nomenclature of goods referred to in point 1 of this paragraph or which provides for further subdivisions to it, and which is established by provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;

3) customs duties applicable to goods originating from countries to which the most favored nation clause is being applied, or from countries applying such clause to goods originating from the Republic of Serbia, covered by Nomenclature referred to in point 1 of this Article;

4) the preferential tariff measures contained in agreements which the Republic of Serbia has concluded with certain countries or territories or groups of such countries or territories;

5) preferential tariff measures adopted unilaterally by the Republic of Serbia in respect of certain countries or territories or groups of such countries or territories;

6) autonomous measures providing for a reduction in, or exemption from, customs duties on certain goods;

7) favourable tariff treatment specified for certain goods, by reason of their nature or end-use, in the framework of measures referred to under points 3 to 6 or 8 of this Article;

8) other tariff measures provided for by agricultural or commercial or other legislation of the Republic of Serbia.

Where the goods concerned fulfil the conditions included in the measures laid down in paragraph 3 points 4 to 7 of this Article, the measures referred to in those provisions shall apply, upon application by the declarant, instead of those provided for in point 3 of that paragraph.

Where application of the measures referred to in paragraph 3 points 4 to 7 of this Article, or the exemption from measures referred to in paragraph 3 point 8 of this Article, is restricted to a certain volume of imports or exports, such application or exemption shall, in the case of tariff quotas, cease as soon as the specified volume of imports or exports is reached.

Application of tariff ceilings shall cease in accordance with the provisions determining such ceilings.

The release for free circulation or the export of goods, to which the measures referred to in paragraphs 1 to 3 apply, may be made subject to surveillance.

Tariff classification of goods

Article 42

For the application of the Customs Tariff, tariff classification of goods shall consist in the determination of one of the tariff subheadings or further subdivisions of the Nomenclature under which those goods are to be classified.

For the application of non-tariff measures, tariff classification of goods shall consist in the determination of one of the tariff subheadings or further subdivisions of the Nomenclature, or of any other nomenclature which is established by regulations of the Republic of Serbia and which is wholly or partly based on the Nomenclature referred to in Article 41 paragraph 3 point 1 of this Law or which provides for further subdivisions to it, under which those goods are to be classified.

The tariff subheading or further subdivision determined in accordance with paragraphs 1 and 2 of this Article shall be used for the purpose of applying the measures linked to that subheading.

Classification decisions, classification opinions or amendments of the explanatory notes to the Nomenclature of the Harmonized Commodity Description and Coding System, adopted by the Organization set-up by the Convention establishing a Customs Co-operation Council, done at Brussels on 15 December 1950, are obligatory for the application.

Commission Regulations, concerning the classification of certain goods to the Combined Nomenclature of the EU and published in the "Official Journal of the European Union", are obligatory for the application.

Conferral of implementing powers

Article 43

The Government shall prescribe:

1) conditions, procedure and the manner of application of the autonomous measures referred to in Article 41 paragraph 3 point 6 of this Law, for the goods that are not produced in the Republic of Serbia or are not produced in sufficient quantities or do not correspond to the needs of the domestic industry and domestic market. Such measures may be provided for the limited period of time as well as for the limited or unlimited quantities of goods.

2) seasonal customs duties for agricultural products, in addition to prescribed tariff rates, not exceeding 20% of the customs value, whose application shall be limited in time, in the cases where the tariff rates applicable to agricultural products do not provide stability of domestic production and domestic market within certain period of time.

3) measures on the uniform management of the tariff quotas and the tariff ceilings referred to in Article 41, paragraphs 5 and 6 of this Law and on the management of the surveillance of the release for free circulation or export of goods, referred to in Article 41, paragraph 7 of this Law.

CHAPTER 2

ORIGIN OF GOODS

SECTION 1

NON-PREFERENTIAL ORIGIN

Scope

Article 44

Articles 45 and 46 of this Law shall lay down rules for the determination of the non-preferential origin of goods for the purposes of applying the following:

1) the Customs Tariff, with the exception of the measures referred to in Article 41 paragraph 3 points 4 and 5 of this Law;

2) measures, other than tariff measures, established by regulations governing specific fields relating to trade in goods; and

3) other measures relating to the origin of goods.

Acquisition of origin

Article 45

Goods wholly obtained in a single country or territory shall be regarded as having their origin in that country or territory.

Goods the production of which involves more than one country or territory shall be deemed to originate in the country or territory where they underwent their last, substantial, economically-justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.

Proof of origin

Article 46

Where an origin has been indicated in the customs declaration pursuant to the customs legislation, the customs authorities may require the declarant to prove the origin of the goods.

Where proof of origin of goods is provided pursuant to the customs legislation or other legislation of the Republic of Serbia governing specific fields, the customs authorities may, in the event of reasonable doubt, require any additional evidence needed in order to ensure that the indication of origin complies with the rules laid down by the relevant legislation.

Where the exigencies of trade so require, a document proving origin may be issued in the Republic of Serbia in accordance with the rules of origin in force in the country or territory of destination or any other method identifying the country where the goods were wholly obtained or underwent their last substantial transformation.

Conferral of implementing powers

Article 47

The Government shall prescribe:

1) rules under which goods, whose determination of non-preferential origin is required for the purposes of applying the measures of the Republic of Serbia referred to in Article 44 of this Law, are considered as wholly obtained in a single country or territory or to have undergone their last, substantial, economically-justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture in a country or territory, in accordance with Article 45 of this Law;

2) the procedural rules for the provision and verification of the proof of origin referred to in Article 46; and

3) the manner of issuing other documents and certificates accompanying goods on import or export.

SECTION 2

PREFERENTIAL ORIGIN

Preferential origin of goods

Article 48

In order to benefit from the measures referred to in Article 41 paragraph 3 points 4 or 5 of this Law or from non-tariff preferential measures, goods shall comply with the rules on preferential origin referred to in paragraphs 2 to 4 of this Article.

In the case of goods benefiting from preferential measures contained in agreements which the the Republic of Serbia has concluded with certain countries or territories or with groups of such countries or territories, the rules on preferential origin shall be laid down in those agreements.

In the case of goods benefiting from preferential measures adopted unilaterally by the Republic of Serbia in respect of certain countries or territories or groups of such countries or territories, the Government shall adopt measures laying down the rules on preferential origin.

The rules of origin shall be based either on the criterion that goods are wholly obtained or on the criterion that goods result from sufficient processing or working.

Upon its own initiative or at the request of a beneficiary country or territory, the Government may, for certain goods, grant that country or territory a temporary derogation from the rules on preferential origin referred to in paragraph 3.

The temporary derogation shall be justified by one of the following reasons:

- 1) internal or external factors temporarily deprive the beneficiary country or territory of the ability to comply with the rules on preferential origin;
- 2) the beneficiary country or territory requires time to prepare itself to comply with those rules.

A request for derogation shall be made in writing to the Government by the beneficiary country or territory concerned. The request shall state the reasons why derogation is required and shall contain appropriate supporting documents.

The temporary derogation shall be limited to the duration of the effects of the internal or external factors giving rise to it or the length of time needed for the beneficiary country or territory to achieve compliance with the rules.

Where a derogation is granted, the beneficiary country or territory concerned shall comply with any requirements laid down as to information to be provided to the Government concerning the use of the derogation and the management of the quantities for which the derogation is granted.

Conferral of implementing powers

Article 49

The Government shall prescribe the rules referred to in Article 48, paragraph 1 of this Law, in order to facilitate the establishment of the preferential origin of goods in the Republic of Serbia.

SECTION 3

DETERMINATION OF ORIGIN OF SPECIFIC GOODS

Conferral of implementing powers

Article 50

The Government may adopt measures to determine the origin of specific goods in accordance with the rules of origin applicable to those goods.

CHAPTER 3

VALUE OF GOODS FOR CUSTOMS PURPOSES

Scope

Article 51

The customs value of goods, for the purposes of applying the Customs Tariff and non-tariff measures laid down by provisions governing specific fields relating to trade in goods, shall be determined in accordance with Articles 52 and 56 of this Law.

Method of customs valuation based on the transaction value

Article 52

The primary basis for the customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the Republic of Serbia adjusted, where necessary.

The price actually paid or payable shall be the total payment made or to be made by the buyer to the seller or by the buyer to a third party for the benefit of the seller for the imported goods and include all payments made or to be made as a condition of sale of the imported goods.

The transaction value shall apply provided that all of the following conditions are fulfilled:

1) there are no restrictions as to the disposal or use of the goods by the buyer, other than any of the following:

(1) restrictions imposed or required by a law or by the public authorities in the Republic of Serbia;

(2) limitations of the geographical area in which the goods may be resold;

(3) restrictions which do not substantially affect the customs value of the goods;

2) the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;

3) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made;

4) the buyer and seller are not related or the relationship did not influence the price.

Elements of the transaction value

Article 53

In determining the customs value under Article 52 of this Law, the price actually paid or payable for the imported goods shall be supplemented by:

1) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:

(1) commissions and brokerage, except buying commissions;

(2) the cost of containers which are treated as being one, for customs purposes, with the goods in question; and

(3) the cost of packing, whether for labour or materials;

2) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

(1) materials, components, parts and similar items incorporated into the imported goods;

(2) tools, dies, moulds and similar items used in the production of the imported goods;

(3) materials consumed in the production of the imported goods; and

(4) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Republic of Serbia and necessary for the production of the imported goods;

3) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

4) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller; and

5) the following costs up to the place where goods are brought into the customs territory of the Republic of Serbia:

(1) the cost of transport and insurance of the imported goods; and

(2) loading and handling charges associated with the transport of the imported goods.

Additions to the price actually paid or payable, pursuant to paragraph 1 of this Article, shall be made only on the basis of objective and quantifiable data.

No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

Elements not to be included in the customs value

Article 54

In determining the customs value under Article 52 of this Law, none of the following shall be included:

1) the cost of transport of the imported goods after their entry into the customs territory of the Republic of Serbia;

2) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after the entry into the customs territory of the Republic of Serbia of the imported goods such as industrial plants, machinery or equipment;

3) charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of the imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and, where required, the buyer can demonstrate that the following conditions are fulfilled:

(1) such goods are actually sold at the price declared as the price actually paid or payable;

(2) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;

4) charges for the right to reproduce the imported goods in the Republic of Serbia;

5) buying commissions;

6) import duties or other charges payable in the Republic of Serbia by reason of the import or sale of the goods;

7) notwithstanding Article 73 paragraph 1 point 3 of this Law, payments made by the buyer for the right to distribute or resell the imported goods, if such payments are not a condition of the sale for export to the Republic of Serbia of the goods.;

8) duties and charges payable in the country of export, where imported goods are exempt from payment or may be exempted by way of reimbursement.

Simplification

Article 55

The customs authority may, upon application, authorise that the following amounts be determined on the basis of specific criteria, where they are not quantifiable on the date on which the customs declaration is accepted:

1) amounts which are to be included in the customs value in accordance with Article 52 paragraph 2 of this Law; and

2) the amounts referred to in Articles 53 and 54 of this Law.

Secondary methods of customs valuation

Article 56

Where the customs value of goods cannot be determined under Article 52 of this Law, it shall be determined by proceeding sequentially from points 1 to 4 of paragraph 3 of this Article, until the first point under which the customs value of goods can be determined.

The order of application of paragraph 3 points 3 and 4 of this Article shall be reversed if the declarant so requests.

The customs value, pursuant to paragraphs 1 and 2 of this Article, shall be:

1) the transaction value of identical goods sold for export to the customs territory of the Republic of Serbia and exported at or about the same time as the goods being valued;

2) the transaction value of similar goods sold for export to the customs territory of the Republic of Serbia and exported at or about the same time as the goods being valued;

3) the value based on the unit price at which the imported goods, or identical or similar imported goods, are sold within the customs territory of the Republic of Serbia in the greatest aggregate quantity to persons not related to the sellers; or

4) the computed value, consisting of the sum of:

(1) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

(2) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of export for export to the Republic of Serbia;

(3) the cost or value of the elements referred to in Article 53 paragraph 1 point 5 of this Law.

Where the customs value cannot be determined under paragraphs 1 and 2 of this Article, it shall be determined on the basis of data available in the customs territory of the Republic of Serbia, using reasonable means consistent with the principles and general provisions of all of the following:

1) the Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade;

2) Article VII of the General Agreement on Tariffs and Trade;

(c) this Chapter.

Determination of the customs value of carrier media

Article 57

In determining the customs value of carrier media bearing data or instructions for use in data processing equipment (hereinafter called: software) there shall not be included the cost or value of the software provided that this cost or value is distinguished from the value of the carrier medium.

Carrier medium referred to in paragraph 1 of this Article shall not be taken to include integrated circuits, semiconductors and similar devices or articles incorporating such circuits or devices.

Data or instructions referred to in paragraph 1 of this Article shall not be taken to include sound, cinematographic or video recordings or instructions.

Price Reductions and Cash Discounts

Article 58

In determining the customs value, all contracted price reductions and cash discounts usual for the identical or similar imported goods, shall be accepted.

**Payment -free Imported Goods, Temporary Imported Goods,
Leased or Rented Imported Goods, Damaged Goods, Release of Goods Prior to Final
Determination of the Customs Value**

Article 59

The customs value of goods imported payment-free and customs value of temporary imported goods shall be determined in compliance with the provisions of Article 56. of this Law.

Where imported goods are rented or leased without the option to buy, and where the customs value can not be determined in accordance with provisions of Article 56. of this Law, the customs value shall be equal to the total rent or lease for stipulated period, adjusted, if necessary, in accordance with provisions of Articles 53 and 54 of this Law.

The customs value of the goods which are damaged before being released to the declarant, shall be determined by reducing the agreed price, reduction corresponding to the damage, shown as percentage.

The customs authority shall establish the percentage of the damage referred to in paragraph 3 of this Article.

If, in the course of determining the customs value of imported goods, it becomes necessary to delay the final determination of such value, the declarant shall nevertheless be able to withdraw them from Customs if, where so required, provides sufficient guarantee covering the ultimate payment of customs debt for which the goods may be liable.

Informing the Importer

Article 60

Upon the request of the importer, the customs authority is obliged to provide the importer with explanation in writing as to how the customs value of the imported goods was determined.

Obligations of the Declarant

Article 61

The importer shall state in the declaration that, for the imported goods, the obligation to pay costs, fees, part of the value of delivered goods and services or part of the revenue referred to in Article 53 paragraph 1 points 2, 3 and 4 of this Law is contracted.

The importer shall declare to the customs authority the resale, disposal, or use of the imported goods from which the obligation of payment of a certain amount to the seller in accordance with Article 53 paragraph 1 point 4 of this Law arises, not later than 30 days following the date of payment.

Delivery of Several Kinds of Goods Subject to Different Tariff rates

Article 62

Where the consignment consists of several kinds of goods that are subject to customs clearance by different tariff rates, the total costs of the sale of goods as well as the costs for

transportation, insurance and delivery related to the whole of the consignment, shall be calculated proportionally to the value of each type of goods.

By way of derogation from paragraph 1 of this Article, the customs authority may, upon request of the declarant, add the costs referred to in paragraph 1 of this Article related to the several types of goods in one consignment, to the value of the goods for which the import duties are the highest.

Rights and Obligations of the Customs Authority

Determining the Customs Value

Article 63

The customs authority may request that the declarant provides all the documents and data needed for determining the customs value under Articles 51 to 58 of this Law.

The customs authority shall be authorised to verify the authenticity and the accuracy of any statement, document or declaration presented for the purpose of determining the customs value.

Where based on justifiable reasons the invoice is not attached to declaration or where the customs authority has grounds to believe that the value of goods indicated in the invoice is not in accordance with this Law, the customs value shall be determined in accordance with Article 56 of this Law.

Conferral of implementing powers

Article 64

The Government shall prescribe the conditions under which the customs authority grants the authorisation that the amounts not quantifiable on the date on which the customs declaration is accepted be determined on the basis of specific criteria.

The Government shall prescribe the rules for:

- 1) determining the customs value in accordance with Article 52 paragraphs 1 and 2 and Articles 53 and 54 of this Law, including those for adjusting the price actually paid or payable;
- 2) the application of the conditions referred to in Article 52 paragraph 3 of this Law;
- 3) determining the customs value referred to in Article 56 of this Law.

TITLE III

CUSTOMS DEBT AND GUARANTEES

CHAPTER 1

INCURRENCE OF A CUSTOMS DEBT

SECTION 1

CUSTOMS DEBT ON IMPORT

Release for free circulation and temporary admission

Article 65

A customs debt on import shall be incurred through the placing of non-domestic goods liable to import duties under either of the following customs procedures:

- 1) release for free circulation, including under the end-use provisions;
- 2) temporary admission with partial relief from import duties.

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

The declarant shall be the debtor. In the event of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor.

Where a customs declaration in respect of one of the procedures referred to in paragraph 1 of this Article is drawn up on the basis of information which leads to all or part of the import duties not being collected, the person who provided the information required to draw up the declaration and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

Special provisions relating to non-originating goods

Article 66

Where a prohibition of drawback of, or exemption from, import duties applies to non-originating goods used in the manufacture of products for which a proof of origin is issued or made out in the framework of a preferential arrangement between the Republic of Serbia and certain countries or territories or groups of countries or territories, a customs debt on import shall be incurred in respect of those non-originating goods, through the acceptance of the re-export declaration relating to the products in question.

Where a customs debt is incurred pursuant to paragraph 1 of this Article, the amount of import duties corresponding to that debt shall be determined under the same conditions as in the case of a customs debt resulting from the acceptance, on the same date, of the customs declaration for release for free circulation of the non-originating goods used in the manufacture of the products in question for the purpose of ending the inward processing procedure.

Article 65 paragraphs 2 and 3 of this Law shall apply to paragraphs 1 and 2 of this Article. In the case of non-domestic goods as referred to in Article 233 of this Law, the person who lodges the re-export declaration shall be the debtor. In the event of indirect representation, the person on whose behalf the declaration is lodged shall also be a debtor.

Customs debt incurred through non-compliance

Article 67

For goods liable to import duties, a customs debt on import shall be incurred through non-compliance with any of the following:

- 1) one of the obligations laid down in the customs legislation concerning the introduction of non-domestic goods into the customs territory of the Republic of Serbia, their

removal from customs supervision, or the movement, processing, storage, temporary storage, temporary admission or disposal of such goods within that territory;

2) one of the obligations laid down in the customs legislation concerning the end-use of goods within the customs territory of the Republic of Serbia;

3) a condition governing the placing of non-domestic goods under a customs procedure or the granting, by virtue of the end-use of the goods, of duty exemption or a reduced rate of import duty.

The time at which the customs debt is incurred shall be either of the following:

1) the moment when the obligation the non-fulfilment of which gives rise to the customs debt is not met or ceases to be met;

2) the moment when a customs declaration is accepted for the placing of goods under a customs procedure where it is established subsequently that a condition governing the placing of the goods under that procedure or the granting of a duty exemption or a reduced rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.

In cases referred to under paragraph 1 points 1 and 2 of this Article, the debtor shall be any of the following:

1) any person who was required to fulfil the obligations concerned;

2) any person who was aware or should reasonably have been aware that an obligation under the customs legislation was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation, or who participated in the act which led to the non-fulfilment of the obligation;

3) any person who acquired or held the goods in question and who was aware or should reasonably have been aware at the time of acquiring or receiving the goods that an obligation under the customs legislation was not fulfilled.

In cases referred to under paragraph 1 point 3 of this Article the debtor shall be the person who is required to comply with the conditions governing the placing of the goods under a customs procedure or the customs declaration of the goods placed under that customs procedure or the granting of a duty exemption or reduced rate of import duty by virtue of the end-use of the goods.

Where a customs declaration in respect of one of the customs procedures referred to in paragraph 1 point 3 of this Article is drawn up, and any information required under the customs legislation relating to the conditions governing the placing of the goods under that customs procedure is given to the customs authority, which leads to all or part of the import duties not being collected, the person who provided the information required to draw up the customs declaration and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

Deduction of an amount of import duties already paid

Article 68

Where a customs debt is incurred, pursuant to Article 67 paragraph 1 of this Law in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount of import duties paid when the goods were released for free circulation shall be deducted from the amount of import duties corresponding to the customs debt.

Paragraph 1 of this Article shall apply where a customs debt is incurred in respect of scrap and waste resulting from the destruction of such goods.

Where a customs debt is incurred, pursuant to Article 67 paragraph 1 of this Law in respect of goods placed under temporary admission with partial relief from import duties, the amount of import duties paid under partial relief shall be deducted from the amount of import duties corresponding to the customs debt.

SECTION 2 CUSTOMS DEBT ON EXPORT

Export and outward processing

Article 69

A customs debt on export shall be incurred through the placing of goods liable to export duties under the export procedure or the outward processing procedure.

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

The declarant shall be the debtor. In the event of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor.

Where a customs declaration is drawn up on the basis of information which leads to all or part of the export duties not being collected, the person who provided the information required for the declaration and who knew, or who should reasonably have known, that such information was false shall also be a debtor.

Customs debt incurred through non-compliance

Article 70

For goods liable to export duties, a customs debt on export shall be incurred through non-compliance with either of the following:

- 1) one of the obligations laid down in the customs legislation for the exit of the goods;
- 2) the conditions under which the goods were allowed to be taken out of the customs territory of the Republic of Serbia with total or partial relief from export duties.

The time at which the customs debt is incurred shall be one of the following:

- 1) the moment at which the goods are actually taken out of the customs territory of the Republic of Serbia without a declaration;
- 2) the moment at which the goods reach a destination other than that for which they were allowed to be taken out of the customs territory of the Republic of Serbia with total or partial relief from export duties;
- 3) should the customs authority be unable to determine the moment referred to in point 2 of this paragraph, the expiry of the time-limit set for the production of evidence that the conditions entitling the goods to such relief have been fulfilled.

In cases referred to under paragraph 1 point 1 of this Article, the debtor shall be any of the following:

- 1) any person who was required to fulfil the obligation concerned;
- 2) any person who was aware or should reasonably have been aware that the obligation concerned was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation;
- 3) any person who participated in the act which led to the non-fulfilment of the obligation and who was aware or should reasonably have been aware that a declaration had not been lodged but should have been.

In cases referred to under paragraph 1 point 2 of this Article, the debtor shall be any person who is required to comply with the conditions under which the goods were allowed to be taken out of the customs territory of the Republic of Serbia with total or partial relief from export duties.

SECTION 3

PROVISIONS COMMON TO CUSTOMS DEBTS INCURRED ON IMPORT AND EXPORT

Prohibitions and restrictions

Article 71

The customs debt on import or export shall be incurred even if it relates to goods which are subject to measures of prohibition or restriction on import or export of any kind.

No customs debt shall be incurred on either of the following:

- 1) the unlawful introduction into the customs territory of the Republic of Serbia of counterfeit currency;
- 2) the introduction into the customs territory of the Republic of Serbia of narcotic drugs and psychotropic substances other than where strictly supervised by the competent authorities with a view to their use for medical and scientific purposes.

For the purposes of penalties as applicable to customs offences, the customs debt shall nevertheless be deemed to have been incurred where, under the law, import or export duties or the existence of a customs debt provide the basis for determining penalties.

Several debtors

Article 72

Where several persons are liable for payment of the amount of import or export duties corresponding to one customs debt, they shall be jointly and severally liable for payment of that amount.

General rules for calculating the amount of import or export duties

Article 73

The amount of import or export duties shall be determined on the basis of those rules for calculation of duty which were applicable to the goods concerned at the time at which the customs debt in respect of them was incurred.

Where it is not possible to determine precisely the time at which the customs debt is incurred, that time shall be deemed to be the time at which the customs authority concludes that the goods are in a situation in which a customs debt has been incurred.

Where the information available to the customs authority enables it to establish that the customs debt had been incurred prior to the time at which it reached that conclusion, the customs debt shall be deemed to have been incurred at the earliest time that such a situation can be established.

Special rules for calculating the amount of import duties

Article 74

Where costs for storage or usual forms of handling have been incurred within the customs territory of the Republic of Serbia in respect of goods placed under a customs procedure or in temporary storage, such costs or the increase in value shall not be taken into account for the calculation of the amount of import duties where satisfactory proof of those costs is provided by the declarant.

The customs value, quantity, nature and origin of non-domestic goods used in the operations referred to in paragraph 1 of this Article shall be taken into account for the calculation of the amount of import duty.

Where the tariff classification of goods placed under a customs procedure changes as a result of usual forms of handling within the customs territory of the Republic of Serbia, the original tariff classification for the goods placed under the procedure shall be applied at the request of the declarant.

Where a customs debt is incurred for processed products resulting from the inward processing procedure, the amount of import duties corresponding to such debt shall, at the request of the declarant, be determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward processing procedure at the time of acceptance of the declaration relating to those goods.

In specific cases prescribed by the Government, the amount of import duties shall be determined in accordance with paragraphs 3 and 4 of this Article without a request of the declarant in order to avoid the circumvention of tariff measures referred to in Article 41 paragraph 3 point 8 of this Law.

Where a customs debt is incurred for processed products resulting from the outward processing procedure or replacement products as referred to in Article 225 paragraph 1 of this Law, the amount of import duties shall be calculated on the basis of the cost of the processing operation undertaken outside the customs territory of the Republic of Serbia.

Where the customs legislation provides for a favourable tariff treatment of goods, or for relief or total or partial exemption from import or export duties pursuant to Article 41 paragraph 3 points 4-7, Articles 177, 178, 179 and 181 or Articles 223-226 of this Law, or pursuant to legislation regulating reliefs from customs duties, such favourable tariff treatment, relief or exemption shall also apply in cases where a customs debt is incurred pursuant to Articles 67 or 70 of this Law, on condition that the failure which led to the incurrence of a customs debt did not constitute an attempt at deception.

Place where the customs debt is incurred

Article 75

A customs debt shall be incurred at the place where the declaration or the re-export declaration referred to in Articles 65, 66 and 69 of this Law is lodged.

In all other cases, the place where a customs debt is incurred shall be the place where the events from which it arises occur.

If it is not possible to determine that place, the customs debt shall be incurred at the place where the customs authority concludes that the goods are in a situation in which a customs debt is incurred.

If the goods have been placed under a customs procedure which has not been discharged or when a temporary storage did not end properly, and the place where the customs debt is incurred cannot be determined pursuant to paragraphs 2 or 3 of this Article within a specific time-limit, the customs debt shall be incurred at the place where the goods were either placed under the procedure concerned or were introduced into the customs territory of the Republic of Serbia under that procedure or were in temporary storage.

Where the information available to the customs authority enables it to establish that the customs debt may have been incurred in several places, the customs debt shall be deemed to have been incurred at the place where it was first incurred.

Conferral of implementing powers

Article 76

The Government shall prescribe:

- 1) the rules for the calculation of the amount of import or export duties applicable to goods for which a customs debt is incurred in the context of a special procedure, which supplement the rules laid down in Articles 73 and 74 of this Law;
- 2) the cases referred to in Article 74 paragraph 5 of this Law;
- 3) the time-limit referred to in Article 75 paragraph 4 of this Law.

CHAPTER 2

GUARANTEE FOR A POTENTIAL OR EXISTING CUSTOMS DEBT

General provisions

Article 77

Where the customs authority requires a guarantee for a potential or existing customs debt to be provided, that guarantee shall cover the amount of import or export duties and the other charges due in connection with the import or export of the goods.

Where the customs authority requires a guarantee to be provided, it shall be required from the debtor or the person who may become the debtor. Customs authority may also permit the guarantee to be provided by a person other than the person from whom it is required.

Without prejudice to Article 85 of this Law, the customs authority shall require only one guarantee to be provided in respect of specific goods or a specific declaration.

The guarantee provided for a specific declaration shall apply to the amount of import or export duties corresponding to the customs debt and other charges in respect of all goods covered by or released against that declaration, whether or not that declaration is correct.

If the guarantee has not been released, it may also be used, within the limits of the secured amount, for the recovery of amounts of import or export duties and other charges payable following post-release control of those goods.

Upon application by the person referred to in paragraph 3 of this Article, the customs authority may, in accordance with Article 83 paragraphs 1, 2 and 3 of this Law authorise the provision of a comprehensive guarantee to cover the amount of import or export duties corresponding to the customs debt in respect of two or more operations, declarations or customs procedures.

The customs authority shall monitor the guarantee.

No guarantee shall be required from the state, regional and local government authorities or other bodies governed by public law, in respect of the activities in which they engage as public authorities.

No guarantee shall be required in any of the following situations:

- 1) goods carried on the Danube or the Danube waterways;
- 2) goods carried by a fixed transport installation;
- 3) in specific cases where goods are placed under the temporary admission procedure;
- 4) goods placed under the national transit procedure using the simplification referred to in Article 199 paragraph 4 point 5 of this Law and transported within the customs territory of the Republic of Serbia.

The Government shall prescribe the amount of import or export duties for which the customs authority may waive the requirement for provision of a guarantee.

Compulsory guarantee

Article 78

Where it is compulsory for a guarantee to be provided, the customs authority shall fix the amount of such guarantee at a level equal to the precise amount of import or export duties corresponding to the customs debt and of other charges where that amount can be established with certainty at the time when the guarantee is required.

Where it is not possible to establish the precise amount, the guarantee shall be fixed at the maximum amount, as estimated by the customs authority, of import or export duties corresponding to the customs debt and of other charges which have been or may be incurred.

Without prejudice to Article 83 of this Law, where a comprehensive guarantee is provided for the amount of import or export duties corresponding to customs debts and other charges which vary in amount over time, the amount of such guarantee shall be set at a level enabling the amount of import or export duties corresponding to customs debts and other charges to be covered at all times.

Optional guarantee

Article 79

Where the provision of a guarantee is optional, such guarantee shall in any case be required by the customs authority if it considers that the amount of import or export duties corresponding to a customs debt and other charges are not certain to be paid within the prescribed period. Its amount shall be fixed by the customs authority so as not to exceed the level referred to in Article 78 of this Law.

Provision of a guarantee

Article 80

A guarantee may be provided in one of the following forms:

- 1) by a cash deposit or by any other means of payment recognised by the customs authority as being equivalent to a cash deposit;
- 2) by a guarantee;
- 3) by another form of guarantee which provides equivalent assurance that the amount of import or export duties corresponding to the customs debt and other charges will be paid.

A guarantee in the form of a cash deposit or any other equivalent means of payment shall be given in accordance with the provisions in force.

Where a guarantee is given by making a cash deposit or any other equivalent means of payment, no interest thereon shall be payable by the customs authority.

Choice of guarantee

Article 81

The person required to provide a guarantee may choose between the forms of guarantee laid down in Article 80 paragraph 1 of this Law.

The customs authority may refuse to accept the form of guarantee chosen where it is incompatible with the proper functioning of the customs procedure concerned.

The customs authority may require that the form of guarantee chosen be maintained for a specific period.

Guarantor

Article 82

The guarantor referred to in Article 80 paragraph 1 point 2 of this law shall be a third person established in the customs territory of the Republic of Serbia. The guarantor shall be

approved by the customs authority requiring the guarantee, unless the guarantor is a financial institution or insurance company accredited in the Republic of Serbia in accordance with provisions in force.

The guarantor shall undertake in writing to pay the secured amount of import or export duties corresponding to a customs debt and other charges.

The customs authority may refuse to approve the guarantor or the type of guarantee proposed where either does not appear certain to ensure payment within the prescribed period of the amount of import or export duties corresponding to the customs debt and of other charges.

Comprehensive guarantee

Article 83

The authorisation referred to in Article 77 paragraph 7 of this Law shall be granted only to persons who satisfy all of the following conditions:

- 1) they are established in the customs territory of the Republic of Serbia;
- 2) they fulfil the criteria laid down in Article 28 point 1 of this Law;
- 3) they are regular users of the customs procedures involved or operators of temporary storage facilities or they fulfil the criteria laid down in Article 28 point 4 of this Law.

Where a comprehensive guarantee is to be provided for customs debts and other charges which may be incurred, an economic operator may be authorised to use a comprehensive guarantee with a reduced amount or to have a guarantee waiver, provided that he or she fulfils the criteria laid down in Article 28 points 2 and 3 of this Law.

Where a comprehensive guarantee is to be provided for customs debts and other charges which have been incurred, an authorised economic operator for customs simplification shall, upon application, be authorised to use a comprehensive guarantee with a reduced amount.

The comprehensive guarantee with a reduced amount referred to in paragraph 3 of this Article shall be equivalent to the provision of a guarantee.

Temporary prohibitions relating to the use of comprehensive guarantees

Article 84

In the context of special procedures or temporary storage, the Government may decide to temporarily prohibit recourse to any of the following:

- 1) the comprehensive guarantee for a reduced amount or a guarantee waiver referred to in Article 83 paragraph 2 of this Law;
- 2) the comprehensive guarantee referred to in Article 83 of this Law, in respect of goods which have been identified as being subject to large-scale fraud.

Where paragraph 1 points 1 or 2 of this Article applies, recourse to the comprehensive guarantee for a reduced amount or a guarantee waiver or recourse to the comprehensive

guarantee referred to in Article 83 of this Law may be authorised where the person concerned fulfils either of the following conditions:

1) that person can show that no customs debt has arisen in respect of the goods in question in the course of operations which that person has undertaken in the two years preceding the decision referred to in paragraph 1 of this Article;

2) where customs debts have arisen in the two years preceding the decision referred to in paragraph 1 of this Article, the person concerned can show that those debts were fully paid by the debtor or debtors or the guarantor within the prescribed time-limit.

To obtain authorisation to use a temporarily prohibited comprehensive guarantee, the person referred to in paragraph 2 of this Article must also fulfil the criteria laid down in Article 28 points 2 and 3 of this Law.

Additional or replacement guarantee

Article 85

Where the customs authority establishes that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure, payment within the prescribed period of the amount of import or export duty corresponding to the customs debt and other charges, they shall require any of the persons referred to in Article 77 paragraph 3 of this Law either to provide an additional guarantee or to replace the original guarantee with a new guarantee, according to his choice.

Release of the guarantee

Article 86

The customs authority shall release the guarantee immediately when the customs debt or liability for other charges is extinguished or can no longer arise.

Where the customs debt or liability for other charges has been extinguished in part, or may arise only in respect of part of the amount which has been secured, a corresponding part of the guarantee shall be released accordingly at the request of the person concerned, unless the amount involved does not justify such action.

Conferral of implementing powers

Article 87

The Government shall prescribe:

1) the specific cases, referred to in Article 77 paragraph 10 point 3 of this Law, where no guarantee is required for goods placed under the temporary admission procedure;

2) the form of the guarantee, referred to in Article 80 paragraph 1 point 3 of this Law, and the rules concerning the guarantor referred to in Article 82 of this Law;

3) the conditions for the granting of an authorisation to use a comprehensive guarantee with a reduced amount or to have a guarantee waiver referred to in Article 83 paragraph 2 of this Law;

4) time-limits for the release of a guarantee.

The Government shall prescribe the rules:

1) for determining the amount of the guarantee, including the reduced amount referred to in Article 83 paragraphs 2 and 3 of this Law;

2) regarding the provision and the monitoring of the guarantee referred to in Article 77 of this law, the revocation and cancellation of the undertaking given by the guarantor referred to in Article 82 of this Law, and the release of the guarantee referred to in Article 86 of this Law;

3) regarding the temporary prohibitions referred to in Article 84 of this Law.

CHAPTER 3

RECOVERY, PAYMENT, REPAYMENT AND REMISSION OF THE AMOUNT OF IMPORT OR EXPORT DUTIES

SECTION 1

DETERMINATION OF THE AMOUNT OF IMPORT OR EXPORT DUTIES, NOTIFICATION OF THE CUSTOMS DEBT AND ENTRY IN THE ACCOUNTS

Determination of the amount of import or export duties

Article 88

The amount of import or export duties payable shall be determined by the customs authority responsible for the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 75 of this Law, as soon as it has the necessary information.

Without prejudice to Article 35 of this Law, the customs authority may accept the amount of import or export duties payable determined by the declarant.

Where the amount of import or export duties payable does not result in a whole number, that amount may be rounded up or down to the nearest whole number.

Notification of the customs debt

Article 89

The customs debt shall be notified to the debtor in the form prescribed at the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 75 of this Law.

The notification referred to in paragraph 1 of this Article shall not be made in any of the following cases:

1) where, pending a final determination of the amount of import or export duties, a provisional commercial policy measure taking the form of a duty has been imposed;

2) where the amount of import or export duties payable exceeds that determined on the basis of a decision made in accordance with Article 23 of this Law;

3) where the original decision not to notify the customs debt or to notify it with an amount of import or export duties at a figure less than the amount of import or export duty payable was taken on the basis of general provisions invalidated at a later date by a court decision;

4) where the customs authority is exempted under the customs legislation from notification of the customs debt.

Where the amount of import or export duties payable is equal to the amount entered in the declaration, release of the goods by the customs authority shall be equivalent to notifying the debtor of the customs debt.

Where paragraph 3 of this Article does not apply, the customs debt shall be notified to the debtor by the customs authority when it is in a position to determine the amount of import or export duty payable and take a decision thereon.

Where the notification of the customs debt would prejudice a criminal investigation, the customs authority may defer that notification until such time as it no longer prejudices the criminal investigation.

Provided that payment has been guaranteed, the customs debt corresponding to the total amount of import or export duty relating to all the goods released to one and the same person during a period fixed by the customs authority may be notified at the end of that period. The period fixed by the customs authorities shall not exceed 31 days.

Limitation of the customs debt

Article 90

No customs debt shall be notified to the debtor after the expiry of a period of three years from the date on which the customs debt was incurred.

Where the customs debt is incurred as the result of an act which, at the time it was committed, was liable to give rise to offence or criminal court proceedings, the three-year period laid down in paragraph 1 of this Article shall be extended to a period of 10 years.

The periods laid down in paragraphs 1 and 2 of this Article shall be suspended where:

1) an appeal is lodged in accordance with Article 30 of this Law, from the date on which the appeal is lodged and shall last for the duration of the appeal proceedings; or

2) the customs authority communicates to the debtor, in accordance with Article 17 paragraph 11 of this Law, the grounds on which it intends to notify the customs debt; such suspension shall apply from the date of that communication until the end of the period within which the debtor is given the opportunity to express his or her point of view.

Where a customs debt is reinstated pursuant to Article 102 paragraph 9 of this Law, the periods laid down in paragraphs 1 and 2 of this Article shall be considered as suspended from the date on which the application for repayment or remission was submitted in accordance with Article 107 of this Law, until the date on which the decision on the repayment or remission was taken.

Entry in the accounts

Article 91

The customs authority referred to in Article 88 of this Law shall enter in the accounts, the amount of import or export duty payable as determined in accordance with that Article.

Paragraph 1 of this Article shall not apply in cases referred to in Article 89 paragraph 2 of this Law.

The customs authority need not enter in the accounts amounts of import or export duties which, pursuant to Article 90 of this Law, correspond to a customs debt which could no longer be notified to the debtor.

The Government shall determine the practical procedures for the entry in the accounts of the amounts of import or export duties. Those procedures may differ according to whether, in view of the circumstances in which the customs debt was incurred, the customs authority is satisfied that those amounts will be paid.

Time of entry in the accounts

Article 92

Where a customs debt is incurred as a result of the acceptance of the declaration of goods for a customs procedure, other than temporary admission with partial relief from import duty, or of any other act having the same legal effect as such acceptance, the customs authority shall enter the amount of import or export duties payable in the accounts within two days of the release of the goods.

Provided that payment has been guaranteed, the total amount of import or export duties relating to all the goods released to one and the same person during a period fixed by the customs authority, which may not exceed 31 days, may be covered by a single entry in the accounts at the end of that period. Such entry in the accounts shall take place within two days of the expiry of the period concerned.

Where goods may be released subject to certain conditions which govern either the determination of the amount of import or export duties payable or its collection, entry in the accounts shall take place within two days of the day on which the amount of import or export duties payable is determined or the obligation to pay that duty is fixed.

Where the customs debt relates to a provisional commercial policy measure taking the form of a duty, the amount of import or export duties payable shall be entered in the accounts within two months of the date of publication of the legislation establishing the definitive commercial policy measure.

Where a customs debt is incurred in circumstances not covered by paragraphs 1 and 2 of this Article, the amount of import or export duties payable shall be entered in the accounts within two days of the date on which the customs authority is in a position to determine the amount of import or export duties in question and take a decision.

Paragraph 5 of this Article shall apply with regard to the amount of import or export duties to be recovered or which remains to be recovered where the amount of import or export duties payable has not been entered in the accounts in accordance with paragraphs 1-5 of this Article, or has been determined and entered in the accounts at a level lower than the amount payable.

The time-limits for entry in the accounts laid down in paragraphs 1-5 of this Article shall not apply in unforeseeable circumstances or in cases of force majeure.

The entry in the accounts may be deferred in the case referred to in Article 89 paragraph 5 of this Law, until such time as the notification of the customs debt no longer prejudices a criminal investigation.

Conferral of implementing powers

Article 93

The Government shall prescribe the cases referred to in Article 89 paragraph 2 point 4 of this Law where the customs authority is exempted from notification of the customs debt.

SECTION 2

PAYMENT OF THE AMOUNT OF IMPORT OR EXPORT DUTIES

General time-limits for payment and suspension of the time-limit for payment

Article 94

Amounts of import or export duties, corresponding to a customs debt notified in accordance with Article 89 of this Law, shall be paid by the debtor within the period of eight days.

Without prejudice to Article 31 paragraph 2 of this Law, in the case of aggregation of entries in the accounts under the conditions laid down in Article 92 paragraph 2 of this Law, the period shall be so fixed as not to enable the debtor to obtain a longer period for payment than if he or she had been granted deferred payment in accordance with Article 96 of this Law.

The customs authority may extend the period referred to in paragraph 2 of this Article upon application by the debtor where the amount of import or export duties payable has been determined in the course of post-release control as referred to in Article 35 of this Law. Without prejudice to Article 98 paragraph 1 of this Law, such extensions shall not exceed the time necessary for the debtor to take the appropriate steps to discharge his or her obligation.

If the debtor is entitled to any of the payment facilities laid down in Articles 96-98 of this Law, payment shall be made within the period or periods specified in relation to those facilities.

The time-limit for payment of the amount of import or export duties corresponding to a customs debt shall be suspended in any of the following cases:

- 1) where an application for remission of duty is made in accordance with Article 107 of this Law;
- 2) where goods are to be confiscated, destroyed or abandoned to the State;
- 3) where the customs debt was incurred pursuant to Article 67 of this Law and there is more than one debtor.

Payment

Article 95

Payment shall be made in cash or by any other means with similar discharging effect, including by adjustment of a credit balance, in accordance with legislation.

Payment may be made by a third person instead of the debtor.

The debtor may in any case pay all or part of the amount of import or export duties without awaiting expiry of the period he or she has been granted for payment.

Deferment of payment

Article 96

The customs authority shall, upon application by the person concerned and upon provision of a guarantee, authorise deferment of payment of the duties payable in any of the following ways:

1) separately in respect of each amount of import or export duties entered in the accounts in accordance with Article 92 paragraph 1 or 6 of this Law;

2) globally in respect of all amounts of import or export duties entered in the accounts in accordance with Article 92 paragraph 1 of this Law during a period fixed by the customs authority and not exceeding 31 days;

3) globally in respect of all amounts of import or export duties forming a single entry in accordance with Article 92 paragraph 2 of this Law.

Periods for which payment is deferred

Article 97

The period for which payment is deferred under Article 96 of this Law shall be 30 days.

Where payment is deferred in accordance with Article 96 point 1 of this Law, the period shall begin on the day following that on which the customs debt is notified to the debtor.

Where payment is deferred in accordance with Article 96 point 2 of this Law, the period shall begin on the day following that on which the aggregation period ends. It shall be reduced by the number of days corresponding to half the number of days covered by the aggregation period.

Where payment is deferred in accordance with Article 96 point 3 of this Law, the period shall begin on the day following the end of the period fixed for release of the goods in question. It shall be reduced by the number of days corresponding to half the number of days covered by the period concerned.

Where the number of days in the periods referred to in paragraphs 3 and 4 of this Article is an odd number, the number of days to be deducted from the 30-day period pursuant to those paragraphs shall be equal to half the next lowest even number.

Where the periods referred to in paragraphs 3 and 4 of this Article are weeks, customs authority may provide that the amount of import or export duties in respect of which payment has been deferred is to be paid on the Friday of the fourth week following the week in question at the latest.

If those periods are months, customs authority may provide that the amount of import or export duties in respect of which payment has been deferred is to be paid by the 16th day of the month following the month in question.

Other payment facilities

Article 98

The customs authority may grant the debtor payment facilities other than deferred payment on condition that a guarantee is provided.

Where facilities are granted pursuant to paragraph 1 of this Article, credit interest shall be charged on the amount of import or export duties at a rate equal to the annual discount rate of National Bank of Serbia, increased by five percentage points, by application of simple interest formula.

The customs authority may refrain from requiring a guarantee or from charging credit interest where it is established, on the basis of a documented assessment of the situation of the debtor, that this would create serious economic or social difficulties.

The customs authority shall refrain from charging credit interest where the amount for each recovery action is less than EUR 10 expressed in dinars.

Enforcement of payment

Article 99

Where the amount of import or export duties payable has not been paid within the prescribed period, the customs authority shall secure payment of that amount by all means available to them under the law.

The customs debt shall fall under the statute of limitations five years following the day of its incurrence.

Each activity of the customs authority carried out in an attempt to collect the duty shall interrupt the statute of limitations and the time limit shall run again from the beginning.

Notwithstanding paragraph 2. of this Article, the right of customs authority to collect such debt shall fall under the statute of limitations where 10 years have elapsed from the date on which the customs debt was incurred.

Interest on arrears

Article 100

Interest on arrears shall be charged on the amount of import or export duties from the date of expiry of the prescribed period until the date of payment at a rate equal to the annual discount rate of National Bank of Serbia, increased by 10 percentage points, by application of simple interest formula..

Where the customs debt is incurred on the basis of Article 67 or 70 of this Law, or where the notification of the customs debt results from a post-release control, interest on arrears shall be charged over and above the amount of import or export duties, from the date on which the customs debt was incurred until the date of its notification.

The customs authority may refrain from charging interest on arrears where it is established, on the basis of a documented assessment of the situation of the debtor, that to charge it would create serious economic or social difficulties.

The customs authorities shall refrain from charging interest on arrears where the amount for each recovery action is less than EUR 10 expressed in dinars.

Conferral of implementing powers

Article 101

The Government shall prescribe the rules for the suspension of the time-limit for payment of the amount of import or export duties corresponding to a customs debt referred to in Article 94 paragraph 5 of this Law and the period of suspension.

SECTION 3

REPAYMENT AND REMISSION

General provisions

Article 102

Amounts of import or export duties shall be repaid or remitted on any of the following grounds:

- 1) overcharged amounts of import or export duties;
- 2) defective goods or goods not complying with the terms of the contract;
- 3) error by the competent authorities;
- 4) equity.

Where an amount of import or export duties has been paid and the corresponding declaration is invalidated in accordance with Article 152 of this Law, that amount shall be repaid.

The customs authority shall repay or remit the amount of import or export duties referred to in paragraph 1 of this Article where it is EUR 10 expressed in dinars or more, except where the person concerned requests the repayment or remission of a lower amount.

Where the customs authorities themselves discover within the periods referred to in Article 107 paragraphs 1 and 2 of this Law that an amount of import or export duties is repayable or remissible pursuant to Articles 103, 105 or 106 of this Law, they shall repay or remit on their own initiative.

No repayment or remission shall be granted when the situation which led to the notification of the customs debt results from deception by the debtor.

Repayment shall not give rise to the payment of interest by the customs authority concerned.

Interest shall be paid where a decision granting repayment is not implemented within three months of the date on which that decision was taken, unless the failure to meet the deadline was outside the control of the customs authority.

In cases referred to in paragraph 7 of this Article, the interest shall be paid from the date of expiry of the three-month period until the date of repayment. The rate of interest shall be established in accordance with Article 98 of this Law.

Where the customs authority has granted repayment or remission in error, the original customs debt shall be reinstated insofar as it is not time-barred under Article 90 of this Law.

In cases referred to in paragraph 9 of this Article, any interest paid under paragraph 7 of this Article shall be reimbursed.

Overcharged amounts of import or export duty

Article 103

An amount of import or export duties shall be repaid or remitted insofar as the amount corresponding to the customs debt initially notified exceeds the amount payable, or the customs debt was notified to the debtor contrary to Article 89 paragraph 2 points 3 or 4 of this Law.

Where the application for repayment or remission is based on the existence, at the time when the declaration for release for free circulation was accepted, of a reduced or zero rate of import duty on the goods under a tariff quota, a tariff ceiling or other favourable tariff measures, repayment or remission shall be granted provided that, at the time of lodging the application accompanied by the necessary documents, either of the following conditions are fulfilled:

- 1) in the case of a tariff quota, its volume has not been exhausted;
- 2) in other cases, the rate of duty normally due has not been re-established.

Defective goods or goods not complying with the terms of the contract

Article 104

An amount of import duty shall be repaid or remitted if the notification of the customs debt relates to goods which have been rejected by the importer because, at the time of release, they were defective or did not comply with the terms of the contract on the basis of which they were imported.

Defective goods shall be deemed to include goods damaged before their release.

Repayment or remission shall not be granted where:

1) the goods, before being released for free circulation, were placed under a special procedure for testing, unless it is established that the fact that the goods were defective or did not comply with the terms of the contract could not normally have been detected in the course of such tests;

2) the defective nature of the goods was taken into consideration in drawing up the terms of the contract, in particular the price, before the goods were placed under a customs procedure involving the incurrance of a customs debt; or

3) the goods are sold by the applicant after it has been ascertained that they are defective or do not comply with the terms of the contract.

Notwithstanding paragraph 3 of this Article, repayment or remission shall be granted provided the goods have not been used, except for such initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract and provided they are taken out of the customs territory of the Republic of Serbia.

Instead of being taken out of the customs territory of the Republic of Serbia, and upon application by the person concerned, the customs authority shall authorise that the goods be placed under the inward processing procedure, including for destruction, or the external transit, the customs warehousing or the free zone procedure.

Error by the competent authorities

Article 105

In cases other than those referred to in Article 102 paragraph 2 and in Articles 103, 104 and 106 of this Law, an amount of import or export duties shall be repaid or remitted where, as a result of an error on the part of the competent authorities, the amount corresponding to the customs debt initially notified was lower than the amount payable, provided the following conditions are met:

- 1) the debtor could not reasonably have detected that error; and
- 2) the debtor was acting in good faith.

Where the conditions laid down in Article 103 paragraph 2 of this Law are not fulfilled, repayment or remission shall be granted where failure to apply the reduced or zero rate of duty was as a result of an error on the part of the customs authority and the declaration for release for free circulation contained all the particulars and was accompanied by all the documents necessary for application of the reduced or zero rate.

Where the preferential treatment of the goods is granted on the basis of a system of administrative cooperation involving the authorities of a country or territory outside the customs territory of the Republic of Serbia, the issue of a certificate by those authorities, should it prove to be incorrect, shall constitute an error which could not reasonably have been detected within the meaning of paragraph 1 point 1 of this Article.

The issue of an incorrect certificate shall not, however, constitute an error where the certificate is based on an incorrect account of the facts provided by the exporter, except where it is evident that the issuing authorities were aware or should have been aware that the goods did not satisfy the conditions laid down for entitlement to the preferential treatment.

The debtor shall be considered to be in good faith if he or she can demonstrate that, during the period of the trading operations concerned, he or she has taken due care to ensure that all the conditions for the preferential treatment have been fulfilled.

The debtor may not rely on a plea of good faith if notice was published in the official gazette stating that there are grounds for doubt concerning the proper application of the preferential arrangements by the beneficiary country or territory.

Equity

Article 106

In cases other than those referred to in Article 102 paragraph 2 and in Articles 103, 104 and 105 of this Law an amount of import or export duties shall be repaid or remitted in the interest of equity where a customs debt is incurred under special circumstances in which no deception or obvious negligence may be attributed to the debtor.

The Government shall prescribe the cases in which the special circumstances referred to in paragraph 1 of this Article shall be deemed to exist where it is clear from the circumstances of the case that the debtor is in an exceptional situation as compared with other operators engaged in the same business, and that, in the absence of such circumstances, he or she would not have suffered disadvantage by the collection of the amount of import or export duty.

Procedure for repayment and remission

Article 107

Applications for repayment or remission in accordance with Article 102 of this Law shall be submitted to the customs authority within the following periods:

1) in the case of overcharged, amounts of import or export duties, error by the competent authorities or equity, within three years of the date of notification of the customs debt;

2) in the case of defective goods or goods not complying with the terms of the contract, within one year of the date of notification of the customs debt;

3) in the case of invalidation of a declaration, within the period specified in the rules applicable to invalidation.

The period specified in points 1 and 2 of paragraph 1 of this Article shall be extended where the applicant provides evidence that he or she was prevented from submitting an application within the prescribed period as a result of unforeseeable circumstances or force majeure.

Where the customs authority is not in a position, on the basis of the grounds adduced, to grant repayment or remission of an amount of import or export duties, it is required to examine the merits of an application for repayment or remission in the light of the other grounds for repayment or remission referred to in Article 102 of this Law.

Where an appeal has been lodged under Article 30 of this Law against the notification of the customs debt, the relevant period specified in paragraph 1 of this Article shall be suspended, from the date on which the appeal is lodged, for the duration of the appeal proceedings.

Conferral of implementing powers

Article 108

The Government shall prescribe the procedure for repayment and remission, as referred to in Article 102 of this Law.

CHAPTER 4

EXTINGUISHMENT OF A CUSTOMS DEBT

Extinguishment

Article 109

Without prejudice to the provisions in force relating to non-recovery of the amount of import or export duties corresponding to a customs debt in the event of the judicially established insolvency of the debtor, a customs debt on import or export shall be extinguished in any of the following ways:

1) where the debtor can no longer be notified of the customs debt, in accordance with Article 90 of this Law;

2) by payment of the amount of import or export duty;

3) subject to paragraph 5 of this Article, by remission of the amount of import or export duties;

4) where, in respect of goods declared for a customs procedure entailing the obligation to pay import or export duty, the declaration is invalidated;

5) where goods liable to import or export duties are confiscated or seized and simultaneously or subsequently confiscated;

6) where goods liable to import or export duties are destroyed under customs supervision or abandoned to the State;

7) where the disappearance of the goods or the non-fulfilment of obligations arising from the customs legislation results from the total destruction or irretrievable loss of those goods as a result of the actual nature of the goods or unforeseeable circumstances or force majeure, or as a consequence of instruction by the customs authorities. Goods shall be considered as irretrievably lost when they have been rendered unusable by any person;

8) where the customs debt was incurred pursuant to Article 67 or 70 of this Law and where the following conditions are fulfilled:

(1) the failure which led to the incurrence of a customs debt had no significant effect on the correct operation of the customs procedure concerned and did not constitute an attempt at deception;

(2) all of the formalities necessary to regularise the situation of the goods are subsequently carried out;

9) where goods released for free circulation duty-free, or at a reduced rate of import duty by virtue of their end-use, have been exported with the permission of the customs authorities;

10) where it was incurred pursuant to Article 66 of this Law and where the formalities carried out in order to enable the preferential tariff treatment referred to in that Article to be granted are cancelled;

11) where the customs debt was incurred pursuant to Article 67 of this Law and evidence is provided to the satisfaction of the customs authority that the goods have not been used or consumed and have been taken out of the customs territory of the Republic of Serbia.

In the cases referred to in paragraph 1 point 5 of this Article, the customs debt shall, nevertheless, for the purposes of penalties applicable to customs offences, be deemed not to have been extinguished where, import or export duties or the existence of a customs debt provide the basis for determining penalties.

Where, in accordance with paragraph 1 point 7 of this Article, a customs debt is extinguished in respect of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use, any scrap or waste resulting from their destruction shall be deemed to be non-domestic goods.

The provisions in force pertaining to standard rates for irretrievable loss due to the nature of goods shall apply where the person concerned fails to show that the real loss exceeds that calculated by applying the standard rate for the goods in question.

Where several persons are liable for payment of the amount of import or export duties corresponding to the customs debt and remission is granted, the customs debt shall be extinguished only in respect of the person or persons to whom the remission is granted.

In the case referred to in paragraph 1 point 11 of this Article, the customs debt shall not be extinguished in respect of any person or persons who attempted deception.

Where the customs debt was incurred pursuant to Article 67 of this Law, it shall be extinguished with regard to the person whose behaviour did not involve any attempt at deception and who contributed to the fight against fraud.

Application of penalties

Article 110

Where the customs debt is extinguished on the basis of Article 109 paragraph 1 point 8 of this Law, it shall not preclude the application of penalties for failure to comply with the customs legislation.

Conferral of implementing powers

Article 111

The Government shall prescribe the list of failures with no significant effect on the correct operation of the customs procedure concerned and to supplement Article 109 paragraph 1 point 8 subpoint 1 of this Law.

TITLE IV

GOODS BROUGHT INTO THE CUSTOMS TERRITORY

CHAPTER 1

ENTRY SUMMARY DECLARATION

Lodging of an entry summary declaration

Article 112

Goods brought into the customs territory of the Republic of Serbia shall be covered by an entry summary declaration.

Notwithstanding of paragraph 1 of this Article, the entry summary declaration shall not be presented:

- 1) for means of transport and the goods carried thereon only passing through the airspace of the Republic of Serbia without a stop; and
- 2) in other cases, where duly justified by the type of goods or traffic, or where required by international agreements.

The entry summary declaration shall be lodged at the customs authority of first entry within a specific time-limit, before the goods are brought into the customs territory of the Republic of Serbia.

Customs authority may allow the entry summary declaration to be lodged at another customs authority, provided that the latter immediately communicates or makes available electronically the necessary particulars to the customs authority of first entry.

The entry summary declaration shall be lodged by the carrier.

Notwithstanding the obligations of the carrier, the entry summary declaration may be lodged instead by one of the following persons:

- 1) the importer or consignee or other person in whose name or on whose behalf the carrier acts;
- 2) any person who is able to present the goods in question or have them presented at the customs office of entry.

The entry summary declaration shall contain the particulars necessary for risk analysis for security and safety purposes.

In specific cases, where all the particulars referred to in paragraph 5 of this Article cannot be obtained from the persons referred to in paragraph 4 of this Article, other persons holding those particulars and the appropriate rights to provide them may be required to provide those particulars.

Customs authority may accept that commercial, port or transport information systems are used for the lodging of an entry summary declaration provided such systems contain the necessary particulars for such declaration and those particulars are available within a specific time-limit, before the goods are brought into the customs territory of the Republic of Serbia.

Customs authority may accept, instead of the lodging of the entry summary declaration, the lodging of a notification and access to the particulars of an entry summary declaration in the economic operator's computer system.

Risk analysis

Article 113

The customs authority referred to in Article 112 paragraphs 3 and 4 of this Law shall, within a specific time-limit, ensure that a risk analysis is carried out, primarily for security and safety purposes, on the basis of the entry summary declaration referred to in Article 112 paragraph 1 of this Law, or the particulars referred to in Article 112 paragraph 9 of this Law and shall take the necessary measures based on the results of that risk analysis.

Amendment and invalidation of an entry summary declaration

Article 114

The declarant may, upon application, be permitted to amend one or more particulars of the entry summary declaration after it has been lodged.

No amendment shall be possible after any of the following:

- 1) the customs authority have informed the person who lodged the entry summary declaration that they intend to examine the goods;
- 2) the customs authority have established that the particulars of the entry summary declaration are incorrect;

3) the goods have already been presented to customs authority.

When the goods for which an entry summary declaration has been lodged are not brought into the customs territory of the Republic of Serbia, the customs authority shall invalidate that declaration in either of the following cases:

- 1) upon application by the declarant;
- 2) within 200 days after the lodging of the declaration.

Declarations lodged instead of an entry summary declaration

Article 115

The customs authority referred to in Article 112 paragraphs 3 and 4 of this Law may waive the lodging of an entry summary declaration in respect of goods for which, prior to the expiry of the time-limit for lodging that declaration, a customs declaration is lodged. In that case, the customs declaration shall contain at least the particulars necessary for the entry summary declaration. Until such time as the customs declaration is accepted in accordance with Article 150 of this Law, it shall have the status of an entry summary declaration.

The customs authority referred to in Article 112 paragraphs 3 and 4 of this Law may waive the lodging of an entry summary declaration in respect of goods for which, prior to the expiry of the time-limit for lodging that declaration, a temporary storage declaration is lodged. That declaration shall contain at least the particulars necessary for the entry summary declaration. Until such time as the goods declared are presented to customs authority in accordance with Article 123 of this Law, the temporary storage declaration shall have the status of an entry summary declaration.

Conferral of implementing powers

Article 116

The Government shall prescribe:

- 1) the cases where the obligation to lodge an entry summary declaration is waived, in accordance with Article 112 paragraph 2 point 2 of the of this Law;
- 2) the specific time-limit referred to in Article 112 paragraphs 3,4 and 8 of this Law, within which the entry summary declaration is to be lodged before the goods are brought into the customs territory of the Republic of Serbia, taking into account the type of goods or traffic;
- 3) the cases referred to in Article 112 paragraph 7 of the of this Law and the other persons who may be required to provide particulars of the entry summary declaration in those cases.
- 4) the procedural rules for lodging the entry summary declaration referred to in Article 112 of this Law;
- 5) the procedural rules and the provision of particulars of the entry summary declaration by the other persons referred to in Article 112 paragraph 7 of the of this Law;
- 6) the time-limit within which a risk analysis is to be carried out and the necessary measures to be taken, in accordance with Article 113 of this Law;
- 7) the procedural rules for amending the entry summary declaration, in accordance with Article 114 paragraphs 1 and 2 of the of this Law;

8) the procedural rules for invalidating the entry summary declaration in accordance with Article 114 paragraph 3 of the of this Law, taking into account the proper management of the entry of the goods.

CHAPTER 2
ARRIVAL OF GOODS

SECTION 1
ENTRY OF GOODS INTO THE CUSTOMS TERRITORY OF THE
REPUBLIC OF SERBIA

Notification of arrival of an aircraft

Article 117

The operator of an aircraft entering the customs territory of the Republic of Serbia shall notify the arrival to the customs office of first entry upon arrival of the means of transport.

Where information on arrival of an aircraft is available to the customs authority they may waive the notification referred to in the paragraph 1 of this Article.

Customs authority may accept that airport systems or other available methods of information be used to notify the arrival of the means of transport.

Customs supervision

Article 118

Goods brought into the customs territory of the Republic of Serbia shall, from the time of their entry, be subject to customs supervision and may be subject to customs controls. Where applicable, they shall be subject to such prohibitions and restrictions as are justified on grounds of, inter alia, public morality, public policy or public security, the protection of the health and life of humans, animals or plants, the protection of the environment, the protection of national treasures possessing artistic, historic or archaeological value and the protection of industrial or commercial property, including controls on drug precursors, goods infringing certain intellectual property rights and cash, as well as to the implementation of fishery conservation and management measures and of commercial policy measures.

The goods referred to in paragraph 1 of this Article shall remain under customs supervision for as long as is necessary to determine their customs status and shall not be removed therefrom without the permission of the customs authority.

Without prejudice to Article 218 of this Law, domestic goods shall not be subject to customs supervision once their customs status is established.

Non-domestic goods shall remain under customs supervision until their customs status is changed, or they are taken out of the customs territory of the Republic of Serbia or destroyed.

The holder of goods under customs supervision may, with the permission of the customs authority, at any time examine the goods or take samples, in particular in order to determine their tariff classification, customs value or customs status.

Conveyance to the appropriate place

Article 119

The person who brings goods into the customs territory of the Republic of Serbia shall convey them without delay, by the route specified by the customs authority and in accordance with its instructions, if any, to the customs office designated by the customs authority, or to any other place designated or approved by this authority, or into a free zone.

Goods brought into a free zone shall be brought into that free zone directly, either by waterway or air or, if by land, without passing through another part of the customs territory of the Republic of Serbia, where the free zone adjoins the land frontier between the Republic of Serbia and an other country.

Any person who assumes responsibility for the carriage of goods after they have been brought into the customs territory of the Republic of Serbia shall become responsible for compliance with the obligations laid down in paragraphs 1 and 2 of this Article.

Goods which, although still outside the customs territory of the Republic of Serbia, may be subject to customs controls as a result of an agreement concluded with the other country or territory outside the customs territory of the Republic of Serbia, shall be treated in the same way as goods brought into the customs territory of the Republic of Serbia.

Paragraphs 1 and 2 of this Article shall not preclude application of special rules with respect to goods transported within frontier zones or in pipelines and wires as well as for traffic of negligible economic importance such as letters, postcards and printed matter and their electronic equivalents held on other media or to goods carried by travellers, provided that customs supervision and customs control possibilities are not thereby jeopardised.

Paragraph 1 of this Article shall not apply to means of transport and goods carried thereon only passing through the airspace of the customs territory of the Republic of Serbia without a stop within that territory.

Goods that have temporarily left the customs territory of the Republic of Serbia by air

Article 120

Articles 112 to 115 and Article 117 of this Law shall not apply in cases where non-domestic goods are brought into the customs territory of the Republic of Serbia after having temporarily left that territory by air and having been carried by direct route without a stop outside the customs territory of the Republic of Serbia.

Articles 112 to 115 and Article 117 of this Law shall not apply in cases where domestic goods the customs status of which needs to be proven pursuant to Article 135 paragraph 2 of this Law are brought into the customs territory after having temporarily left that territory by air and having been carried by direct route without a stop outside the customs territory.

Articles 112 to 115, 117, 123 and 124 of this Law shall not apply in cases where domestic goods which move without alteration of their customs status in accordance with Article 137 paragraph 2 of this Law are brought into the customs territory after having temporarily left that territory by air and having been carried by direct route without a stop outside the customs territory.

Conveyance under special circumstances

Article 121

Where, by reason of unforeseeable circumstances or force majeure, the obligation laid down in Article 119 paragraph 1 of this Law cannot be complied with, the person bound by that obligation or any other person acting on that person's behalf shall inform the customs authority of the situation without delay. Where the unforeseeable circumstances or force majeure do not result in total loss of the goods, the customs authority shall also be informed of their precise location.

Where, by reason of unforeseeable circumstances or force majeure, an aircraft covered by Article 119 paragraph 6 of this Law is forced to put into land temporarily in the customs territory of the Republic of Serbia and the obligation laid down in Article 119 paragraph 1 of this Law cannot be complied with, the person who brought the aircraft into the customs territory of the Republic of Serbia, or any other person acting on that person's behalf, shall inform the customs authority of the situation without delay.

The customs authority shall determine the measures to be taken in order to permit customs supervision of the goods referred to in paragraph 1 of this Article, or of the aircraft and any goods thereon in the circumstances specified in paragraph 2 of this Article, and to ensure, where appropriate, that they are subsequently conveyed to the customs office or other place designated or approved by the authority.

Conferral of implementing powers

Article 122

The Government shall prescribe the manner and procedure of the notification of arrival referred to in Article 117 of this Law as well as the procedure of the conveyance of goods referred to in Article 119 paragraph 5 of this Law.

SECTION 2

PRESENTATION, UNLOADING AND EXAMINATION OF GOODS

Presentation of goods to the customs office

Article 123

Goods brought into the customs territory of the Republic of Serbia shall be presented immediately upon their arrival at the designated customs office or any other place designated or approved by the customs authority or in the free zone by one of the following persons:

- 1) the person who brought the goods into the customs territory of the Republic of Serbia;
- 2) the person in whose name or on whose behalf the person who brought the goods into customs territory of the Republic of Serbia acts;
- 3) the person who assumed responsibility for carriage of the goods after they were brought into the customs territory of the Republic of Serbia.

Goods which are brought into the customs territory of the Republic of Serbia by waterway or air and which remain on board the same means of transport for carriage, shall be

presented to the customs office only at the port or airport where they are unloaded or transhipped. However, goods brought into the customs territory of the Republic of Serbia which are unloaded and reloaded onto the same means of transport during its voyage in order to enable the unloading or loading of other goods, shall not be presented to the customs office at that port or airport.

Notwithstanding the obligations of the person described in paragraph 1 of this Article, presentation of the goods may be effected instead by one of the following persons:

- 1) any person who immediately places the goods under a customs procedure;
- 2) the holder of an authorisation for the operation of storage facilities or any person who carries out an activity in a free zone.

The person presenting the goods shall make a reference to the entry summary declaration or, in the cases referred to in Article 115 of this Law, the customs declaration or temporary storage declaration which has been lodged in respect of the goods, except where the obligation to lodge an entry summary declaration is waived.

Where non-domestic goods presented to customs are not covered by an entry summary declaration, and except where the obligation to lodge such declaration is waived, one of the persons referred to in Article 112 paragraph 5 of this Law shall, without prejudice to Article 112 paragraph 7 of this Law, lodge immediately such declaration or shall instead lodge a customs declaration or temporary storage declaration.

Paragraph 1 of this Article shall not preclude application of special rules with respect to goods transported within frontier zones or in pipelines and wires as well as for traffic of negligible economic importance such as letters, postcards and printed matter and their electronic equivalents held on other media or to goods carried by travellers, provided that customs supervision and customs control possibilities are not thereby jeopardised.

Goods presented to the customs office shall not be removed from the place where they have been presented without the permission of the customs authority.

Unloading and examination of goods

Article 124

Goods shall be unloaded or trans-shipped from the means of transport carrying them solely with the authorisation of the customs authority in places designated or approved by this authority.

The authorisation referred to in paragraph 1 of this Article shall not be required in the event of an imminent danger necessitating the immediate unloading of all or part of the goods. In that case, the customs authority shall immediately be informed accordingly.

The customs authority may at any time require goods to be unloaded and unpacked for the purpose of examining them, taking samples or examining the means of transport carrying them.

Goods moved under transit

Article 125

Article 119 paragraphs 2 to 6, Articles 123, 124 and Articles 127 to 132 of this Law shall not apply when goods already under a transit procedure are brought into the customs territory of the Republic of Serbia.

Article 124 and Articles 127 to 132 of this Law shall apply to non-domestic goods moved under a transit procedure, once such goods have been presented to the customs office of destination in the customs territory of the Republic of Serbia in accordance with the rules governing the transit procedure.

Conferral of implementing powers

Article 126

The Government shall prescribe conditions for approving the other places for the presentation of the goods referred to in Article 123 paragraph 1 of this Law and manner of the presentation of the goods to the customs office referred to in Article 123 of this Law.

SECTION 3

TEMPORARY STORAGE OF GOODS

Goods in temporary storage

Article 127

Non-domestic goods shall be in temporary storage from the moment they are presented to the customs office.

Temporary storage declaration

Article 128

Non-domestic goods presented to the customs office shall be covered by a temporary storage declaration containing all the particulars necessary for the application of the provisions governing temporary storage.

Documents related to goods in temporary storage shall be provided to the customs authority where legislation so requires or where necessary for customs controls.

The temporary storage declaration shall be lodged by one of the persons referred to in Article 123 paragraphs 1 or 3 of this Law at the latest at the time of the presentation of the goods to the customs office.

The temporary storage declaration shall, unless the obligation to lodge an entry summary declaration is waived, include a reference to any entry summary declaration lodged for the goods presented to the customs office, except where they have already been in temporary storage or have been placed under a customs procedure and have not left the customs territory of the Republic of Serbia.

Customs authority may accept that the temporary storage declaration also takes one of the following forms:

1) a reference to any entry summary declaration lodged for the goods concerned, supplemented by the particulars of a temporary storage declaration;

2) a manifest or another transport document, provided that it contains the particulars of a temporary storage declaration, including a reference to any entry summary declaration for the goods concerned.

Customs authority may accept that commercial, port or transport information systems are used to lodge a temporary storage declaration provided that they contain the necessary particulars for such declaration and these particulars are available in accordance with paragraph 3 of this Article.

Articles 162 to 167 of this Law shall apply to the temporary storage declaration.

The temporary storage declaration may be used also for the purpose of:

1) the notification of arrival referred to in Article 117 of this Law; or

2) the presentation of the goods to the customs office referred to in Article 123 of this Law, insofar as it fulfils the conditions laid down in those provisions.

A temporary storage declaration shall not be required where, at the latest at the time of the presentation of the goods to the customs office, their customs status as domestic goods is determined in accordance with Articles 135 to 138 of this Law.

The temporary storage declaration shall be kept by, or be accessible to, the customs authority for the purpose of verifying that the goods to which it relates are subsequently placed under a customs procedure or re-exported in accordance with Article 132 of this Law.

For the purpose of paragraphs 1 to 10 of this Article, where non-domestic goods moved under a transit procedure are presented to the customs office of destination within the customs territory of the Republic of Serbia, the particulars for the transit operation concerned shall be deemed to be the temporary storage declaration, provided they meet the requirements for that purpose. However, the holder of the goods may lodge a temporary storage declaration after the end of the transit procedure.

Amendment and invalidation of a temporary storage declaration

Article 129

The declarant shall, upon application, be permitted to amend one or more particulars of the temporary storage declaration after it has been lodged. The amendment shall not render the declaration applicable to goods other than those which it originally covered.

No amendment shall be possible after any of the following:

1) the customs authority have informed the person who lodged the declaration that they intend to examine the goods;

2) the customs authority have established that particulars of the declaration are incorrect.

Where the goods for which a temporary storage declaration has been lodged are not presented to the customs office, the customs authority shall invalidate that declaration in either of the following cases:

1) upon application by the declarant;

2) within 30 days after the lodging of the declaration.

Conditions and responsibilities for the temporary storage of goods

Article 130

Goods in temporary storage shall be stored only in temporary storage facilities in accordance with Article 131 of this Law or, where justified, in other places designated or approved by the customs authority.

Without prejudice to Article 118 paragraph 5 of this Law, goods in temporary storage shall be subject only to such forms of handling as are designed to ensure their preservation in an unaltered state without modifying their appearance or technical characteristics.

The holder of the authorisation referred to in Article 131 of this Law or the person storing the goods in the cases where the goods are stored in other places designated or approved by the customs authority, shall be responsible for all of the following:

- 1) ensuring that goods in temporary storage are not removed from customs supervision;
- 2) fulfilling the obligations arising from the storage of goods in temporary storage.

Where, for any reason, goods cannot be maintained in temporary storage, the customs authority shall without delay take all measures necessary to regularise the situation of the goods in accordance with Articles 171, 172 and 173 of this Law.

Authorisation for the operation of temporary storage facilities

Article 131

An authorisation from the customs authority shall be required for the operation of temporary storage facilities. Such authorisation shall not be required where the operator of the temporary storage facility is the customs authority itself.

The conditions under which the operation of temporary storage facilities is permitted shall be set out in the authorisation.

The authorisation referred to in paragraph 1 of this Article shall be granted only to persons who satisfy all of the following conditions:

- 1) they are established in the customs territory of the Republic of Serbia;
- 2) they provide the necessary assurance of the proper conduct of the operations; an authorised economic operator for customs simplifications shall be deemed to fulfil that condition insofar as the operation of temporary storage facilities is taken into account in the authorisation referred to in Article 27 paragraph 3 point 1 of this Law;
- 3) they provide a guarantee in accordance with Article 77 of this Law.

Where a comprehensive guarantee is provided, compliance with the obligations attached to that guarantee shall be monitored by appropriate audit.

The authorisation referred to in paragraph 1 of this Article shall be granted only where the customs authorities are able to exercise customs supervision without having to introduce administrative arrangements which are disproportionate to the economic needs involved.

The holder of the authorisation shall keep appropriate records in a form approved by the customs authority.

The records shall contain the information and the particulars which enable the customs authority to supervise the operation of the temporary storage facilities, in particular with regard to the identification of the goods stored, their customs status and their movements.

An authorised economic operator for customs simplifications shall be deemed to comply with the obligation referred to in the paragraphs 6 and 7 of this Article, insofar as his or her records are appropriate for the purpose of the operation of temporary storage.

The customs authority may authorise the holder of the authorisation to move goods in temporary storage between different temporary storage facilities under the condition that such movements would not increase the risk of fraud, as follows:

- 1) such movement takes place under the responsibility of one customs authority;
- 2) such movement is covered by only one authorisation, issued to an authorised economic operator for customs simplifications; or
- 3) in other cases of movement.

The customs authority may, where an economic need exists and customs supervision will not be adversely affected, authorise the storage of domestic goods in a temporary storage facility. Those goods shall not be regarded as goods in temporary storage.

Duration of temporary storage

Article 132

Non-domestic goods in temporary storage shall be placed under a customs procedure or re-exported within 90 days.

Choice of a customs procedure

Article 133

Except where otherwise provided, the declarant shall be free to choose the customs procedure under which to place the goods, under the conditions for that procedure, irrespective of their nature or quantity, or their country of origin, consignment or destination.

Conferral of implementing powers

Article 134

The Government shall prescribe:

- 1) the manner of lodging the temporary storage declaration referred to in Article 128 of this Law;

2) the manner of amending the temporary storage declaration, in accordance with Article 129 paragraphs 1 and 2 of this Law;

3) the manner of invalidating the temporary storage declaration, in accordance with Article 129 paragraph 3 of this Law;

4) the conditions for approving the other places for temporary storage of goods referred to in Article 130 paragraph 1 of this Law;

5) the conditions for granting the authorisation for the operation of temporary storage facilities, referred to in Article 131 of this Law;

6) in more details conditions of movement of goods in temporary storage referred to in Article 131 paragraph 9 of of this Law;

7) the cases of movement referred to in Article 131 paragraph 9 point 3 of of this Law.

TITLE V

GENERAL RULES ON CUSTOMS STATUS, PLACING GOODS UNDER A CUSTOMS PROCEDURE, VERIFICATION, RELEASE AND DISPOSAL OF GOODS

CHAPTER 1

CUSTOMS STATUS OF GOODS

Customs status of domestic goods

Article 135

All goods in the customs territory of the Republic of Serbia shall be presumed to have the customs status of domestic goods, unless it is established that they are non-domestic goods.

In specific cases, where the presumption laid down in paragraph 1 of this Article does not apply, the customs status of domestic goods shall need to be proven.

In specific cases, goods wholly obtained in the customs territory of the Republic of Serbia do not have the customs status of domestic goods if they are obtained from goods in temporary storage or placed under the external transit procedure, a storage procedure, the temporary admission procedure or the inward processing procedure.

Loss of customs status of domestic goods

Article 136

Domestic goods shall become non-domestic goods in the following cases:

1) where they are taken out of the customs territory of the Republic of Serbia, insofar as the rules on internal transit do not apply;

2) where they have been placed under the external transit procedure, a storage procedure or the inward processing procedure, insofar as the customs legislation so allows;

3) where they have been placed under the end-use procedure and are either subsequently abandoned to the State, or are destroyed and waste remains;

4) where the declaration for release for free circulation is invalidated after release of the goods.

Domestic goods leaving the customs territory of the Republic of Serbia temporarily

Article 137

In the cases referred to in Article 196 paragraph 2 points 2 to 5 of this Law, goods shall keep their customs status as domestic goods only if that status is established under certain conditions and by means laid down in the customs legislation.

In specific cases, domestic goods may move, without being subject to a customs procedure, from one point to another within the customs territory of the Republic of Serbia and temporarily out of that territory without alteration of their customs status.

Conferral of implementing powers

Article 138

The Government shall prescribe conditions for the provision and verification of the proof of the customs status of domestic goods, as well as:

1) the cases where the presumption laid down in Article 135 paragraph 2 of this Law does not apply;

2) the conditions for granting facilitation in the establishment of the proof of customs status of domestic goods;

3) the cases where the goods referred to in Article Article 135 paragraph 3 of this Law do not have the customs status of domestic goods;

4) the cases where the customs status of goods referred to in Article Article 137 paragraph 2 of this Law is not altered.

CHAPTER 2

PLACING GOODS UNDER A CUSTOMS PROCEDURE

SECTION 1

GENERAL PROVISIONS

Declaration of goods and customs supervision of domestic goods

Article 139

All goods intended to be placed under a customs procedure, except for the free zone procedure, shall be covered by a customs declaration appropriate for the particular procedure.

In specific cases, other than those referred to in Article 5 paragraph 3 of this Law, a customs declaration may be lodged using means other than electronic data-processing techniques.

Domestic goods declared for export, internal transit or outward processing shall be subject to customs supervision from the time of acceptance of the declaration referred to in paragraph 1 of this Article until such time as they are taken out of the customs territory of the Republic of Serbia or are abandoned to the State or destroyed or the customs declaration is invalidated.

Competent customs offices

Article 140

Except where otherwise provided, the competent customs office for placing the goods under a customs procedure shall be the customs office responsible for the place where the goods are presented to customs.

Conferral of implementing powers

Article 141

The Government shall prescribe:

1) the cases and manner of placing goods in customs procedure by oral declaration or by other actions, in accordance with Article 139 paragraph 2 of the of this Law

2) the competence of the customs offices in the cases other than the one referred to in Article 140 of the of this Law, including customs offices of entry and customs offices of exit;

The Minister may determine the customs authorities competent for clearance of certain types of goods or administration of certain procedures.

SECTION 2

STANDARD DECLARATIONS

Content of a standard declaration

Article 142

Standard customs declarations shall contain all the particulars necessary for application of the provisions governing the customs procedure for which the goods are declared.

Supporting documents

Article 143

The supporting documents required for the application of the provisions governing the customs procedure for which the goods are declared shall be in the declarant's possession and at the disposal of the customs authorities at the time when the customs declaration is lodged.

Supporting documents shall be provided to the customs authority where legislation so requires or where necessary for customs controls.

In specific cases, economic operators may draw up the supporting documents provided they are authorised to do so by the customs authority.

The Government shall prescribe the conditions for granting the authorisation referred to in paragraph 3 of this Article.

Prescribing the form and content of the declaration and other forms

Article 144

The Minister shall prescribe the form, content and manner of lodging and completing of the customs declaration and other declarations and forms used in the customs procedure.

SECTION 3

S I M P L I F I C A T I O N S

Simplified declaration

Article 145

The customs authority may accept that a person has goods placed under a customs procedure on the basis of a simplified declaration which may omit certain of the particulars referred to in Article 142 of this Law or the supporting documents referred to in Article 143 of this Law.

The regular use of a simplified declaration referred to in paragraph 1 of this Article shall be subject to an authorisation from the customs authority.

Supplementary declaration

Article 146

In the case of a simplified declaration pursuant to Article 145 of this Law or of an entry in the declarant's records pursuant to Article 158 of this Law, the declarant shall lodge a supplementary declaration containing the particulars necessary for the customs procedure concerned at the competent customs office within a specific time-limit.

In the case of a simplified declaration pursuant to Article 145 of this Law, the necessary supporting documents shall be in the declarant's possession and at the disposal of the customs authority within a specific time-limit.

The supplementary declaration may be of a general, periodic or recapitulative nature.

The obligation to lodge a supplementary declaration shall be waived in the following cases:

- 1) where the goods are placed under a customs warehousing procedure;
- 2) in other specific cases.

The customs authority may waive the requirement to lodge a supplementary declaration where the following conditions apply:

- 1) the simplified declaration concerns goods the value and quantity of which is below the statistical threshold;
- 2) the simplified declaration already contains all the information needed for the customs procedure concerned; and
- 3) the simplified declaration is not made by entry in the declarant's records.

The simplified declaration referred to in Article 145 of this Law or the entry in the declarant's records referred to in Article 158 of this Law, and the supplementary declaration shall be deemed to constitute a single, indivisible instrument taking effect, respectively, on the date on which the simplified declaration is accepted in accordance with Article 150 of this Law and on the date on which the goods are entered in the declarant's records.

The place where the supplementary declaration is to be lodged shall be deemed, for the purposes of Article 75 of this Law, to be the place where the customs declaration has been lodged.

Conferral of implementing powers

Article 147

The Government shall prescribe:

- 1) the conditions for granting the authorisation referred to in Article 145 paragraph 2 of this Law;
- 2) the specific time-limit referred to in the first point of Article 146 paragraph 1 of this Law within which the supplementary declaration is to be lodged;
- 3) the specific time-limit referred to in Article 146 paragraph 2 of this Law within which supporting documents are to be in the possession of the declarant;
- 4) the specific cases where the obligation to lodge a supplementary declaration is waived in accordance with Article 146 paragraph 4 point 2 of this Law;
- 5) the manner of lodging of the simplified declaration referred to in Article 145 of this Law;
- 6) the manner of lodging and time-limit of lodging of the supplementary declaration referred to in Article 146 of this Law.

SECTION 4

PROVISIONS APPLYING TO ALL DECLARATIONS

Lodging a declaration

Article 148

Without prejudice to Article 146 paragraphs 1, 2 and 3 of this Law, a customs declaration may be lodged by any person who is able to provide all of the information which

is required for the application of the provisions governing the customs procedure in respect of which the goods are declared. That person shall also be able to present the goods in question or to have them presented to the customs office.

However, where acceptance of a customs declaration imposes particular obligations on a specific person, that declaration shall be lodged by that person or by his or her representative.

The declarant shall be established in the customs territory of the Republic of Serbia.

By way of derogation from paragraph 3 of this Article, the following declarants shall not be required to be established in the customs territory of the Republic of Serbia:

- 1) persons who lodge a customs declaration for transit or temporary admission;
- 2) persons, who occasionally lodge a customs declaration, including for end-use or inward processing, provided that the customs authority consider this to be justified;
- 3) persons who are established in a country the territory of which is adjacent to the customs territory of the Republic of Serbia, and who present the goods to which the customs declaration refers to the customs office on the border of the Republic of Serbia, adjacent to that country or territory, provided that the country or territory in which the persons are established grants reciprocal benefits to persons established in the customs territory of the Republic of Serbia.

Customs declarations shall be authenticated.

Lodging a declaration prior to the presentation of the goods

Article 149

A customs declaration may be lodged prior to the expected presentation of the goods to the customs office. If the goods are not presented within 30 days of lodging of the customs declaration, the customs declaration shall be deemed not to have been lodged.

Acceptance of a declaration

Article 150

Customs declarations which comply with the conditions laid down in Articles 139 to 161 of this Law shall be accepted by the customs authority immediately, provided that the goods to which they refer have been presented to the customs office.

The date of acceptance of the customs declaration by the customs authority shall, except where otherwise provided, be the date to be used for the application of the provisions governing the customs procedure for which the goods are declared.

Amendment of a customs declaration

Article 151

The declarant shall, upon application, be permitted to amend one or more of the particulars of the customs declaration after that declaration has been accepted by customs authority. The amendment shall not render the customs declaration applicable to goods other than those which it originally covered.

No such amendment shall be permitted where it is applied for after any of the following events:

- 1) the customs authority have informed the declarant that they intend to examine the goods;
- 2) the customs authority have established that the particulars of the customs declaration are incorrect;
- 3) the customs authority have released the goods.

Notwithstanding paragraph 2 of this Article, upon application by the declarant, within three years of the date of acceptance of the customs declaration, the amendment of the customs declaration may be permitted after release of the goods in order for the declarant to comply with his or her obligations relating to the placing of the goods under the customs procedure concerned.

Invalidation of a customs declaration

Article 152

The customs authority shall, upon application by the declarant, invalidate a customs declaration already accepted in either of the following cases:

- 1) where they are satisfied that the goods are immediately to be placed under another customs procedure;
- 2) where they are satisfied that, as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified.

However, where the customs authority have informed the declarant of their intention to examine the goods, an application for invalidation of the customs declaration shall not be accepted before the examination has taken place.

The customs declaration shall not be invalidated after the goods have been released, unless in the cases prescribed by the Government.

Conferral of implementing powers

Article 153

The Government shall prescribe:

- 1) acting of customs authority on declaration lodged in accordance with Article 149 of this Law;
- 2) acting of customs authority with declaration accepted in accordance with Articles 150 and 156 of this Law;
- 3) conditions for amending declaration after the release of the goods in accordance with Article 151 paragraph 3 of the of this Law.

SECTION 5

OTHER SIMPLIFICATIONS

Simplification of the drawing-up of c declarations for goods falling under different tariff lines

Article 154

Where a consignment is made up of goods falling within different tariff lines, and dealing with each of those goods in accordance with its tariff line for the purpose of drawing-up the customs declaration would entail a burden of work and expense disproportionate to the import or export duties chargeable, the customs authority may, upon application by the declarant, agree that import or export duties be charged on the whole consignment on the basis of the tariff line of the goods which are subject to the highest rate of import or export duties.

Customs authority shall refuse the use of the simplification referred to in paragraph 1 of this Law to goods subject to prohibitions or restrictions or excise duties where the correct classification is necessary to apply the measure.

Conferral of implementing powers

Article 155

The Government shall prescribe manner of the determination of the tariff line for the goods for which the payment of customs duties referred to in Article 154 paragraph 1 is prescribed.

Centralised clearance

Article 156

The customs authority may, upon application, authorise a person to lodge at a customs office responsible for the place where such person is established, a declaration for goods which are presented to customs at another customs office.

The applicant for the authorisation referred to in paragraph 1 shall be an authorised economic operator for customs simplifications.

The customs office at which the declaration is lodged shall:

- 1) supervise the placing of the goods under the customs procedure concerned;
- 2) carry out the customs controls for the verification of the declaration, referred to in Article 162 points 1 and 2 of this Law;
- 3) where justified, request that the customs office at which the goods are presented carry out the customs controls for the verification of the declaration referred to in Article 162 points 3 and 4 of this Law; and
- 4) carry out the customs formalities for the recovery of the amount of import or export duties corresponding to any customs debt.

The customs office at which the declaration is lodged and the customs office at which the goods are presented shall exchange the information necessary for the verification of the declaration and for the release of the goods.

The customs office at which the goods are presented shall, without prejudice to its own controls pertaining to goods brought into or taken out of the customs territory of the Republic of Serbia, carry out the customs controls referred to in paragraph 3 point 4 of this Article and provide the customs office at which the declaration is lodged with the results of these controls.

The customs office at which the declaration is lodged shall release the goods in accordance with Articles 168 and 169 of this Law, taking into account:

- 1) the results of its own controls for the verification of the customs declaration;
- 2) the results of the controls carried out by the customs office at which the goods are presented for the verification of the declaration and the controls pertaining to goods brought into or taken out of the customs territory of the Republic of Serbia.

Conferral of implementing powers

Article 157

The Government shall prescribe in more details the conditions for granting the authorisation referred to in Article 156 paragraph 1 of this Law, necessary customs formalities and controls referred to in Article 156 of this Law as well as cases in which the obligation for goods to be presented referred to in Article 158 paragraphs 3, 4 and 5 of this Law may be waived.

Entry in the declarant's records

Article 158

The customs authority may, upon application, authorise a person to lodge a customs declaration, including a simplified declaration, in the form of an entry in the declarant's records, provided that the particulars of that declaration are at the disposal of the customs authority in the declarant's electronic system at the time when the customs declaration in the form of an entry in the declarant's records is lodged.

The customs declaration shall be deemed to have been accepted at the moment at which the goods are entered in the records.

The customs authority may, upon application, waive the obligation for the goods to be presented. In that case, the goods shall be deemed to have been released at the moment of entry in the declarant's records.

That waiver may be granted where all of the following conditions are fulfilled:

- 1) the declarant is an authorised economic operator for customs simplifications;
- 2) the nature and flow of the goods concerned so warrant and are known by the customs authority;
- 3) the supervising customs office has access to all the information it considers necessary to enable it to exercise its right to examine the goods should the need arise;
- 4) at the time of the entry into the records, the goods are no longer subject to prohibitions or restrictions, except where otherwise provided in the authorisation.

However, the supervising customs office may, in specific situations, request that the goods be presented.

The conditions under which the release of the goods is allowed shall be set out in the authorisation.

Conferral of implementing powers

Article 159

The Government shall prescribe the conditions for granting the authorisation referred to in Article 158 paragraph 1 of this Law.

Self-assessment

Article 160

Customs authority may, upon application, authorise an economic operator to carry out certain customs formalities which are to be carried out by the customs authority, to determine the amount of import and export duty payable, and to perform certain controls under customs supervision.

The applicant for the authorisation referred to in paragraph 1 of this Article shall be an authorised economic operator for customs simplifications.

Conferral of implementing powers

Article 161

The Government shall prescribe:

- 1) the conditions for granting the authorisation referred to in Article 160 paragraph 1 of this Law;
- 2) the customs formalities and the controls to be carried out by the holder of the authorisation referred to in Article 160 paragraph 1 of this Law.

CHAPTER 3

VERIFICATION AND RELEASE OF GOODS

SECTION 1

VERIFICATION

Verification of a customs declaration

Article 162

The customs authority may, for the purpose of verifying the accuracy of the particulars contained in a customs declaration which has been accepted:

- 1) examine the declaration and the supporting documents;
- 2) require the declarant to provide other documents;
- 3) examine the goods;
- 4) take samples for analysis or for detailed examination of the goods.

Examination and sampling of goods

Article 163

Transport of the goods to the places where they are to be examined and where samples are to be taken, and all the handling necessitated by such examination or taking of samples, shall be carried out by or under the responsibility of the declarant. The costs incurred shall be borne by the declarant.

The declarant shall have the right to be present or represented when the goods are examined and when samples are taken. Where the customs authority have reasonable grounds for so doing, they may require the declarant to be present or represented when the goods are examined or samples are taken or to provide them with the assistance necessary to facilitate such examination or taking of samples.

Provided that samples are taken in accordance with the provisions in force, the customs authority shall not be liable for payment of any compensation in respect thereof but shall bear the costs of their analysis or examination.

Partial examination and sampling of goods

Article 164

Where only part of the goods covered by a customs declaration is examined, or samples are taken, the results of the partial examination, or of the analysis or examination of the samples, shall be taken to apply to all the goods covered by the same declaration.

However, the declarant may request a further examination or sampling of the goods if he or she considers that the results of the partial examination, or of the analysis or examination of the samples taken, are not valid as regards the remainder of the goods declared. The request shall be granted provided that the goods have not been released or, if they have been released, that the declarant proves that they have not been altered in any way.

Where a customs declaration covers goods falling under two or more items, the particulars relating to goods falling under each item shall be deemed to constitute a separate declaration.

Results of the verification

Article 165

The results of verifying the customs declaration shall be used for the application of the provisions governing the customs procedure under which the goods are placed.

Where the customs declaration is not verified, particulars contained in that declaration shall be used as basis for the application of the provisions governing the customs procedure under which the goods are placed.

Identification measures

Article 166

The customs authority or, where appropriate, economic operators authorised to do so by the customs authority, shall take the measures necessary to identify the goods where

identification is required in order to ensure compliance with the provisions governing the customs procedure for which those goods have been declared.

Means of identification affixed to the goods, packaging or means of transport shall be removed or destroyed only by the customs authority or, where they are authorised to do so by the customs authority, by economic operators, unless, as a result of unforeseeable circumstances or force majeure, their removal or destruction is essential to ensure the protection of the goods or the means of transport.

Conferral of implementing powers

Article 167

The Minister shall specify measures on the verification of the customs declaration, the manner of taking of samples of goods and determines methods of sample analysis.

SECTION 2

RELEASE

Release of the goods

Article 168

Where the conditions for placing the goods under the procedure concerned are fulfilled and provided that any restriction has been applied and the goods are not subject to any prohibition, the customs authority shall release the goods as soon as the particulars in the customs declaration have been verified or are accepted without verification.

The first paragraph of this Article shall also apply where verification as referred to in Article 162 of this Law cannot be completed within a reasonable period of time and the goods are no longer required to be present for verification purposes.

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

For the purposes of paragraph 3 of this Article, where a customs declaration covers goods falling under two or more items the particulars relating to goods falling under each item shall be deemed to constitute a separate customs declaration.

Release dependent upon payment of the amount of import or export duty corresponding to the customs debt or provision of a guarantee

Article 169

Where the placing of goods under a customs procedure gives rise to a customs debt, the release of the goods shall be conditional upon the payment of the amount of import or export duty corresponding to the customs debt or the provision of a guarantee to cover that debt.

However, without prejudice to paragraph 3 of this Article, paragraph 1 of this Article shall not apply to temporary admission with partial relief from import duties.

Where, pursuant to the provisions governing the customs procedure for which the goods are declared, the customs authority requires the provision of a guarantee, those goods shall not be released for the customs procedure in question until such guarantee is provided.

In specific cases, the release of the goods shall not be conditional upon the provision of a guarantee in respect of goods which are the subject of a drawing request on a tariff quota.

Where a simplification as referred to in Articles 145, 158 and 160 of this Law is used and a comprehensive guarantee is provided, release of the goods shall not be conditional upon a monitoring of the guarantee by the customs authority.

Conferral of implementing powers

Article 170

The Government shall determine the cases referred to in Article 169 paragraph 4 of this Law.

CHAPTER 4

DISPOSAL OF GOODS

Destruction of goods

Article 171

Where the customs authority has reasonable grounds for so doing, it may require goods which have been presented to customs to be destroyed and shall inform the holder of the goods accordingly. The costs of the destruction shall be borne by the holder of the goods.

Measures to be taken by the customs authority

Article 172

The customs authority shall take any necessary measures, including confiscation and sale, or destruction, to dispose of goods in the following cases:

1) where one of the obligations laid down in the customs legislation concerning the introduction of non-domestic goods into the customs territory of the Republic of Serbia has not been fulfilled, or the goods have been withheld from customs supervision;

2) where the goods cannot be released for any of the following reasons:

(1) it has not been possible, for reasons attributable to the declarant, to undertake or continue examination of the goods within the period prescribed by the customs authority;

(2) the documents which must be provided before the goods can be placed under, or released for, the customs procedure requested have not been provided;

(3) payments or a guarantee which should have been made or provided in respect of import or export duty, as the case may be, have not been made or provided within the prescribed period;

(4) the goods are subject to prohibitions or restrictions;

3) where the goods have not been removed within a reasonable period after their release;

4) where after their release, the goods are found not to have fulfilled the conditions for that release; or

5) where goods are abandoned to the State in accordance with Article 199.

Non-domestic goods which have been abandoned to the State, seized or confiscated shall be deemed to be placed under the customs warehousing procedure. They shall be entered in the records of the customs warehousing operator, or, where they are held by the customs authority, by the latter.

Where goods to be destroyed, abandoned to the State, seized or confiscated are already subject to a customs declaration, the records shall include a reference to the customs declaration. Customs authority shall invalidate that customs declaration.

The costs of the measures referred to in paragraph 1 of this Article shall be borne:

1) in the case referred to in paragraph 1 point 1 of this Article, by any person who was required to fulfil the obligations concerned or who withheld the goods from customs supervision;

2) in the cases referred to in paragraph 1 points 2 and 3 of this Article, by the declarant;

3) in the case referred to in paragraph 1 point 4 of this Article, by the person who is required to comply with the conditions governing the release of the goods;

4) in the case referred to in paragraph 1 point 5 of this Article, by the person who abandons the goods to the State.

Abandonment

Article 173

Non-domestic goods and goods placed under the end-use procedure may with prior permission of the customs authority be abandoned to the State by the holder of the procedure or, where applicable, the holder of the goods.

Article 174

Conferral of implementing powers

The Government shall specify the procedural rules on:

1) the destruction of goods, referred to in Article 171 of this Law;

2) the sale of goods, referred to in Article 172 paragraph 1 of this Law;

3) abandonment of goods to the State in accordance with Article 173 of this Law.

TITLE VI

RELEASE FOR FREE CIRCULATION AND RELIEF FROM IMPORT DUTIES

CHAPTER 1

RELEASE FOR FREE CIRCULATION

Scope and effect

Article 175

Non-domestic goods intended to be put on the Republic of Serbia market or intended for private use or consumption within the customs territory of the Republic of Serbia shall be placed under release for free circulation.

Release for free circulation shall entail the following:

- 1) the collection of any import duties due;
- 2) the collection, as appropriate, of other charges, as provided for under relevant provisions in force relating to the collection of those charges;
- 3) the application of commercial policy measures and prohibitions and restrictions insofar as they do not have to be applied at an earlier stage; and
- 4) completion of the other formalities laid down in respect of the import of the goods.

Release for free circulation shall confer on non-domestic goods the customs status of domestic goods.

Commercial policy measures

Article 176

Where processed products obtained under inward processing are released for free circulation and the calculation of the amount of import duties is made in accordance with Article 74 paragraph 4 of this Law, the commercial policy measures to be applied shall be those applicable to the release for free circulation of the goods which were placed under inward processing.

Paragraph 1 of this Law shall not apply to waste and scrap.

Where processed products obtained under inward processing are released for free circulation and the calculation of the amount of import duties is made in accordance with Article 73 paragraph 1 of this Law, the commercial policy measures applicable to those goods shall be applied only where the goods which were placed under inward processing are subject to such measures.

Where special legislation establishes commercial policy measures on release for free circulation, such measures shall not apply to processed products released for free circulation following outward processing where:

- 1) the processed products retain their origin of the Republic of Serbia within the meaning of Article 45 of this Law;
- 2) the outward processing involves repair, including the standard exchange system referred to in Article 225 of this Law; or

3) the outward processing follows further processing operations in accordance with Article 222 of this Law.

CHAPTER 2
RELIEF FROM IMPORT DUTIES

SECTION 1
RETURNED GOODS

Scope and effect

Article 177

Non-domestic goods which, having originally been exported as domestic goods from the customs territory of the Republic of Serbia, are returned to that territory within a period of three years and declared for release for free circulation shall, upon application by the person concerned, be granted relief from import duties.

The paragraph 1 of this Article shall apply even where the returned goods represent only a part of the goods previously exported from the customs territory of the Republic of Serbia.

The three-year period referred to in paragraph 1 of this Article may be exceeded in order to take account of special circumstances.

Where, prior to their export from the customs territory of the Republic of Serbia, the returned goods had been released for free circulation duty-free or at a reduced rate of import duties because of a particular end-use, relief from duty under paragraph 1 shall be granted only if they are to be released for free circulation for the same end-use.

Where the end-use for which the goods in question are to be released for free circulation is no longer the same, the amount of import duties shall be reduced by any amount collected on the goods when they were first released for free circulation. Should the latter amount exceed that levied on the release for free circulation of the returned goods, no repayment shall be granted.

Where domestic goods have lost their customs status as domestic goods pursuant to Article 136 of this Law and are subsequently released for free circulation, paragraphs 1-5 of this Article shall apply.

The relief from import duties shall be granted only if goods are returned in the state in which they were exported.

The relief from import duties shall be supported by information establishing that the conditions for the relief are fulfilled.

**Goods which benefited from measures
laid down under the agricultural policy**

Article 178

Relief from import duties provided for in Article 177 of this Law shall not be granted to goods which have benefited from measures laid down under the common agricultural policy involving their export out of the customs territory of the Republic of Serbia, except where otherwise provided in specific cases.

Goods previously placed under the inward processing procedure

Article 179

Article 177 of this Law shall apply to processed products which were originally re-exported from the customs territory of the Republic of Serbia subsequent to an inward processing procedure.

Upon application by the declarant and provided the declarant submits the necessary information, the amount of import duties on the goods covered by paragraph 1 of this Article shall be determined in accordance with Article 74 paragraph 4 of this Law. The date of acceptance of the re-export declaration shall be regarded as the date of release for free circulation.

The relief from import duties provided for in Article 177 of this Law shall not be granted for processed products which were exported in accordance with Article 193 paragraph 4 point 3 of this Law, unless it is ensured that no goods will be placed under the inward processing procedure.

Conferral of implementing powers

Article 180

The Government shall prescribe:

- 1) the cases where goods are considered to be returned in the state in which they were exported;
- 2) the specific cases referred to in Article 178 of this Law.

The Government shall specify the procedural rules for proving the fulfillment of conditions for relief of import duties.

SECTION 2

SEA-FISHING AND PRODUCTS TAKEN FROM THE SEA

Products of sea-fishing and other products taken from the sea

Article 181

Without prejudice to Article 46 paragraph 1 of this Law, the following shall be granted relief from import duties when they are released for free circulation:

1) products of sea-fishing and other products taken from the territorial sea of a country or territory outside the customs territory of the Republic of Serbia by vessels solely registered or recorded in Republic of Serbia and flying the flag of that State;

2) products obtained from products referred to in point 1 of this Article on board factory-ships fulfilling the conditions laid down in that point.

The relief from import duties referred to in paragraph 1 of this Article shall be supported by evidence that the conditions laid down in that paragraph are fulfilled.

Conferral of implementing powers

Article 182

The Government shall specify the procedural rules for the provision of the evidence referred to in Article 181 paragraph 2 of this Law.

TITLE VII

SPECIAL PROCEDURES

CHAPTER 1

GENERAL PROVISIONS

Scope

Article 183

Goods may be placed under any of the following categories of special procedures:

- 1) transit, which shall comprise external and internal transit;
- 2) storage, which shall comprise customs warehousing and free zones;
- 3) specific use, which shall comprise temporary admission and end-use;
- 4) processing, which shall comprise inward and outward processing.

Authorisation

Article 184

An authorisation from the customs authority shall be required for the following:

- 1) the use of the inward or outward processing procedure, the temporary admission procedure or the end-use procedure;
- 2) the operation of storage facilities for the customs warehousing of goods, except where the storage facility operator is the customs authority itself.

The conditions under which the use of one or more of the procedures referred to in paragraph 1 point 1 of this Article or the operation of storage facilities is permitted shall be set out in the authorisation.

The customs authority shall grant an authorisation with retroactive effect, where all of the following conditions are fulfilled:

- 1) there is a proven economic need;
- 2) the application is not related to attempted deception;
- 3) the applicant has proven on the basis of accounts or records that:
 - (1) all the requirements of the procedure are met;
 - (2) where appropriate, the goods can be identified for the period involved;
 - (3) such accounts or records allow the procedure to be controlled;
- 4) all the formalities necessary to regularise the situation of the goods can be carried out, including, where necessary, the invalidation of the customs declarations concerned;
- 5) no authorisation with retroactive effect has been granted to the applicant within three years of the date on which the application was accepted;
- 6) an examination of the economic conditions is not required, except where an application concerns renewal of an authorisation for the same kind of operation and goods;
- 7) the application does not concern the operation of storage facilities for the customs warehousing of goods;
- 8) where an application concerns renewal of an authorisation for the same kind of operation and goods, the application is submitted within three years of expiry of the original authorisation.

Customs authority may grant an authorisation with retroactive effect also where the goods which were placed under a customs procedure are no longer available at the time when the application for such authorisation was accepted.

Except where otherwise provided, the authorisation referred to in paragraph 1 of this Article shall be granted only to persons who satisfy all of the following conditions:

- 1) they are established in the customs territory of the Republic of Serbia;
- 2) they provide the necessary assurance of the proper conduct of the operations; an authorised economic operator for customs simplifications shall be deemed to fulfil this condition, insofar as the activity pertaining to the special procedure concerned is taken into account in the authorisation referred to in Article 27 paragraph 3 point 1 of this Law;
- 3) where a customs debt or other charges may be incurred for goods placed under a special procedure, they provide a guarantee in accordance with Article 77 of this Law;
- 4) in the case of the temporary admission or inward processing procedure, they use the goods or arrange for their use or they carry out processing operations on the goods or arrange for them to be carried out, respectively.

Except where otherwise provided and in addition to paragraph 5 of this Article, the authorisation referred to in paragraph 1 of this Article shall be granted only where all of the following conditions are fulfilled:

1) the customs authority is able to exercise customs supervision without having to introduce administrative arrangements disproportionate to the economic needs involved;

2) the essential interests of domestic producers would not be adversely affected by an authorisation for a processing procedure (economic conditions).

The essential interests of domestic producers shall be deemed not to be adversely affected, as referred to in paragraph 5 point 2 of this Article except where evidence to the contrary exists or where the economic conditions are deemed to be fulfilled.

Where evidence exists that the essential interests of domestic producers are likely to be adversely affected, an examination of the economic conditions shall be carried out in the manner prescribed by the Government.

Conferral of implementing powers

Article 185

The Government shall prescribe:

1) the conditions for granting the authorisation for the procedures referred to in Article 184 paragraph 1 of this Law;

2) the exceptions to the conditions referred to in Article 184 paragraphs 5 and 6 of this Law;

3) the cases in which the economic conditions are deemed to be fulfilled as referred to in Article 184 paragraph 7 of this Law.

Records

Article 186

Except for the transit procedure, or where otherwise provided, the holder of the authorisation, the holder of the procedure, and all persons carrying on an activity involving the storage, working or processing of goods, or the sale or purchase of goods in free zones, shall keep appropriate records in a form approved by the customs authority.

The records shall contain the information and the particulars which enable the customs authority to supervise the procedure concerned, in particular with regard to identification of the goods placed under that procedure, their customs status and their movements.

An authorised economic operator for customs simplifications shall be deemed to comply with the obligation laid down in paragraph 1 of this Article insofar as his or her records are appropriate for the purpose of the special procedure concerned.

Discharge of a special procedure

Article 187

In cases other than the transit procedure and without prejudice to Article 219 of this Law, a special procedure shall be discharged when the goods placed under the procedure, or the processed products, are placed under a subsequent customs procedure, have been taken out

of the customs territory of the Republic of Serbia, or have been destroyed with no waste remaining, or are abandoned to the State in accordance with Article 173 of this Law.

The transit procedure shall be discharged by the customs authority when it is in a position to establish, on the basis of a comparison of the data available to the customs office of departure and those available to the customs office of destination, that the procedure has ended correctly.

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

The discharge of the procedure shall take place within a certain time-limit, unless otherwise provided.

Conferral of implementing powers

Article 188

The Government shall prescribe the time-limit or the way of determining the time-limit referred to in Article 187 paragraph 4 of this Law and procedural rules for the discharge of a special procedure referred to in Article 187 of this Law.

Transfer of rights and obligations

Article 189

The rights and obligations of the holder of a procedure with regard to goods which have been placed under a special procedure other than transit may be fully or partially transferred to another person who fulfils the conditions laid down for the procedure concerned.

Movement of goods

Article 190

In specific cases, goods placed under a special procedure other than transit or in a free zone may be moved between different places in the customs territory of the Republic of Serbia.

Usual forms of handling

Article 191

Goods placed under customs warehousing or a processing procedure or in a free zone may undergo usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale.

Conferral of implementing powers

Article 192

The Government shall:

1) lay down the cases and the conditions for the movement of goods placed under a special procedure other than transit or in a free zone in accordance with Article 190 of this Law;

2) determine the usual forms of handling for goods placed under customs warehousing or a processing procedure or in a free zone as referred to in Article 191 of this Law.

The Government shall prescribe conditions and procedure for:

1) transferring the rights and obligations of the holder of the procedure with regard to goods which have been placed under a special procedure other than transit in accordance with Article 189 of this Law;

2) the movement of goods placed under a special procedure other than transit or in a free zone in accordance with Article 190 of this Law.

Equivalent goods

Article 193

Equivalent goods shall consist in domestic goods which are stored, used or processed instead of the goods placed under a special procedure.

Under the outward processing procedure, equivalent goods shall consist in non-domestic goods which are processed instead of domestic goods placed under the outward processing procedure.

Except where otherwise provided, equivalent goods shall have the same tariff line, the same commercial quality and the same technical characteristics as the goods which they are replacing.

The customs authority shall, upon application, authorise the following, provided that the proper conduct of the procedure, in particular as regards customs supervision, is ensured:

1) the use of equivalent goods under customs warehousing, free zones, end-use and a processing procedure;

2) the use of equivalent goods under the temporary admission procedure, in specific cases;

3) in the case of the inward processing procedure, the export of processed products obtained from equivalent goods before the import of the goods they are replacing;

4) in the case of the outward processing procedure, the import of processed products obtained from equivalent goods before the export of the goods they are replacing.

An authorised economic operator for customs simplifications shall be deemed to fulfil the condition that the proper conduct of the procedure is ensured, insofar as the activity pertaining to the use of equivalent goods for the procedure concerned is taken into account in the authorisation referred to in Article 27 paragraph 3 point 1 of this Law.

The use of equivalent goods shall not be authorised in any of the following cases:

1) where only usual forms of handling as defined in Article 191 of this Law are carried out under the inward processing procedure;

2) where a prohibition of drawback of, or exemption from, import duties applies to non-originating goods used in the manufacture of processed products under the inward processing procedure, for which a proof of origin is issued or made out in the framework of a preferential arrangement between the Republic of Serbia and certain countries or territories outside the customs territory of the Republic of Serbia or groups of such countries or territories;

3) where it would lead to an unjustified import duties advantage or where provided for in domestic legislation.

In the case referred to in of paragraph 4 point 3 of this Article, and where the processed products would be liable to export duty if they were not being exported in the context of the inward processing procedure, the holder of the authorisation shall provide a guarantee to ensure payment of the export duty should the non-domestic goods not be imported within the period referred to in Article 221 paragraph 5 of this Law.

Conferral of implementing powers

Article 194

The Government shall prescribe:

- 1) the exceptions from the Article 193 paragraph 3 of this Law;
- 2) the conditions under which equivalent goods are used in accordance with Article 193 paragraph 4 of this Law;
- 3) the specific cases where equivalent goods are used under the temporary admission procedure, in accordance with Article 193 paragraph 4 point 2 of this Law;
- 4) the cases where the use of equivalent goods is not authorised in accordance with Article 193 paragraph 6 point 3 of this Law;
- 5) formalities for the use of equivalent goods authorised in accordance with Article 193 paragraph 4 of this Law.

CHAPTER 2

TRANSIT

SECTION 1

EXTERNAL AND INTERNAL TRANSIT

External transit

Article 195

Under the external transit procedure, non-domestic goods may be moved from one point to another within the customs territory of the Republic of Serbia without being subject to any of the following:

- 1) import duties;
- 2) other charges as provided for under other relevant provisions in force;
- 3) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Republic of Serbia.

In specific cases prescribed by the Government, domestic goods shall be placed under the external transit procedure.

Movement as referred to in paragraph 1 of this Article shall take place in one of the following ways:

- 1) under the external national transit procedure;
- 2) in accordance with the TIR Convention, provided that such movement:
 - (1) began or is to end outside the customs territory of the Republic of Serbia;
 - (2) is effected between two points in the customs territory of the Republic of Serbia through the territory of a country or territory outside the customs territory of the Republic of Serbia;
- 3) in accordance with the ATA Convention/Istanbul Convention, where a transit movement takes place;
- 4) under cover of form 302 provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;
- 5) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts.

Internal transit

Article 196

Under the internal transit procedure, and under the conditions laid down in paragraph 2 of this Article, domestic goods may be moved from one point to another within the customs territory of the Republic of Serbia, and pass through a country or territory outside that customs territory, without any change in their customs status.

The movement referred to in paragraph 1 of this Article shall take place in one of the following ways:

- 1) under the internal national transit procedure provided that such a possibility is provided for in an international agreement;
- 2) in accordance with the TIR Convention;
- 3) in accordance with the ATA Convention/Istanbul Convention, where a transit movement takes place;
- 4) under cover of form 302 as provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;
- 5) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts.

Authorised consignee for TIR purposes

Article 197

The customs authority may, upon application, authorise a person, referred to as an 'authorised consignee' to receive goods moved in accordance with the TIR Convention at an authorised place, so that the procedure is terminated in accordance with Article 1 point (d) of the TIR Convention.

Article 198

Conferral of implementing powers

The Government shall prescribe:

- 1) the specific cases where domestic goods are to be placed under the external transit procedure in accordance with Article 195 paragraph 2 of this Law;
- 2) the conditions for the granting of the authorisation referred to in Article 197 of this Law;
- 3) the procedure and formalities applicable to the movement of goods in the customs territory of the Republic of Serbia, referred to in Article 195 paragraph 3 points 2 - 5 and Article 196 paragraph 2 points 2 - 5 of this Law.

SECTION 2

NATIONAL TRANSIT PROCEDURE

Obligations of the holder of the national transit procedure and of the carrier and recipient of goods moving under the transit procedure

Article 199

The holder of the national transit procedure shall be responsible for all of the following:

- 1) presentation of the goods intact and the required information at the customs office of destination within the prescribed time-limit and in compliance with the measures taken by the customs authority to ensure their identification;
- 2) observance of the customs provisions relating to the procedure;
- 3) unless otherwise provided for in the customs legislation, provision of a guarantee in order to ensure payment of the amount of import or export duty corresponding to any customs debt or other charges, as provided for under other relevant provisions in force, which may be incurred in respect of the goods.

The obligation of the holder of the procedure shall be met and the transit procedure shall end when the goods placed under the procedure and the required information are available at the customs office of destination in accordance with the customs legislation.

A carrier or recipient of goods who accepts goods knowing that they are moving under the national transit procedure shall also be responsible for presentation of the goods intact at the customs office of destination within the prescribed time-limit and in compliance with the measures taken by the customs authority to ensure their identification.

Upon application, the customs authority may authorise any of the following simplifications regarding the placing of goods under the national transit procedure or the end of that procedure:

- 1) the status of authorised consignor, allowing the holder of the authorisation to place goods under the national transit procedure without presenting them to customs;
- 2) the status of authorised consignee, allowing the holder of the authorisation to receive goods moved under the national transit procedure at an authorised place, to end the procedure in accordance with Article 199 paragraph 2 of this Law;

3) the use of seals of a special type, where sealing is required to ensure the identification of the goods placed under the national transit procedure;

4) the use of a customs declaration with reduced data requirements to place goods under the national transit procedure;

5) the use of an electronic transport document as declaration to place goods under the national transit procedure, provided it contains the particulars of such declaration and those particulars are available to the customs authority at departure and at destination to allow the customs supervision of the goods and the discharge of the procedure.

Goods passing through the territory of a country or territory outside the customs territory of the Republic of Serbia under the external national transit procedure

Article 200

The external national transit procedure shall apply to goods passing through a country or a territory outside the customs territory of the Republic of Serbia if one of the following conditions is fulfilled:

1) provision is made to that effect under an international agreement;

2) carriage through that country or territory is effected under cover of a single transport document drawn up in the customs territory of the Republic of Serbia.

In the case referred to in paragraph 1 point 2 of this Article, the operation of the external national transit procedure shall be suspended while the goods are outside the customs territory of the Republic of Serbia.

Conferral of implementing powers

Article 201

The Government shall prescribe:

1) the conditions for granting the authorisations referred to in Article 199 paragraph 4 of this Law;

2) the procedural rules on:

(1) the placing of goods under the national transit procedure and the end of that procedure;

(2) the operation of the simplifications referred to in Article 199 paragraph 4 of this Law;

(3) the customs supervision of goods passing through the territory of a country or territory outside the customs territory of the Republic of Serbia under the external national transit procedure, referred to in Article 200 of this Law.

CHAPTER 3

STORAGE

SECTION 1

COMMON PROVISIONS

Scope

Article 202

Under a storage procedure, non-domestic goods may be stored in the customs territory of the Republic of Serbia without being subject to any of the following:

- 1) import duties;
- 2) other duties;
- 3) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Republic of Serbia.

Domestic goods may be placed under the customs warehousing or free zone procedure in accordance with legislation governing specific fields, or in order to benefit from a decision granting repayment or remission of import duties.

The customs authority may, where an economic need exists and customs supervision will not be adversely affected, authorise the storage of domestic goods in a storage facility for customs warehousing. Those goods shall not be regarded as being under the customs warehousing procedure.

Duration of a storage procedure

Article 203

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

In exceptional circumstances, the customs authority may set a time-limit by which a storage procedure must be discharged in particular where the type and nature of the goods may, in the case of long-term storage, pose a threat to human, animal or plant health or to the environment.

Conferral of implementing powers

Article 204

The Government shall specify the procedural rules for the placing of domestic goods under the customs warehousing or free zone procedure as referred to in Article 202 paragraph 2 of this Law.

SECTION 2

CUSTOMS WAREHOUSING

Storage in customs warehouses

Article 205

Under the customs warehousing procedure non-domestic goods may be stored in premises or any other location authorised for that procedure by the customs authority and under customs supervision ('customs warehouses').

Customs warehouses may be available for use by any person for the customs warehousing of goods ('public customs warehouse'), or for the storage of goods by the holder of an authorisation for customs warehousing ('private customs warehouse').

Goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse. Such removal shall, except in case of force majeure, be authorised in advance by the customs authority.

Processing

Article 206

The customs authority may, where an economic need exists and customs supervision is not adversely affected, authorise the processing of goods under the inward processing or end-use procedure to take place in a customs warehouse, subject to the conditions provided for by those procedures.

The goods referred to in paragraph 1 of this Article shall not be regarded as being under the customs warehousing procedure.

Responsibilities of the holder of the authorisation or procedure

Article 207

The holder of the authorisation and the holder of the procedure shall be responsible for the following:

1) ensuring that goods under the customs warehousing procedure are not removed from customs supervision; and

2) fulfilling the obligations arising from the storage of goods covered by the customs warehousing procedure.

By way of derogation from paragraph 1 of this Article, where the authorisation concerns a public customs warehouse, it may provide that the responsibilities referred to in paragraph 1 points 1 or 2 of this Article devolve exclusively upon the holder of the procedure.

The holder of the procedure shall be responsible for fulfilling the obligations arising from the placing of the goods under the customs warehousing procedure.

SECTION 3

FREE ZONES

Designation of free zones

Article 208

The Government may designate parts of the customs territory of the Republic of Serbia as free zones.

For each free zone, an area is defined which includes the points of entry and exit.

Free zones shall be enclosed.

The perimeter and the entry and exit points of the area of free zones shall be subject to customs supervision.

Persons, goods and means of transport entering or leaving free zones may be subject to customs controls.

Buildings and activities in free zones

Article 209

The construction of any building in a free zone shall require the prior approval of the customs authority.

Subject to the customs legislation, any industrial, commercial or service activity shall be permitted in a free zone. The carrying on of such activities shall be subject to notification, in advance, to the customs authority.

The customs authority may impose prohibitions or restrictions on the activities referred to in paragraph 2 of this Article, having regard to the nature of the goods in question, or the requirements of customs supervision, or security and safety requirements.

The customs authority may prohibit persons who do not provide the necessary assurance of compliance with the customs provisions from carrying on an activity in a free zone.

Presentation of goods and their placing under the procedure

Article 210

Goods brought into a free zone shall be presented to customs and undergo the prescribed customs formalities in any of the following cases:

- 1) where they are brought into the free zone directly from outside the customs territory of the Republic of Serbia;
- 2) where they have been placed under a customs procedure which is ended or discharged when they are placed under the free zone procedure;
- 3) where they are placed under the free zone procedure in order to benefit from a decision granting repayment or remission of import duties;
- 4) where legislation other than the customs legislation provides for such formalities.

Goods brought into a free zone in circumstances other than those covered by paragraph 1 shall not be presented to customs.

Without prejudice to Article 211 of this Law, goods brought into a free zone are deemed to be placed under the free zone procedure:

- 1) at the moment of their entry into a free zone, unless they have already been placed under another customs procedure; or
- 2) at the moment when a transit procedure is ended, unless they are immediately placed under a subsequent customs procedure.

Domestic goods in free zones

Article 211

Domestic goods may be entered, stored, moved, used, processed or consumed in a free zone. In such cases the goods shall not be regarded as being under the free zone procedure.

Upon application by the person concerned, the customs authority shall establish the customs status as domestic goods of any of the following goods:

- 1) domestic goods which enter a free zone;
- 2) domestic goods which have undergone processing operations within a free zone;
- 3) goods released for free circulation within a free zone.

Non-domestic goods in free zones

Article 212

Non-domestic goods may, while they remain in a free zone, be released for free circulation or be placed under the inward processing, temporary admission or end-use procedure, under the conditions laid down for those procedures.

In such cases the goods shall not be regarded as being under the free zone procedure.

Without prejudice to the provisions applicable to supplies or to victualling storage, where the procedure concerned so provides, paragraph 1 of this Article shall not preclude the use or consumption of goods of which the release for free circulation or temporary admission would not entail application of import duties or measures laid down under the common agricultural or commercial policies.

In the case of use or consumption referred to in paragraph 3 of this Article, no customs declaration for the release for free circulation or temporary admission procedure shall be required.

Without prejudice to paragraph 4 of this Article, such declaration shall be required if such goods are subject to a tariff quota or ceiling.

Taking goods out of a free zone

Article 213

Without prejudice to legislation in fields other than customs, goods in a free zone may be exported or re-exported from the customs territory of the Republic of Serbia, or brought into another part of the customs territory of the Republic of Serbia.

Articles 118 to 132 of this Law shall apply to goods taken out of a free zone into other parts of the customs territory of the Republic of Serbia.

Customs status

Article 214

Where goods are taken out of a free zone into another part of the customs territory of the Republic of Serbia or placed under a customs procedure, they shall be regarded as non-domestic goods unless their customs status as domestic goods has been proven.

However, for the purposes of applying export duty and export licences or export control measures laid down under the common agricultural or commercial policies, such goods shall be regarded as domestic goods, unless it is established that they do not have the customs status of domestic goods.

CHAPTER 4

SPECIFIC USE

SECTION 1

TEMPORARY ADMISSION

Scope

Article 215

Under the temporary admission procedure non-domestic goods intended for re-export may be subject to specific use in the customs territory of the Republic of Serbia, with total or partial relief from import duties, and without being subject to any of the following:

- 1) other charges as provided for under other relevant provisions in force;
- 2) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Republic of Serbia.

The temporary admission procedure may only be used provided that the following conditions are met:

- 1) the goods are not intended to undergo any change, except normal depreciation due to the use made of them;
- 2) it is possible to ensure that the goods placed under the procedure can be identified, except where, in view of the nature of the goods or of the intended use, the absence of identification measures is not liable to give rise to any abuse of the procedure or, in the case referred to in Article 199 of this Law, where compliance with the conditions laid down in respect of equivalent goods can be verified;
- 3) the holder of the procedure is established outside the customs territory of the Republic of Serbia, except where otherwise provided;
- 4) the requirements for total or partial duty relief laid down in the customs legislation are met.

The Government shall determine the specific use referred to in paragraph 1 of this Article and the requirements referred to in paragraph 2 point 4 of this Article, as well as period for temporary admission procedure with total relief from import duties.

Period during which goods may remain under the temporary admission procedure

Article 216

The customs authority shall determine the period within which goods placed under the temporary admission procedure must be re-exported or placed under a subsequent customs procedure. Such period shall be long enough for the objective of authorised use to be achieved.

Except where otherwise provided, the maximum period during which goods may remain under the temporary admission procedure for the same purpose and under the responsibility of the same authorisation holder shall be 24 months, even where the procedure was discharged by placing the goods under another special procedure and subsequently placing them under the temporary admission procedure again.

Where, in exceptional circumstances, the authorised use cannot be achieved within the period referred to in paragraphs 1 and 2 of this Article, the customs authority may grant an extension, of reasonable duration of that period, upon justified application by the holder of the authorisation.

The overall period during which goods may remain under the temporary admission procedure shall not exceed 10 years, except in the case of an unforeseeable event.

Amount of import duties in case of temporary admission with partial relief from import duties

Article 217

The amount of import duties in respect of goods placed under the temporary admission procedure with partial relief from import duties shall be set at 3 % of the amount of import duties which would have been payable on those goods had they been released for free circulation on the date on which they were placed under the temporary admission procedure.

That amount shall be payable for every month or fraction of a month during which the goods have been placed under the temporary admission procedure with partial relief from import duties.

The amount of import duties shall not exceed that which would have been payable if the goods in question had been released for free circulation on the date on which they were placed under the temporary admission procedure.

SECTION 2

END - USE

End-use procedure

Article 218

Under the end-use procedure, goods may be released for free circulation under a duty exemption or at a reduced rate of duty on account of their specific use.

Where the goods are at a production stage which would allow economically the prescribed end-use only, the customs authority may establish in the authorisation the conditions under which the goods shall be deemed to have been used for the purposes laid down for applying the duty exemption or reduced rate of duty.

Where goods are suitable for repeated use and the customs authority considers it appropriate in order to avoid abuse, customs supervision shall continue for a period not exceeding two years after the date of their first use for the purposes laid down for applying the duty exemption or reduced rate of duty.

Customs supervision under the end-use procedure shall end in any of the following cases:

1) where the goods have been used for the purposes laid down for the application of the duty exemption or reduced rate of duty;

2) where the goods have been taken out of the customs territory of the Republic of Serbia, destroyed or abandoned to the State;

3) where the goods have been used for purposes other than those laid down for the application of the duty exemption or reduced duty rate and the applicable import duties has been paid.

Where a rate of yield is required, Article 219 of this Law shall apply to the end-use procedure.

Waste and scrap which result from the working or processing of goods according to the prescribed end-use and losses due to natural wastage shall be considered as goods assigned to the prescribed end-use.

Waste and scrap resulting from the destruction of goods placed under the end-use procedure shall be deemed to be placed under the customs warehousing procedure.

CHAPTER 5 *PROCESSING*

SECTION 1 GENERAL PROVISIONS

Rate of yield

Article 219

Except where a rate of yield has been specified in legislation of the Republic of Serbia governing specific fields, the customs authority shall set either the rate of yield or average rate of yield of the processing operation or where appropriate, the method of determining such rate.

The rate of yield or average rate of yield shall be determined on the basis of the actual circumstances in which processing operations are, or are to be, carried out. That rate may be adjusted, where appropriate, in accordance with Article 19 of this Law.

SECTION 2 INWARD PROCESSING

Scope

Article 220

Without prejudice to Article 192 of this Law, under the inward processing procedure non-domestic goods may be used in the customs territory of the Republic of Serbia in one or more processing operations without such goods being subject to any of the following:

- 1) import duties;
- 2) other charges as provided for under other relevant provisions in force;
- 3) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Republic of Serbia.

The inward processing procedure may be used in cases other than repair and destruction only where, without prejudice to the use of production accessories, the goods placed under the procedure can be identified in the processed products.

In the case referred to in Article 193 of this Law, the procedure may be used where compliance with the conditions laid down in respect of equivalent goods can be verified.

In addition to paragraphs 1 and 2 of this Article, the inward processing procedure may also be used for any of the following goods:

- 1) goods intended to undergo operations to ensure their compliance with technical requirements for their release for free circulation;
- 2) goods which have to undergo usual forms of handling in accordance with Article 191 of this Law.

Period for discharge

Article 221

The customs authority shall specify the period within which the inward processing procedure is to be discharged, in accordance with Article 187 of this Law.

That period shall run from the date on which the non-domestic goods are placed under the procedure and shall take account of the time required to carry out the processing operations and to discharge the procedure.

The customs authority may grant an extension, of reasonable duration, of the period specified pursuant to paragraph 1 of this Article, upon justified application by the holder of the authorisation.

The authorisation may specify that a period which commences in the course of a month, quarter or semester shall end on the last day of a subsequent month, quarter or semester respectively.

In the case of prior export in accordance with Article 193 paragraph 4 point 3 of this Law, the authorisation shall specify the period within which the non-domestic goods shall be declared for the inward processing procedure, taking account of the time required for procurement and transport to the customs territory of the Republic of Serbia.

The period referred to in paragraph 5 of this Article shall be set in months and shall not exceed six months. It shall run from the date of acceptance of the export declaration relating to the processed products obtained from the corresponding equivalent goods.

At the request of the holder of the authorisation, the period of six months referred to in paragraph 6 of this Article may be extended, even after its expiry, provided that the total period does not exceed 12 months.

Temporary re-export for further processing

Article 222

Upon application, the customs authority may authorise some or all of the goods placed under the inward -processing procedure, or the processed products, to be temporarily re-exported for the purpose of further processing outside the customs territory of the Republic of Serbia, in accordance with the conditions laid down for the outward processing procedure.

SECTION 3

OUTWARD PROCESSING

Scope

Article 223

Under the outward processing procedure domestic goods may be temporarily exported from the customs territory of the Republic of Serbia in order to undergo processing operations. The processed products resulting from those goods may be released for free circulation with total or partial relief from import duties upon application by the holder of the authorisation or any other person established in the customs territory of the Republic of Serbia provided that that person has obtained the consent of the holder of the authorisation and the conditions of the authorisation are fulfilled.

Outward processing shall not be allowed for any of the following domestic goods:

- 1) goods the export of which gives rise to repayment or remission of import duties;
- 2) goods which, prior to export, were released for free circulation under a duty exemption or at a reduced rate of duty by virtue of their end-use, for as long as the purposes of such end-use have not been fulfilled, unless those goods have to undergo repair operations;
- 3) goods the export of which gives rise to the granting of export refunds;
- 4) goods in respect of which a financial advantage other than refunds referred to in point 3 of this Article is granted under the common agricultural policy by virtue of the export of those goods.

The customs authority shall specify the period within which goods temporarily exported must be re-imported into the customs territory of the Republic of Serbia in the form of processed products, and released for free circulation, in order to be able to benefit from total or partial relief from import duties. They may grant an extension, of reasonable duration, of that period, upon justified application by the holder of the authorisation.

Goods repaired free of charge

Article 224

Where it is established to the satisfaction of the customs authority that goods have been repaired free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing or material defect, they shall be granted total relief from import duties.

Paragraph 1 of this Article shall not apply where account was taken of the manufacturing or material defect at the time when the goods in question were first released for free circulation.

Standard exchange system

Article 225

Under the standard exchange system an imported product ('replacement product') may, in accordance with paragraphs 2 to 5 of this Article, replace a processed product.

The customs authority shall, upon application authorise the standard exchange system to be used where the processing operation involves the repair of defective domestic goods other than those subject to measures laid down under the common agricultural policy or to the specific arrangements applicable to certain goods resulting from the processing of agricultural products.

Replacement products shall have the same tariff line, the same commercial quality and the same technical characteristics as the defective goods had the latter undergone repair.

Where the defective goods have been used before export, the replacement products must also have been used.

The customs authority shall, however, waive the requirement set out in paragraph 4 of this Article if the replacement product has been supplied free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a material or manufacturing defect.

The provisions which would be applicable to the processed products shall apply to the replacement products.

Prior import of replacement products

Article 226

The customs authority shall, under the conditions they lay down, upon application by the person concerned, authorise replacement products to be imported before the defective goods are exported.

In the event of such prior import of a replacement product, a guarantee shall be provided, covering the amount of the import duties that would be payable should the defective goods not be exported in accordance with paragraph 3 of this Article.

The defective goods shall be exported within a period of two months from the date of acceptance by the customs authority of the declaration for the release for free circulation of the replacement products.

Where, in exceptional circumstances, the defective goods cannot be exported within the period referred to in paragraph 3 of this Article, the customs authority may grant an extension,

of a reasonable duration, of that period, upon justified application by the holder of the authorisation.

TITLE VIII
GOODS TAKEN OUT OF THE CUSTOMS TERRITORY OF THE REPUBLIC OF SERBIA

CHAPTER 1
FORMALITIES PRIOR TO THE EXIT OF GOODS

Lodging a pre-departure declaration

Article 227

Goods to be taken out of the customs territory of the Republic of Serbia shall be covered by a pre-departure declaration to be lodged at the competent customs office within a specific time-limit before the goods are taken out of the customs territory.

The obligation referred to in paragraph 1 of this Article shall be waived:

1) for means of transport and the goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Republic of Serbia without a stop within that territory; or

2) in other specific cases, where duly justified by the type of goods or traffic or where required by international agreements.

The pre-departure declaration shall take the form of one of the following:

1) a customs declaration, where the goods to be taken out of the customs territory of the Republic of Serbia are placed under a customs procedure for which such declaration is required;

2) a re-export declaration, in accordance with Article 233 of this Law;

3) an exit summary declaration, in accordance with Article 234 of this Law.

The pre-departure declaration shall contain the particulars necessary for risk analysis for security and safety purposes.

Risk analysis

Article 228

The customs office to which the pre-departure declaration referred to in Article 227 of this Law is lodged shall ensure that, within a specific time-limit, a risk analysis is carried out, primarily for security and safety purposes, on the basis of that declaration and shall take the necessary measures based on the results of that risk analysis.

Conferral of implementing powers

Article 229

The Government shall prescribe:

1) the specific time-limit, referred to in Article 227 paragraph 1 of this Law, within which the pre-departure declaration is to be lodged before the goods are taken out of the customs territory of the Republic of Serbia taking into account the type of traffic;

2) the specific cases where the obligation to lodge a pre-departure declaration is waived in accordance with Article 227 paragraph 2 point 2 of this Law;

3) the time-limit referred to in Article 228 of this Law, within which risk analysis is to be carried out taking into account the time-limit referred to in Article 227 paragraph 1 of this Law.

CHAPTER 2

FORMALITIES ON EXIT OF GOODS

Customs supervision and formalities on exit

Article 230

Goods to be taken out of the customs territory of the Republic of Serbia shall be subject to customs supervision and may be subject to customs controls. Where appropriate, the customs authority may determine the route to be used, and the time-limit to be respected when goods are to be taken out of the customs territory.

Goods to be taken out of the customs territory of the Republic of Serbia shall be presented to customs on exit by one of the following persons:

1) the person who takes the goods out of the customs territory of the Republic of Serbia;

2) the person in whose name or on whose behalf the person who takes the goods out of the customs territory of the Republic of Serbia acts;

3) the person who assumes responsibility for the carriage of the goods prior to their exit from the customs territory of the Republic of Serbia.

Goods to be taken out of the customs territory of the Republic of Serbia shall be subject, as appropriate, to the following:

1) the repayment or remission of import duties;

2) the payment of export refunds;

3) the collection of export duty;

4) the formalities required under provisions in force with regard to other charges;

5) the application of prohibitions and restrictions justified on grounds of, inter alia, public morality, public policy or public security, the protection of the health and life of humans, animals or plants, the protection of the environment, the protection of national treasures possessing artistic, historic or archaeological value and the protection of industrial or commercial property, including controls against drug precursors, goods infringing certain

intellectual property rights and cash, as well as the implementation of fishery conservation and management measures and of commercial policy measures.

Release for exit shall be granted by the customs authority on condition that the goods in question will be taken out of the customs territory of the Republic of Serbia in the same condition as when:

- 1) the customs or re-export declaration was accepted; or
- 2) the exit summary declaration was lodged.

Conferral of implementing powers

Article 231

The Government shall specify the procedural rules on customs supervision and formalities at the exit of goods referred to in Article 230 of this Law, from the customs territory of the Republic of Serbia.

CHAPTER 3

EXPORT AND RE-EXPORT

Export of domestic goods

Article 232

Domestic goods to be taken out of the customs territory of the Republic of Serbia shall be placed under the export procedure.

Paragraph 1 of this Article shall not apply to any of the following domestic goods:

- 1) goods placed under the outward processing procedure;
- 2) goods taken out of the customs territory of the Republic of Serbia after having been placed under the end-use procedure;
- 3) goods delivered, VAT or excise duty exempted, as aircraft or ship supplies, regardless of the destination of the aircraft or ship, for which a proof of such supply is required;
- 4) goods placed under the internal transit procedure;
- 5) goods moved temporarily out of the customs territory of the Republic of Serbia in accordance with Article 137 of this Law.

The formalities concerning the export customs declaration laid down in the customs legislation shall apply in the cases referred to in paragraph 2 points 1, 2 and 3 of this Article.

Re-export of non-domestic goods

Article 233

Non-domestic goods to be taken out of the customs territory of the Republic of Serbia shall be subject to a re-export declaration to be lodged at the competent customs office.

Articles 139 to 169 of this Law shall apply to the re-export declaration.

Paragraph 1 of this Article shall not apply to any of the following goods:

- 1) goods placed under the external transit procedure which only pass through the customs territory of the Republic of Serbia;
- 2) goods trans-shipped within, or directly re-exported from, a free zone;
- 3) goods in temporary storage which are directly re-exported from a temporary storage facility.

CHAPTER 4

EXIT SUMMARY DECLARATION

Lodging an exit summary declaration

Article 234

Where goods are to be taken out of the customs territory of the Republic of Serbia and a customs declaration or a re-export declaration is not lodged as pre-departure declaration, an exit summary declaration shall be lodged at the customs office of exit.

Customs authority may allow the exit summary declaration to be lodged at another customs office, provided that the latter immediately communicates or makes available electronically the necessary particulars to the customs office of exit.

The exit summary declaration shall be lodged by the carrier.

Notwithstanding the obligations of the carrier, the exit summary declaration may be lodged instead by one of the following persons:

- 1) the exporter or consignor or other person in whose name or on whose behalf the carrier acts;
- 2) any person who is able to present the goods in question or have them presented at the customs office of exit.

Customs authority may accept that commercial, port or transport information systems may be used to lodge an exit summary declaration, provided that they contain the necessary particulars for such declaration and that these particulars are available within a specific time-limit, before the goods are taken out of the customs territory of the Republic of Serbia.

Customs authority may accept, instead of the lodging of the exit summary declaration, the lodging of a notification and access to the particulars of an exit summary declaration in the economic operator's computer system.

Amendment and invalidation of the exit summary declaration

Article 235

The declarant may, upon application, be permitted to amend one or more particulars of the exit summary declaration after it has been lodged.

No amendment referred to in paragraph 1 of this Article shall be possible after any of the following:

1) the customs authority has informed the person who lodged the exit summary declaration that it intends to examine the goods;

2) the customs authority has established that one or more particulars of the exit summary declaration are inaccurate or incomplete;

3) the customs authority has already granted the release of the goods for exit.

Where the goods for which an exit summary declaration has been lodged are not taken out of the customs territory of the Republic of Serbia, the customs authority shall invalidate that declaration in either of the following cases:

1) upon application by the declarant;

2) within 150 days after the lodging of the declaration.

Conferral of implementing powers

Article 236

The Government shall specify, the procedural rules for:

1) lodging the exit summary declaration referred to in Article 234 of this Law;

2) amending the exit summary declaration, in accordance with Article 235 paragraph 1 of this Law;

3) invalidating the exit summary declaration, in accordance with Article 235 paragraph 3 of this Law.

CHAPTER 5

RE-EXPORT NOTIFICATION

Lodging a re-export notification

Article 237

Where non-domestic goods referred to in Article 233 paragraph 3 points 2 and 3 of this Law are taken out of the customs territory of the Republic of Serbia and the obligation to lodge an exit summary declaration for those goods is waived, a re-export notification shall be lodged.

The re-export notification shall be lodged at the customs office of exit of the goods by the person responsible for the presentation of goods on exit in accordance with Article 230 paragraph 2 of this Law.

The re-export notification shall contain the particulars necessary to discharge the free zone procedure or to end the temporary storage.

Customs authority may accept that commercial, port or transport information systems may be used to lodge a re-export notification, provided that they contain the necessary

particulars for such notification and these particulars are available before the goods are taken out of the customs territory of the Republic of Serbia.

Customs authority may accept, instead of the lodging of the re-export notification, the lodging of a notification and access to the particulars of a re-export notification in the economic operator's computer system.

Amendment and invalidation of the re-export notification

Article 238

The declarant may, upon application, be permitted to amend one or more particulars of the re-export notification after it has been lodged.

No amendment shall be possible after any of the following:

- 1) the customs authority has informed the person who lodged the re-export notification that it intends to examine the goods;
- 2) the customs authority has established that one or more particulars of the re-export notification are inaccurate or incomplete;
- 3) the customs authority has already granted the release of the goods for exit.

Where the goods for which a re-export notification has been lodged are not taken out of the customs territory of the Republic of Serbia, the customs authority shall invalidate that notification in either of the following cases:

- 1) upon application by the declarant;
- 2) within 150 days after the lodging of the notification.

Conferral of implementing powers

Article 239

The Government shall specify, the procedural rules for:

- 1) lodging the re-export notification referred to in Article 237 of this Law;
- 2) amending the re-export notification, in accordance with Article 238 paragraph 1 of this Law;
- 3) invalidating the re-export notification in accordance with Article 238 paragraph 3 of this Law.

CHAPTER 6

RELIEF FROM EXPORT DUTY

Relief from export duty for domestic goods temporarily exported

Article 240

Without prejudice to Article 223 of this Law, domestic goods which are temporarily exported from the customs territory of the Republic of Serbia shall benefit from export duty relief, conditional upon their re-import.

TITLE IX
ELECTRONIC SYSTEMS

CHAPTER 1
DEVELOPMENT OF ELECTRONIC SYSTEMS

Transitional measures

Article 241

Means for the exchange and storage of information, other than the electronic data-processing techniques referred to in Article 5 paragraph 1 of this Law, may be used on a transitional basis, until 2020 at the latest, where the electronic systems which are necessary for the application of the provisions of this Law are not yet operational.

Conferral of implementing powers

Article 242

The Government shall prescribe the rules on the exchange and storage of data in the situation referred to in Article 241 of this Law.

Work programme

Article 243

In order to support the development of the electronic systems referred to in Article 241 of this Law and govern the setting up of transitional periods, the Government shall draw up a work programme relating to the development and deployment of the electronic systems.

The work programme referred to in paragraph 1 of this Article shall have the following priorities:

- 1) the harmonised exchange of information on the basis of internationally accepted data models and message formats;
- 2) the reengineering of customs and customs related processes in view of enhancing their efficiency, effectiveness and uniform application and reducing compliance costs; and
- 3) the offering to economic operators of a wide range of electronic customs services, enabling them to interact in the same way with the customs authority of any Member State.

The work programme referred to in paragraph 1 of this Article shall be updated regularly.

TITLE X
CUSTOMS RELIEFS

CHAPTER 1
RELIEF FROM PAYMENT OF IMPORT DUTIES

Relief from Payment of Import Duties for Foreign Persons

Article 244

Relief from the payment of import duties shall be granted to:

- 1) heads of foreign states, emissaries of heads of foreign states on special missions, as well as members of their escorts - for items intended for official or personal use;
- 2) international organizations - for items intended for their official use;
- 3) international and other foreign humanitarian organizations - for goods intended for humanitarian aid;
- 4) diplomatic and consular representative offices of foreign states - for items intended for their official use;
- 5) heads of foreign diplomatic and consular representative offices and members of their immediate families - for items intended for their personal use.

Relief from the payment of import duties in accordance with provisions of international agreements shall be granted to:

- 1) diplomatic staff of foreign diplomatic representative offices and members of their immediate family - for items intended for their personal use;
- 2) staff of foreign diplomatic and consular representative offices - for household items.

The items relieved from the payment of import duties referred to in paragraphs 1. and 2. of this Article shall not be transferred or given to other persons for usage prior to declaring them to customs authority and administering the customs procedure.

The reliefs referred to in paragraphs 1. and 2. of this Article may not be enjoyed by neither citizens of the Republic of Serbia, nor by foreign nationals permanently residing in Republic of Serbia.

Relief from Payment of Import Duties for Natural Persons

Article 245

Relief from the payment of import duties shall be granted to:

- 1) travelers arriving from abroad - for items for their personal use during travel (personal luggage), regardless of whether carried by them personally or shipped through carrier;
- 2) domestic travelers, aside for personal luggage items – for items which are brought by them from abroad, if not intended for resale;
- 3) foreign citizens that had been granted citizenship of the Republic of Serbia and foreign citizens that had been granted asylum in the Republic of Serbia, or permission for permanent residence in the Republic of Serbia - for items of household, except motor vehicles;
- 4) citizens of the Republic of Serbia - crew members of domestic ships and Serbian citizens who have been continuously working abroad for at least two years, regardless of the grounds – for household items, except for motor vehicles;

5) citizens of the Republic of Serbia and foreign citizens - for consignments of negligible value admitted free of charge from natural persons from abroad, provided the consignments are of non-commercial nature;

6) citizens of the Republic of Serbia and foreign citizens permanently residing in the Republic of Serbia - for items inherited abroad;

7) citizens of the Republic of Serbia, foreign citizens permanently residing in the Republic of Serbia, companies, communities and other organizations - for awards, medals, sports trophies and other objects won abroad at competitions, exhibitions and manifestations of international importance;

8) scientists, writers and artists - for their own works brought in from abroad;

9) citizens of the Republic of Serbia living within the frontier zone- for products of crop cultivation, livestock breeding, forestry, fish breeding, and apiculture obtained from their holdings situated in the frontier zone of the neighboring country, as well as for offspring and other products obtained from livestock bred at these holdings for the reason of field works, grazing or wintering;

10) drivers of motor vehicles - for fuel and oil in factory installed tanks;

11) disabled persons/ Associations of disabled persons – for articles specially designed for the education, employment or social advancement of disabled persons, passenger and other motor vehicles principally designed for the transport of persons specially designed or adapted for use by disabled persons as well as for spare parts, components or accessories specifically for the articles in question;

12) individuals - for specific health related equipment, devices and instruments, spare parts thereof and disposable material for the use of such equipment, for personal use, that are not produced in the Republic of Serbia.

Relief from Payment of Import Duties for Legal and Other Persons

Article 246

Relief from the payment of import duties shall be granted to:

1) organizations of Red Cross - for imported goods not being produced in Republic of Serbia that are imported for the purpose of their humanitarian work;

2) fire-fighting and rescue organizations and associations - for fire-fighting and rescue operation equipment and parts thereof which are not manufactured in the Republic of Serbia;

3) museums and art galleries - for collections, their parts and individual items designated for museums and art galleries, as well as archives - for archive material;

4) persons, except natural persons, engaged in scientific, educational, cultural, sports, recreational, humanitarian, religious activity, technical culture, art, environmental and cultural goods protection activities and environmental quality control - for goods not manufactured in the Republic of Serbia and intended to be directly used for performing such activities, except alcohol and alcoholic beverages, tobacco products and passenger motor vehicles;

5) persons, except natural persons - for goods received from abroad free of charge for scientific, educational, cultural, sports, humanitarian, religious, health and social purposes, as well as for environmental protection, except alcohol and alcoholic beverages, tobacco products and passenger motor vehicles;

6) persons, except natural persons - for goods received free of charge from abroad or paid for by money received from abroad as aid, if intended for lessening of consequences of natural catastrophes (earthquakes, floods, draught, ecological disasters etc.), wars and armed conflicts.

The right to an import duties relief in accordance with the provision of this point may apply only if the Government finds that consequence of a natural catastrophe is such, that importation of goods with relief from the payment of customs duties should be allowed for the purpose of lessening the consequence, and if the goods are imported within the time limit prescribed by the Government;

7) health service companies - for specific equipment, devices and instruments for health care, their spare parts and disposable materials necessary for use of such equipment, as well as for medications used for treatments in hospitals, that are not manufactured in the country, if used to equip these companies and satisfy their needs in accordance with programs of health services development;

8) companies for professional rehabilitation and employment of disabled persons - for equipment and spare parts not manufactured in the country that are used for professional rehabilitation and employment of disabled persons;

9) persons, except natural persons - for equipment not manufactured in the country intended directly for environmental protection;

10) persons, except natural persons - for medals and awards received from abroad for the purpose of their presentation at the international competitions that take place in the Republic of Serbia.

Provision of paragraph 1 points 3 to 10 of this Article shall also apply to entrepreneurs.

Goods Exempted from Payment of Import Duties

Article 247

Import duties shall not be payable for:

- 1) promotional material and samples received from abroad free of charge;
- 2) items brought in or received from abroad by foreign participants at the international fairs and commercial exhibitions in the country for the purposes of usual distribution and consumption during the fair or exhibition;
- 3) trademarks, patents and designs and any supporting documents thereof, as well as applications and motions submitted to organizations for the protection of intellectual property rights;
- 4) consignments of negligible value of a non-commercial nature.

Conferral of implementing powers

Article 248

The Government may specify the type, quantity and value of goods referred to in Articles 244 to 247 of this Law, eligible for relief from the payment of import duties, as well as time limits, conditions, and procedures for exercising right to relief from the payment of import duties.

Disposal of the Goods Exempted from the Payment of Customs Duties, or the Goods for Which Import Duties is Not Payable

Article 249

Goods which have been granted a relief from the payment of import duties pursuant to the provisions of Article 244 and 245 paragraph 1 points 1, 3 and 4, Articles 246 and 247 of this Law, shall not be transferred to other person, given for use to other person or otherwise used, other than for the purposes for which they were relieved from import duties, prior to the payment of such import duties, before the expiry of a 3 year period from the day when they were released for free circulation. Such goods shall not be pledged, lent or used as a security for satisfaction of another obligation.

Provision of paragraph 1 of this Article shall also be applicable to used passenger and other motor vehicles referred to in Article 245 paragraph 1 point 11 of this Law. Period referred to in paragraph 1 of this Article for new passenger and other motor vehicles referred to in Article 245 paragraph 1 point 11 of this Law shall be five years.

Where customs authority authorises use of goods other than prescribed, the amount of import duties shall be determined in accordance with the condition of goods and in accordance with the provisions applicable at the time the request for the payment of import duties was filed.

Where the goods are disposed of contrary to the provision of paragraph 1 of this Article, import duties shall be calculated in accordance with the condition of goods and in accordance with the provisions applicable at a time decision on collection of import duties was made.

TITLE XI

BORDER ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

Entry and Exit of Goods Infringing

Intellectual Property Rights

Article 250

Entry and exit of goods infringing the intellectual property rights established by the related legislation and international agreements shall not be permitted.

Actions of the Customs Authority Upon Request

Of the Intellectual Property Rights Holder

Article 251

The customs authority shall, upon request of the intellectual property right holder, suspend the release of the goods or detain them in case of suspicion that entry or exit of goods subject to customs procedure is in violation of the intellectual property rights.

The request referred to in paragraph 1 of this Article may be individual, related to particular consignment of goods, or general. The right holder shall provide customs authority with information on the particulars of original goods, manufacturers and distributors of such goods and any other information that may assist the customs authority to identify consignments suspected to be in violation of intellectual property rights.

Ex Officio Actions of the Customs Authority

Article 252

The customs authority may, *ex officio*, suspend the release of the goods or detain them, where the customs authority suspects of infringement of certain intellectual property rights.

Compensation of Damages

Article 253

The customs authority shall not be liable to compensate the holder of the goods or the declarant for any damages resulting from withholding the goods in accordance with Articles 251 and 252 of this Law.

Person referred to in Article 251 paragraph 1 of this Law shall be liable to pay to the holder of the goods or the declarant compensation for any damage caused to them through the wrongful detention of goods based upon his request.

Information on Suspension of the Release of the Goods or Detention of the Goods

Article 254

Where, pursuant to Article 252 of this Law, the customs authority decides to suspend the release of the goods or detain them, he will notify without delay:

- 1) the holder of the goods or the declarant;
- 2) the intellectual property right holder, if the address is available to the customs authority;
- 3) the authority competent for protection of intellectual property rights.

If, within a period not exceeding 10 working days after notification of suspension to interested parties, the customs authority has not been informed that proceedings leading to a decision on the merits of the case have been initiated, or that the competent authority has taken provisional measures prolonging the suspension of the release of the goods, the goods shall be released, provided that all other conditions for entry or exit have been complied with.

Upon the request of the applicant, customs authority may extend the time limit referred to in paragraph 2 of this Article by another 10 working days.

Inspection of Goods

Article 255

The intellectual property right holder, importer, exporter and the owner of the goods, have the right to identify goods, including the right to inspect the goods, provided that such inspection is done under customs' supervision.

Measures for Protection of Intellectual Property Rights not Applicable

Article 256

Measures related to the protection of intellectual property rights provided for in Articles 250 to 255 of this Law shall not apply to the goods that have been released for free circulation under the end-use regime, to the goods of a non-commercial nature contained in travellers' personal luggage and to goods that have been manufactured with the consent of the right-holder or to the goods manufactured, by a person duly authorised by a right-holder to manufacture a certain quantity of goods, in excess of the quantities agreed between that person and the right-holder.

Conferral of implementing powers

Article 257

The Government shall lay down the conditions and the manner of implementation of measures referred to in Articles 250 to 256 of this Law.

Database Of The Customs Authority Regarding Customs Enforcement Of Intellectual Property Rights

Article 258

The Customs Administration shall, concerning the protection of intellectual property rights at the border, establish the database of:

- 1) decisions granting applications, including the application and its attachments;
- 2) decisions extending the period during which the customs authorities are to take action or decisions revoking the decision granting the application or amending it;
- 3) the suspension of a decision granting the application.

Where the release of the goods is suspended or the goods are detained, in the database referred to in paragraph 1 of this Article shall include data on the quantity and type of the goods, value, intellectual property rights, customs procedures, countries of provenance, origin and destination, and transport routes and means.

The database, in addition to data from paragraphs 1 and 2 of this Article, contains personal data that is collected by the customs authority in connection with the protection of intellectual property rights at the border, and that the following data:

- 1) name of the applicant;
- 2) address and country of the applicant;
- 3) the name of the representative for legal matters of the applicant;
- 4) address and country of the representative for legal matters of the applicant;
- 5) the name of the representative for technical matters of the applicant;

6) address and country of the representative for technical matters of the applicant.

The Customs Administration shall amend, supplement, correct or delete data entered into database.

The Customs Administration shall establish and maintain adequate technical and organisational arrangements for the reliable and secure operation of the database.

Personal data shall not be kept longer than six months from the date the relevant decision granting the application has been revoked or the relevant period during which the customs authorities are to take action has expired.

Where the holder of the decision has initiated proceedings to determine whether an intellectual property right has been infringed and has notified the customs authorities of the initiation of such proceedings, personal data shall be kept for six months after proceedings have determined in a final way whether an intellectual property right has been infringed.

The database is publicly available.

CHAPTER III

OTHER PROVISIONS

Application of International Agreements

Article 259

The provisions of this Law do not apply to payment of import duties for imported goods or to implementation of customs procedures where it is regulated otherwise under international agreements.

Duty Free Shops

Article 260

Duty free shops may be established at international airports. In duty free shops, goods are sold without the payment of customs duties to passengers leaving the customs territory of the Republic of Serbia, after the customs control.

Supply of the duty free shops with goods shall be carried out from a separate warehouse to which the provisions on customs warehouses apply.

The customs authority shall approve establishing of duty free shops in accordance with the prescribed conditions.

The Government shall prescribe conditions for establishing of duty free shops and sale of goods in such shops.

Aircrafts Supplies

Article 261

Where the final destination of an aircraft is outside of the customs territory of the Republic of Serbia, the aircraft may, under customs supervision, get supplies of the following goods exempt from payment of import duties:

1) Food or other necessary products proportionate to the number of passengers, crew and duration of the flight; and

2) Products necessary for the functioning and maintenance of the aircraft in quantities appropriate to the functioning or maintenance of the aircraft during the flight.

The goods referred to in paragraph 1 point 1 of this Article may be sold to the passengers on board the aircraft.

Goods referred to in paragraph 1 of this Article may be loaded on an aircraft brought into the Republic of Serbia without the payment of customs duties, provided that they remain on the aircraft. If such goods are unloaded, they must be presented to the customs authority and be assigned a customs-approved treatment or use. Goods referred to in paragraph 1 of this Article shall be supplied to the aircraft from a separate warehouse to which the provisions on customs warehouses apply.

Sale of Customs Goods, Prescribing Requirements and the Method of Sale

Article 262

Sale of goods abandoned to the state or confiscated in accordance with Article 271 paragraph 1 of this Law, shall, as a rule, be public sale. Sale of goods seized in accordance with Article 271 Paragraph 6 of this Law shall be enforceable after the decision became final in the proceedings in which the protective measure of confiscation of goods is imposed.

Notwithstanding paragraph 1 of this Article, the customs authority may immediately, without a public sale, sell perishable goods, live animals and oil and oil derivatives seized pursuant to Article 271 paragraph 6 of this Law.

On the management of the goods referred to in paragraph 2 of this Article shall apply, *mutatis mutandis*, the provisions of the regulation governing the confiscation of assets derived from crime.

The Government shall lay down requirements and method for the sale of customs goods.

Donation of Non-Domestic Goods without Payment the Price or Destruction of Non-Domestic Goods

Article 263

The non-domestic goods abandoned to the state or permanently confiscated, which could not be sold in the customs territory of the Republic of Serbia, can be donate by the Government, without payment of the equivalent, to state bodies, cultural and scientific institutions, humanitarian organizations and other humanitarian aid users, and for other justifiable purposes.

Import duties on goods referred to in paragraph 1 of this Article shall not be paid if the person to whom the goods were donated, in case of import of such goods, would be exempted from payment of import duties in accordance with this Law.

Goods that cannot be sold or used due to health, veterinary, phytosanitary, safety or other reasons prescribed by the law, shall be destroyed under the customs supervision, pursuant to provisions in force.

Tobacco products that are not properly labeled and goods that have been found to be infringing intellectual property rights shall be deemed as goods referred to in paragraph 2 of this Article.

The owner or importer of the goods shall bear the costs of destruction, and where owner or importer is not known or reachable, such costs shall be borne by the customs authority, unless otherwise provided by customs regulations.

TITLE XI CUSTOMS OFFENCES

I. General Provisions

Definition

Article 264

Any activity or non-compliance found to be in contravention of this Law and implementing provisions based on this Law shall be deemed to be customs offences as defined by this Law and as such are subject to penalty.

II. Offences and Penalties

Article 265

Any legal person, entrepreneur or natural person shall be fined an amount equal to one to four times the value of the goods that are the subject of the offence, if such person:

1) does not declare in the prescribed manner the goods that brings in or takes out of the customs territory of the Republic of Serbia (Articles 112, 115, Article 116, paragraph 1 point 1, Articles 227, 232, and 234);

2) removes the goods under customs supervision, thus circumventing the customs control (Article 118, Article 123 paragraph 7, Article 130 paragraph 3 point 1, Article 139 paragraph 3, Article 172 paragraph 1 point 1 and Articles 199, 207 and 218);

3) does not present the goods to the customs authority (Articles 123 and 210);

4) does not declare all the goods subject to the customs procedure in the declaration (Article 139.);

5) does not declare goods he takes in from the free zone into the rest of the customs territory of the Republic of Serbia (Article 213).

Any responsible person in a legal person shall be fined 15,000 to 150,000 Dinars for the offence referred to in paragraph 1 of this Article.

Article 266

Any legal person, entrepreneur and natural person shall be fined an amount equal to one to four times the amount of customs duties payable for the goods that are the subject of the offence, if such person:

1) by presenting incorrect or false information, or in any other manner misleading the customs authority, achieves or attempts to achieve the payment of duties in a reduced amount, preferential tariff treatment, relief of payment of import duties, facility for payment of import and other duties, payment of a reduced amount, repayment or remittance of the payment of import duties, or any other facility (Articles 12, 73, 74, 75, 139, Articles 142-144 and Articles 175, 184, 217, 223 and 224);

2) In contravention of the law transfers the goods to a third person, enables the goods to be used by a third person, rents the goods or uses them in any other manner for the purposes other than those that were the basis for the grant of a facility for payment of import duties and other duties, or if he liens, rents or places as a security the goods subject to a relief, before payment of import duties in full (Article 249).

Any responsible person in a legal person shall be fined 15,000 to 150,000 Dinars for the offence referred to in paragraph 1 of this Article.

Article 267

Any legal person shall be fined 50,000 – 1.500,000 Dinars, if such person:

1) fails to submit documentation or does not communicate the information necessary to the customs authority, or does not provide any other assistance necessary for administration of the customs procedure (Articles 12, Article 63 paragraph 1 and Articles 163 and 186);

2) when submitting the request for granting the customs procedure, directly or indirectly, submits to the customs authority documentation containing false information, provided that such act causes or may cause granting of any customs privileges, or right to be obtained, which could not be obtained under the applicable law (Articles 17 and 184);

3) prepares or orders preparation of false records on the origin of goods, prepares or orders preparation of documents that contain false information, which could lead to unlawful grant of a special procedure and determining of preferential origin of goods subject to that document (Articles 44 and 48);

4) unloads or transships the goods without the permission of the customs authority, or unloads or transships the goods with the permission of the customs authority but in places not designated or approved for that purpose, or fails to inform the customs authority in a timely manner in the event of imminent danger necessitating the immediate unloading or transshipment of the goods, or removes the goods from their original position without the permission of the customs authority (Article 123 paragraph 7 and Article 124 paragraphs 1 and 2);

5) does not comply with the obligations that must be fulfilled when the simplified procedure has been granted (Articles 145 and 146);

6) acts as if the goods have been released for free circulation before completing the formalities necessary for such release and payment of customs and other duties, before trade policy measures pertinent to the importation of goods are applied (Article 175);

7) does not comply with the obligations arising from the grant of the special procedure (Article 184 paragraph 2);

8) brings the goods in or takes them out from the free zone, at the place other than that

designated as entrance and exit points or does not produce the goods upon the request of the customs authority (Article 208 paragraph 4 and 5 and Article 210 paragraph 1);

9) does not notify the customs authority of a construction of a structure in the free zone, on carrying out activity in the free zone or carries out any such activity in spite of the prohibition or limitation imposed by the customs authority (Article 209 paragraphs 1 and 2);

10) treats the goods from the free customs shop in contravention to this Law (Article 260).

Any enterprenuer shall be fined 10,000 – 300,000 Dinars for the offence referred to in paragraph 1 of this Article.

Any natural person and responsible person in a legal person shall be fined 10,000 – 100,000 Dinars for the offence referred to in paragraph 1 of this Article.

Article 268

Any legal person shall be fined 200,000 Dinars, if such person:

1) does not keep the documentation during the prescribed period (Article 37);

2) fails to transport the goods within time limits, by the route and in a manner determined by the customs authority (Article 119);

3) fails to unload or unpack the goods for purposes of inspection of goods and the means of transport used for transport of such goods, where requested by the customs authority (Article 124 paragraph 3);

4) keeps the goods in a temporary storage in places and in circumstances contrary to those approved by the customs authority, or performs activities that alter the appearance and technical characteristics of goods (Articles 130 and 131);

5) does not carry out customs formalities necessary to assign the goods customs-approved treatment or fails to re-export the goods within the prescribed time limits (Articles 132 and 133);

6) fails to duly protect the means of identification of the goods from damage or destruction, or removes it from the means of transport without the authorisation of the customs authority, except where due to unforeseeable circumstances or *force majeure* such removal or destruction of the means of identification was necessary to protect the goods or the means of transport (Article 166 paragraph 2);

7) fails to keep prescribed records for the goods placed under the customs procedure in a manner determined by the customs authority or fails to keep the records in a timely manner (Article 186);

8) fails to end special procedure within prescribed time limit (Articles 187, 216, and 225);

9) fails to end transit procedure and present the goods to the customs authority of the destination in non-altered condition or present goods in prescribed time limit, or respect other measures taken by customs authority in order to provide identity of the goods (Article 199);

10) continues to store the goods in the customs warehouse in contravention to the authorisation of the customs authority or without any authorisation of the customs authority (Article 205);

11) fails to fulfill obligations taken as a holder of authorisation or customs warehouse procedure (Article 207);

Any entrepreneur shall be fined 100,000 Dinars for the offence referred to in paragraph 1 of this Article.

Any natural person and responsible person in a legal person shall be fined 20,000 Dinars for the offence referred to in paragraph 1 of this Article.

Article 269

Any legal person who commits the offence referred to in Articles 267 and 268 of this Law shall be fined 40,000 Dinars, provided that the customs value of goods subject to offense does not exceed 1,000 € in Dinars equivalent determined in accordance with Article 39 of this Law.

Any entrepreneur shall be fined 20,000 Dinars on the spot for the offence referred to in paragraph 1 of this Article.

Any natural person and responsible person in a legal person shall be fined 10,000 Dinars for the offence referred to in Article 267 of this Law, provided that the customs value of goods subject to offense does not exceed 1,000 € in Dinars equivalent determined in accordance with Article 39 of this Law.

Responsibility of another Person

Article 270

Any legal person, entrepreneurs, natural person and responsible person in a legal person who buys, sells, distributes, receives as a gift, conceals, receives for the purpose of storing into the appropriate storage space, transports, takes care, uses or acquires in any manner the goods for which he knew or, bearing in mind given circumstances, must have known to be objects of an offence referred to in Articles 265 to 268 of this Law, shall be penalized by a fine prescribed to that offense.

III. Protective Measures

Confiscation of Goods

Article 271

Goods being subject of the offences referred to in Articles 265 and 266 of this Law shall be confiscated. In addition to goods being subject to an offence, means of carrying the goods that are the subject of the offence (container, packaging and other items) shall also be confiscated.

Goods referred to in paragraph 1 of this Article shall be confiscated even if the perpetrator is not the owner thereof.

Where the goods that are the subject of the customs offence cannot be found, or for whatever reason cannot be confiscated, the perpetrator shall pay the amount equal to the value of such goods determined in accordance with this Law, and the separate proceedings for collection of import and other duties payable on importation of goods shall be initiated.

The goods that are the subject of the customs offence, for which protective measures referred to in paragraph 1 of this Article are prescribed, may be confiscated even if the offence proceedings were dismissed because the perpetrator was under age at the time the customs offence was committed, or if it was not possible to administer the proceedings due to the fact that the identity of a perpetrator was not known or the perpetrator was not reachable to the customs authority, or due to any other legal obstacles, except in the case where the time period within which the proceedings may be initiated has elapsed.

Where more than one perpetrators are involved, all of them shall be liable jointly and severally for the payment of the value of goods and duties.

The goods that are the subject of the offence, where the confiscation is prescribed as a protective measure, shall be seized and placed under the customs supervision until the end of the offence proceedings.

Confiscation of the Means of Transport

Article 272

Means of transportation used to transport the goods that are the subject of the offences referred to in Article 265 of this Law shall be confiscated, provided the value of the goods that are the subject of the offence exceeds one third of the value of such means, where the owner of the means knew, or could have known that they were to be used to transport the goods that are the subject of the offence.

The means of transportation referred to in paragraph 1 of this Article, which have been specially constructed, or adapted or altered or in any other manner adjusted for the purpose of concealment of goods, shall be confiscated irrespective of the value of goods and the value of means of transportation.

Confiscation of means of transportation under paragraphs 1 and 2 of this Article shall not deprive third persons of their right to claim compensation for damages from the perpetrator.

Payment of Interest on arrears

Article 273

Where the fine has not been paid in time, the interest on arrears shall be collected. The customs authority shall calculate the interest on the amount of fine, starting at the due date, at a rate equal to the annual discount rate of National Bank of Serbia, increased by 10 percentage points, by application of simple interest formula.

Competence of authority

Article 274

The customs authority shall issue a misdemeanour warrant for offences which are punishable by a fine in the fixed amount in accordance with the provisions of the law regulating misdemeanours.

For offences for which are not issued misdemeanour warrants, the customs authority

submits a request for initiating misdemeanour proceedings.

Urgency

Article 275

If the perpetrator of the misdemeanour is a person whose place of residence is outside the customs territory of the Republic of Serbia and all conditions for issuing a misdemeanour warrant are met, misdemeanour warrant must be issued within 48 hours.

Statute of Limitations

Article 276

Where three years have elapsed after the customs offence had been committed, offence proceedings cannot be initiated.

Where three years have elapsed after the customs offence had been committed, proceedings for issuing misdemeanour warrant cannot be initiated or conducted.

Each activity of the competent authority carried out in order to issue the misdemeanour warrant shall interrupt the statute of limitations.

The statute of limitations begins to run again after each interruption, but absolute obsolescence occurs in any case after a period of six years from the date the offense was committed.

Application of the Law on Offences

Article 277

The provisions of the Law on Offences shall be applicable to customs offense proceedings.

TITLE XI

TRANSITIONAL AND FINAL PROVISIONS

Customs Privileges

Article 278

All rights related to relief from payment of import duties or other customs privileges granted by the particular acts of competent authorities, which were not exercised entirely or partially by the day this Law enters into effect, may be exercised within the time limits set by such acts.

All obligations related to relief from payment of import duties or other customs privileges granted by the particular acts of competent authorities, shall be fulfilled within the time limits set by such acts.

Customs Procedures

Article 279

Customs procedures that have been initiated before the day this Law comes into effect shall be completed pursuant to the provisions that were in force before the day this Law came into effect.

Circulation of Goods with the Autonomous Province of Kosovo and Metohia

Article 280

Provisions of this Law shall apply *mutatis mutandis* to circulation of goods with Autonomous Province of Kosovo and Metohia for as long as the UN Security Council Resolution No.1244 is effective.

The Government may establish specific conditions for circulation of goods referred to in paragraph 1 of this Article.

Provision that Cease to Apply

Article 281

On the day this Law comes into effect, the Customs Law (“RS Official Gazette” No. 18/10, 111/12, 29/15 and 108/16) except Article 310 paragraph 1, shall cease to be effective.

Implementing regulations for this Law shall be adopted not later than 6 months from the date this Law comes into effect.

Until regulations referred to in paragraph 2 of this Article come into force, the provisions based on the Customs Law (“RS Official Gazette” No. 18/10, 111/12, 29/15 and 108/16) shall apply, if they are not in contravention of this Law.

Article 282

On the day this Law comes into effect, the provisions of the Article 3a of the Customs Tariff Law (“RS Official Gazette” No. 62/05, 61/07 и 5/09), shall cease to be effective.

Effective Date

Article 283

This Law shall enter into force on the eighth day following that of its publication in the “Official Gazette of the Republic of Serbia”, and shall be applied after the expiration of a period of six months from the date of entry into force.

