

## **THE CUSTOMS LAW**

("Official Gazette of the RS", No. 18/2010, 111/2012 and 29/2015)

### Title one

#### GENERAL PROVISIONS

##### a

#### Chapter I

#### SUBJECT-MATTER OF THE LAW AND DEFINITIONS

#### Content and Application of the Law

#### **Article 1**

This Law shall regulate general rules and procedures applicable to goods brought into or 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 there from;
- 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.

Customs provisions shall consist of:

- 1) This Law and 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.

In addition to the Official Gazette, customs related laws, regulations and decisions may be published in other media, including electronic ones.

Mission of the Customs Law

## **Article 2**

The mission of this Law is:

- 1) Protecting economic, fiscal and financial interests of the Republic of Serbia;
- 2) Protecting the Republic of Serbia from unfair and illegal trade;
- 3) Ensuring the security and safety of people and the environment;
- 4) Facilitating international trade.

Customs authority shall be responsible for the control of international trade, contributing to the free trade, administration of the foreign aspects of the internal market and trade principles, as well as the general supply chain security.

In order to perform its activities in accordance with the provisions in force, the customs authority may perform all the control activities it deems necessary to ensure the correct application of this Law and other provisions. Such control activities may be carried out outside the customs territory of the Republic of Serbia only if an international agreement so provides.

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 territorial waters and airspace and is defined by the customs line, which is identical to the frontier line of the Republic of Serbia.

Information technology

## **Article 4**

Customs authority shall introduce and apply information technology where it is cost-effective and efficient for the Customs Administration and for the commerce in general, applying international standards. Information technology shall include *inter alia*:

- 1) methods of electronic trade as an alternative to paper-based methods;
- 2) electronic methods for authentication as well as paper-based methods;
- 3) the right of customs authority to retain information for their own use and to exchange such information with other customs administrations and all other legally approved parties.

The Customs Authority shall specify the conditions for economic operators to communicate with that authority in an electronic form.

## Article 5

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

1) **Person** shall mean a natural person or a legal person, any association of persons and entrepreneur recognized under the applicable law as having capacity to perform legal acts;

2) **Person established in the Republic of Serbia** shall mean:

- a citizen of the Republic of Serbia who has a residence in the Republic of Serbia or a foreign citizen who has been granted residence in the Republic of Serbia in accordance with the applicable law,

- a legal person that has central headquarters, registered branch office, regional office or permanent business establishment in the Republic of Serbia;

3) **Customs authority** shall mean the Customs Administration, customs office and its organisational units responsible for implementation of customs and other legislation, as well as authorised customs officer;

4) **Customs status** of goods shall mean the status of goods in the customs proceedings, as domestic or non-domestic;

5) **Domestic goods** shall mean:

- goods wholly obtained or produced 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.

- goods imported from countries or territories outside the Republic of Serbia and released for free circulation;

- goods obtained or produced in the customs territory of the Republic of Serbia, either solely from goods referred to in item 2. of this subparagraph or from goods referred to in items 1. and 2. of this subparagraph;

6) **Non-domestic goods** shall mean all goods which do not have the status of domestic goods, or goods that have lost their status of domestic goods. Domestic goods shall lose their status as such when they are actually removed from the Republic of Serbia, except in the cases referred to in Article 126. of this Law.

7) **Customs debt** shall mean an obligation on a person to pay the amount of the import duties (customs debt on importation) or export duties (customs debt on exportation) which apply to specific goods under the legislation in force of the Republic of Serbia;

8) **Import duties** shall mean:

- customs duties and other charges having an effect equivalent to customs duties, payable on the importation of goods,

- import duties introduced under the agricultural policy, payable on the importation of goods;

9) **Export duties** shall mean:

- customs duties and other charges having an effect equivalent to customs duties, payable on the exportation of goods,

- export duties introduced under the agricultural policy, payable on the exportation of goods;

10) **Debtor** shall mean any person liable for payment of a customs debt;

11) **Customs supervision** shall mean general measures taken by the customs authority with a view to ensuring that customs and other legislation applicable to goods subject to customs supervision are observed;

12) **Customs control** shall mean specific acts performed by the customs authority in connection with goods such as: examining goods; verifying the existence, reliability and accuracy of documents; examining the accounts of undertakings and other records; inspecting and searching of means of transport; inspecting and searching of personal luggage and other goods carried by or on persons; carrying out official procedures and other similar acts with a view to ensuring that customs and other legislation are observed;

13) **Customs-approved treatment or use of goods** shall mean:

- placing of goods under a customs procedure,

- entry of goods into a free zone or free warehouse,

- re-exportation of goods from the customs territory of the Republic of Serbia,

- destruction of goods,

- abandonment of goods to the state.

14) **Customs procedure** shall mean:

- release of goods for free circulation,

- transit,

- customs warehousing,

- inward processing,

- processing under customs control,

- temporary import,

- outward processing, and

- exportation.

15) **Customs formalities** shall mean actions performed by persons and customs authority with the purpose of observing the customs rules;

16) **Customs declaration** (hereinafter referred to as: declaration) shall mean the act whereby a person indicates, in the prescribed form and manner, a wish to place goods under a given customs procedure;

17) **Summary declaration** (entry summary declaration and exit summary declaration) means the act whereby, before or at the time of bringing goods into or out of the customs territory of the Republic of Serbia, a person informs the customs authority, in the prescribed form and manner, that goods are to be brought into or out of the customs territory of the Republic of Serbia;

18) **Declarant** shall mean the person making the declaration in his own name or the person in whose name a declaration is made;

19) **Presentation of goods to the customs office** shall mean the notification to the customs authority, in the manner laid down, of the arrival of goods at the customs authority or at any other place designated or approved by the customs authority;

20) **Release of goods** shall mean the act whereby the customs authority makes goods available under conditions and for the purposes stipulated by the customs procedure under which they are placed;

21) **Holder of the procedure** shall mean the person on whose behalf the declaration was made or the person to whom the rights and obligations of the abovementioned person in respect of a customs procedure have been transferred;

22) **Holder of the authorisation** shall mean the person to whom an authorisation has been granted in accordance with customs legislation;

23) **Taxation elements** shall mean the tariff rate and amount of duties in accordance with the Customs Tariff and tariff classification of the goods, origin of goods, customs value of the goods, as well as the amount, nature and condition of the goods;

24) **Customs clearance** shall mean any official action of placing the goods under a customs procedure or of carrying out customs formalities for re-exportation of goods in a normal procedure or under a simplified procedure in accordance with this Law;

25) **Lodging a declaration** shall mean presenting of a declaration in the prescribed form and manner to the competent customs authority for the purpose of carrying out of the customs procedure;

26) **Acceptance of a declaration** shall mean establishing on behalf of the customs authority that the declaration is in accordance with Articles 87. and 88. of this Law and entering of such declaration in the prescribed accounts;

27) **Holder of the goods** shall mean the person who is the owner of the goods or the person who has a right of use or disposal over them or who has physical control of them;

28) **Commercial policy measures** shall mean measures prescribed by the governmental bodies, which have not been established by the Customs Tariff, and which are effecting export and import of the goods, including the safeguard measures, quantitative restrictions and prohibitions;

29) **Risk** shall mean the likelihood of an event occurring, in connection with the entry, exit, transit, transfer or end-use of goods and the presence of non-domestic goods in the customs territory of the Republic of Serbia, which:

- prevents the correct application of customs rules or other legislation in force,
- compromises the financial interests of the Republic of Serbia,
- poses a threat to the security of the Republic of Serbia and its citizens, to public moral, to human, animal or plant health, to the environment, items of national historic, artistic and archaeological value, to intellectual property rights, to consumers rights or the like;

30) **Risk management** shall mean systematic identification of risk and implementation of all measures necessary for limiting exposure to risk and includes activities such as collecting data about risk, analysing and assessing risk, prescribing measures and regular monitoring and review of their application and its outcomes, based on the sources and strategies of the customs and other responsible authorities in the Republic of Serbia, as well as based on the international sources and strategies;

31) **Commercial documents** shall mean all business records, registers, invoices, accounting and payment vouchers, transport and supporting documents, accounts, financial statements including annual and interim reports, audit protocols and auditors' reports, production and quality records, and correspondence including e-mails relating to a person's business activity, as well as commercial data, in whatever form they may be, including electronically stored data .

## Chapter 2

### RIGHTS AND OBLIGATIONS OF PERSONS WITH REGARD TO CUSTOMS RULES

#### Section 1

#### RIGHT OF REPRESENTATION

#### Representation

#### **Article 6**

Under the conditions set out in Article 89. paragraphs 2. and 3. of this Law, any person may appoint a representative to perform all or some of the acts in his dealings with the customs authority.

Person not established in the Republic of Serbia, that participates in the customs proceedings, must appoint indirect representative who shall act in his own name and on behalf of the person not established in the Republic of Serbia.

Representation may be:

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

A representative must be established in the Republic of Serbia, except in the cases referred to in Article 89. paragraph 3. subparagraphs 1. and 2. of this Law.

A representative must state before customs authority which person he is representing, specify whether the representation is direct or indirect and, at the request of customs authority, shall produce evidence of his empowerment to act as a representative in customs proceedings. A person who fails to state that he is acting in the name of or on behalf of another person or who states that he is acting in the name of or on behalf of another person without being able to produce evidence of his empowerment to do so, shall be deemed to be acting in his own name and on his own behalf.

The customs authority may require the person stating that he is acting in the name of or on behalf of another person to produce evidence of his powers to act as representative.

Indirect Representation

### **Article 7**

Indirect representation in customs proceedings, within the meaning of Article 6. of this Law, may be carried out by a legal person that:

- 1) has a registered 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 received 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 in charge of finance (hereinafter referred to as: 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. An appeal may be lodged to the Ministry in charge of finance (hereinafter referred to as: the Ministry) against the decision referred to in this paragraph.

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. subparagraph 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 same 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.

## Section 2

### AUTHORISED ECONOMIC OPERATORS

#### Authorised Economic Operators

#### **Article 8**

A person established in the customs territory of the Republic of Serbia and who meets the conditions set out in this Law may request the status of an "authorised economic operator".

The customs office shall, after obtaining an opinion from the Customs Administration and if necessary following consultation with other competent authorities, grant the status of an authorised economic operator.

An authorised economic operator may benefit from facilitations with regard to customs controls relating to security and safety and/or simplifications provided for under the customs rules.

The authorised economic operator shall notify the customs authority of all factors arising after that status was granted which may influence its content.

The Criteria for Granting the status of Authorised Economic Operator

### **Article 9**

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

- 1) An appropriate record of compliance with customs legislation in the period preceding the granting of the status;
- 2) A satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;
- 3) Proven financial solvency;
- 4) Where applicable, appropriate security and safety standards in international trade.

Prescribing Requirements for the Purpose of Application of the Criteria

### **Article 10**

For the purpose of application of criteria referred to in Article 9. of this Law, the Government shall prescribe the following:

- 1) Conditions for granting the status of authorised economic operator;
- 2) Conditions for frequency of review of the status of authorised economic operator;
- 3) Conditions for granting of authorisations for the use of simplified procedures;
- 4) Type and extent of facilitations that may be granted in respect of customs controls relating to security and safety, taking into account the rules for risk assessment and management;
- 5) Conditions under which the status of authorised economic operator may be suspended and procedure for such suspension;

Section 3

DECISIONS RELATING TO THE APPLICATION OF CUSTOMS RULES

Issuing of Decisions

### **Article 11**

Where a person requests that the customs authority takes a decision relating to the application of customs rules that person shall supply all the information, documents and other evidence required by the authority in order to take a decision.

A decision of the first instance in the administrative proceedings shall be taken by the custom office, unless prescribed otherwise by this Law.

A decision shall be taken and notified to the applicant without delay and in accordance with the provisions of the law that regulates the general administrative procedure.

Decisions adopted by the customs authority in writing, which either reject requests or are detrimental to the person concerned, shall set out the grounds on which they are based and they shall refer to the right of appeal provided for in Article 12. of this Law.

Provided that customs authority accepts the request fully, a decision may take the form of a note written on the request.

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.

Appeal against the Decision and the Suspension of implementation of the Decision

### **Article 12**

An appeal against the first instance decision taken by the customs office in the administrative proceedings may be lodged to the Appeals Commission of the Customs Administration. The Commission consists of the Chairman and four members. The Chairman and the members of the Commission may have substitutes. The Chairman, the members and their substitutes shall be appointed by the Minister upon the proposal of the Director of the Customs Administration. The Commission shall adopt the regulation on its operation.

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

Notwithstanding paragraph 2. of this Article, the customs office which has taken the first instance decision, may suspend implementation of the disputed decision, in whole or in part, for the period not exceeding 180 days, if the submitted evidence and facts indicate that the disputed decision is inconsistent with customs legislation and if the appellant would suffer a substantial economic injury, this justifying the suspension. Where the decision relates to calculation of the import or export duties, suspension of implementation of that decision may be granted only upon lodging of the appropriate security. 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 13**

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.

Annulment of the Decision

### **Article 14**

A decision favourable to the person concerned shall be annulled if it was issued on the basis of incorrect or incomplete information and:

1) the applicant knew or should reasonably have known that the information was incorrect or incomplete, and

2) such decision could not have been taken on the basis of correct or complete information.

The person to whom the decision referred to in paragraph 1. of this Article was addressed shall be notified of its annulment without delay.

Annulment shall take effect from the date on which the annulled decision was taken.

Revocation or Amendment of the Decision

### **Article 15**

A decision favourable to the person concerned, shall be revoked or amended where, in cases other than those referred to in Article 14. of this Law, one or more of the conditions laid down for its issue were not or are no longer fulfilled.

A decision favourable to the person concerned may be revoked where the person fails to fulfil an obligation imposed on him under that decision.

The person to whom the decision is addressed shall be notified of its revocation or amendment without delay.

The revocation or amendment of the decision shall take effect from the date of notification to the person concerned and where the legitimate interests of the person to whom the decision is addressed so require, the customs authority may defer the date when revocation or amendment takes effect.

Section 4

## **APPLICATION OF OTHER RULES**

Application of International Agreements

### **Article 16**

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.

Application of Provisions Regulating Collection of Import and Export Duties, Other Charges, Taxes and Fees

### **Article 17**

The customs authority shall collect import and export duties as well as other charges, taxes and fees in accordance with the rules governing the collection thereof.

Where the procedure of the customs authority related to collection and provision of security for the payment of duties, taxes and fees is not prescribed by rules referred to in paragraph 1. of this Article, customs legislation shall apply.

## Section 5

### INFORMATION ON APPLICATION OF CUSTOMS LEGISLATION

#### **Article 18**

On written request by the person concerned, customs authority shall issue information concerning the application of customs legislation, free of charge and within 30 days from the date the application was filed.

The request may be refused where it does not relate to an import or export operation actually envisaged.

#### Binding Information on Tariff Classification and on Origin of Goods

#### **Article 19**

On written request by the person concerned, the Customs Administration shall issue binding information on tariff classification (hereinafter referred to as: BTI decision) in accordance with the Customs Tariff and binding information on origin of goods (hereinafter referred to as: BOI decision). Such a request shall be refused by the Customs Administration where the application does not relate to any intended use of the BTI or BOI decision within customs procedure.

BTI or BOI decisions shall be binding on the customs authority only in respect of the tariff classification or determination of the origin of goods. Those decisions shall be binding on the customs authority, as against the holder of the decision, only in respect of goods for which customs formalities are completed after the date on which the decision was issued. The decisions shall be binding on the holder of the decision, as against the customs authority, only with effect from the date on which he receives, or is deemed to have received the decision.

BTI or BOI decisions shall be valid for a period of three years from the date on which the decision was issued.

On request of customs authority, for the application of a BTI or BOI decision in the context of a particular customs procedure, the holder of the decision must be able to prove that:

1. In the case of a BTI decision, the goods declared correspond in every respect to those described in the decision;
2. In the case of a BOI decision, 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.

BTI or BOI decisions shall be annulled in accordance with Article 14. of this Law, where they are based on inaccurate or incomplete information from the applicant.

BTI or BOI decisions shall be revoked in accordance with Article 15. of this Law.

Binding information may not be amended.

The Customs Administration shall take a decision on cessation of validation of binding information:

1) In the case of BTI decision:

a) Where it no longer conforms to the provisions in force, due to amendments thereof;

b) Where it is no longer compatible with the interpretation of one of nomenclatures referred to in Article 30. of this Law:

- by reason of amendments and supplements to the explanatory notes to the customs tariff,

- by reason of an amendment of the Explanatory notes to the Nomenclature of the Harmonized Commodity Description and Coding System, or Classification Opinions issued by the World Customs Organisation established in 1952. under the name 'The Customs Cooperation Council', or by reason of amendments to the Supplemental explanatory notes to the Combined Nomenclature, or Decisions on Tariff Classification published in the EU Official Journal;

2) In the case of BOI decision:

a) Where it no longer conforms to the provisions in force or international agreement due to amendments thereof or due to a conclusion of international agreement;

b) Where it is no longer compatible with:

- The act of the Minister made with respect to origin of goods,

- The World Trade Organization (hereinafter referred to as: WTO) Agreement on Rules of Origin or an origin opinion adopted for the interpretation of that Agreement by the relevant WTO body,

3) In the cases referred to in subparagraphs 1. and 2. of this paragraph, the date on which binding information ceases to be valid shall be the date of the beginning of application of the provisions or the international agreement, or the date of publication of Explanatory notes, Supplemental explanatory notes, or the opinions on tariff classification and on origin of goods.

The holder of binding information, which ceases to be valid under paragraph 8. subparagraph 1. item a) and subparagraph 2. item a) of this Article, may still use that information for a period of six months from the date it has ceased to be valid, provided that the holder of the information had concluded a binding contract for the purchase or sale of the goods in question, on the basis of the binding information, before the binding information ceased to be valid. Where the certificates issued based on such information are required in the course of import or export customs formalities, the six-months period shall be replaced by the period of validity of such certificates.

Notwithstanding paragraph 9. of this Article, where the regulation of the Government or international agreement lay down a different period, that period shall be used.

The binding information, under the conditions laid down in paragraphs 9. and 10. of this Article, may be applied solely for the purpose of:

- 1) Determining amounts of import or export duties;
- 2) Calculating export refunds and other amounts granted for import or export related to implementation of agricultural policies;
- 3) Use of import or export certificates which are submitted when formalities are carried out for acceptance of the declaration concerning the goods in question, provided that such certificates have been issued based on such information.

An appeal may be lodged to the Ministry against any decision referred to in paragraph 1. of this Article.

Prescribing Detailed Requirements for Issuing Information and Binding Information

### **Article 20**

The Government shall prescribe more detailed requirements for issuing of binding information and any other information on implementation of customs legislation.

Section 6

## **OTHER PROVISIONS**

Fees for the Performance of Services by the Customs Authority

### **Article 21**

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.

The customs authority shall impose charges or require recovery of costs for providing special services, notably:

- 1) For providing services by customs officers out of official working hours and at premises that are not customs premises, upon the request of a party;
- 2) For the analyses or expert findings related to goods and for postage of the goods returned to the applicant, in particular those related to binding information issued under Article 18. paragraph 1. or information issued under Article 19. of this Law;
- 3) For the examination and sampling of goods for the purpose of their control, as well as for the destruction of goods, where the costs incurred by the actions of the customs authority exceed usual costs;
- 4) For specific control measures necessary due to the characteristics of goods and possible risks;
- 5) For organising training and taking of the special professional exam for representation in customs proceedings;

For contract-based services provided by natural or legal persons. The Government shall prescribe the type, the amount and the manner of payment of the charges referred to in paragraph 2. of this Article.

The fees referred to in paragraph 2. subparagraphs 1.-5. of this Article and fees for performing activities based on a contract, pertain to customs authority.

Customs Supervision and Controls, Risk Analysis

## **Article 22**

The customs authority may carry out all the customs controls they deem necessary.

Customs controls may consist of examining goods, taking samples, verifying declaration data and the authenticity 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 protective measures, on the basis of criteria developed at national and, where available, international level.

Customs authority shall develop, manage and employ a common risk management framework, based upon the exchange of risk information and analysis between customs administrations and establishing, inter alia, common risk evaluation criteria, control measures and priority control areas. Controls based upon such information and criteria shall be carried out without prejudice to other controls carried out in accordance with paragraphs 2. and 3. of this Article or with other provisions in force.

The Government shall adopt criteria and priority control areas, the information on risk and analysis to be exchanged between customs authorities of the Republic of Serbia and customs authorities of other countries or territories.

Where, in respect of the same goods, controls are to be performed by competent authorities other than the customs authority, 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 this Article, 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 import, export, transit, transfer, storage and end-use of goods, including data on the presence of non-domestic goods.

Obligation to Provide Documents

## **Article 23**

For the purposes of applying customs legislation, any person directly or indirectly involved in the operations concerned for the purposes of trade in goods shall provide the customs authority with all the requisite documents and information, irrespective of the medium used, and all the requisite assistance at their request.

Obligation to Keep Records

## **Article 24**

Any person involved in trade in goods who is obliged to keep accounts in accordance with law shall keep accounts, documents and other data media in a manner providing that rights and obligations of such person relating to imports and exports and the information relating to import and export duties are at all times clear and precise.

The information recorded on a data medium may be transferred to and stored on a different data medium provided the information is transferred accurately and completely and is available throughout the period it must be kept.

The persons, who in accordance with customs rules must keep accounts, shall keep their accounts in a manner allowing access to the information on export and import duties, as well as to other duties and other records referred to in paragraph 1. of this Article.

Customs documents shall be deemed to be records subject to obligations referred to in paragraph 3. of this Article.

The accounts shall be kept, organised and stored in such a way that allows them to be examined by the customs authority for control. The person obliged to keep accounts shall provide necessary assistance to customs authority, including provision of the requisite insight into the design, organisation and operation of the accounting system of the person referred to in paragraph 1. of this Article.

Confidentiality

## **Article 25**

All information which is by nature confidential or which is provided on a confidential basis shall be covered by the duty of professional secrecy and shall not be disclosed by the customs authority without the express permission of the person or authority providing it.

The communication of confidential information shall be permitted where the customs authority is obliged or authorised to do so pursuant to the provisions in force concerning data protection, or they are in connection with actual legal proceedings.

Keeping of Documents

## **Article 26**

The person involved in trade in goods shall keep the documents referred to in Article 23. of this Law for the purposes of customs controls, for the period laid down in the provisions in force and for at least three calendar years, irrespective of the medium used. That period shall run:

1) in the case of goods released for free circulation in circumstances other than those referred to in subparagraph 2. of this paragraph or goods declared for export, from the last day of the calendar year in which the declaration for release for free circulation or export was accepted;

2) in the case of goods released for free circulation at a zero rate of import duty or the rate lower than that determined in the Customs tariff, from the last day of the calendar year in which they cease to be subject to customs supervision;

3) in the case of goods placed under another customs procedure, from the last day of the calendar year in which the customs procedure concerned is completed;

4) in the case of goods placed in a free zone or free warehouse, from the last day of the calendar year on which they leave the undertaking concerned.

Without prejudice to the provisions of Article 256. paragraphs 1. and 3. of this Law, concerning the period for notification of a customs debt, where a check carried out by the customs authority in respect of a customs debt shows that the relevant entry in the accounts has to be corrected, the time limit provided for in paragraph 1. of this Article shall be extended for a period sufficient to permit the correction to be made and re-checked

Period, Date, Time Limit

### **Article 27**

Where a period, date or time limit is laid down pursuant to customs legislation, such period or a time limit shall not be extended and the date shall not be changed, unless specific provision is made in the legislation concerned.

Simplification of Customs formalities and control

### **Article 28**

The Government shall prescribe the situations and requirements for simplification of customs formalities and control.

Section 7

## **PROVIDING INFORMATION ON CUSTOMS GOODS**

Obligation of other Authorities with respect to Customs Goods

### **Article 29**

The governmental bodies (courts, inspectorates, police, etc.) shall report to the nearest customs authority of all goods and vehicles that had been detained or confiscated by them, where there is reasonable doubt that such goods had not been subjected to customs procedure as prescribed for by this Law.

The goods and vehicles referred to in paragraph 1. of this Article shall not be handed over to any person prior to payment of import duties. Governmental bodies referred to in paragraph 1. of this Article shall pay import duties prior to delivery of customs goods to the buyer or other person to whom the goods were transferred.

The import duty shall be paid after all costs pertaining to the goods referred to in paragraph 2. of this Article (costs of keeping of the goods, sale, etc.) had been covered.

## Title two

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

## Chapter 1 UNIFIED CUSTOMS TARIFF AND TARIFF CLASSIFICATION OF GOODS

### Customs Tariff

#### **Article 30**

Import and export duties shall be determined based on the Customs tariff.

The measures prescribed by provisions governing trade in goods shall, where appropriate, be applied according to the tariff classification of those goods.

For the purposes of this Law, the Unified customs tariff shall comprise:

- 1) Nomenclature of goods as laid down in the Law on Customs Tariff and regulations adopted in accordance with that law;
- 2) Other nomenclature entirely or partly based on the nomenclature referred to in subparagraph 1. of this paragraph, which provides for further division with a view to the application of tariff measures relating to trade in goods;
- 3) The tariff rate and the amount of duties applicable to goods covered by the nomenclature referred to in subparagraph 1. of this paragraph;
- 4) Preferential tariff measures contained in international agreements;
- 5) Unilateral preferential tariff measures adopted by the Republic of Serbia applicable to other countries, groups of countries or territories.
- 6) Autonomous measures providing for reduction in or relief from payment of import duties for certain goods;
- 7) Preferential tariff treatment of certain goods due to their type or end use, within the measures referred to in subparagraphs 3. to 6. and subparagraph 8. of this paragraph;
- 8) Other tariff measures provided for by legislation.

The measures referred to in paragraph 3. subparagraphs 4. to 7. of this Article shall apply at the request of the declarant instead of a tariff rate and the amount of duties referred to in paragraph 3. subparagraph 3. of this Article, where the goods concerned fulfil the conditions laid down by those measures. Exceptionally, application of such measures may be approved retroactively, provided that the time limits and the conditions laid down in those measures and this Law are complied with.

Where application of the measures referred to in paragraph 3. subparagraphs 4. to 7. of this Article or the exemption from measures referred to in paragraph 3. subparagraph 8. of this Article is limited to a certain volume of imports or exports, it shall cease:

1) in the case of tariff quotas, as soon as the prescribed limit on the volume of imports or exports is reached;

2) in the case of tariff ceilings, in accordance with the provisions determining such ceilings.

The Government shall prescribe conditions, procedure and the manner of application of the autonomous measures referred to in paragraph 3. subparagraph 6. of this Article 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.

Where the tariff rates applicable to agricultural products do not provide stability of domestic production and domestic market within certain period of time, the Government may, in addition to prescribed tariff rates, prescribe seasonal tariff rates not exceeding 20% of the customs value, whose application shall be limited in time.

Tariff Classification of Goods

### **Article 31**

For the application of the Customs Tariff, the goods shall be classified into tariff headings and tariff subheadings, in accordance with the Law on Customs Tariff.

For the application of non-tariff measures, the goods shall be classified by determination of the tariff line for such goods in accordance with the Law on Customs Tariff or with any other nomenclature entirely or partly based on the Customs Tariff, which provides for further subdivisions to it.

Classification, i.e. further subdivision of tariff subheadings performed in accordance with paragraph 2. of this Article shall be used for the purpose of implementation of measures from that paragraph.

## **Chapter 2 ORIGIN OF GOODS**

### **Section 1**

#### **NON-PREFERENTIAL ORIGIN OF GOODS**

### **Article 32**

The non-preferential origin of goods shall be defined for the purposes of:

Applying the Customs Tariff with the exception of the measures referred to in Article 30. paragraph 3. subparagraphs 4. and 5. of this Law;

Applying measures other than tariff measures established by provisions governing trade in goods; and

Preparation and granting of certificates of origin.

Goods Wholly Obtained or Produced

### **Article 33**

Goods originating in a country shall be those wholly obtained or produced in that country. Goods originating in a country shall be deemed to be the following:

- 1) Mineral products extracted within that country;
- 2) Plants products harvested therein;
- 3) Live animals born and raised therein;
- 4) Products derived from live animals raised therein;
- 5) Products of hunting or fishing carried on therein;
- 6) Products of sea-fishing and other products taken from the sea outside a country's territorial sea by vessels registered or recorded in the country concerned and flying the flag of that country;
- 7) Goods obtained or produced on board factory ships from the products referred to in subparagraph 6. of this paragraph originating in that country, provided that such factory ships are registered or recorded in that country and fly its flag;
- 8) Products taken from the seabed or subsoil beneath the seabed outside the territorial sea provided that that country has exclusive rights to exploit that seabed or subsoil;
- 9) Waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are fit only for the recovery of raw materials and
- 10) Goods which are produced therein exclusively from goods referred to in subparagraphs 1-9 of this paragraph or from their derivatives, at any stage of production.

For the purposes of paragraph 2. of this Article the expression 'country' shall also cover that country's territorial waters.

Last Substantial Processing or Working

### **Article 34**

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

Insufficient Processing or Working

## **Article 35**

Any processing or working in respect of which it is established, or in respect of which the facts as ascertained justify the presumption, that its sole object was to circumvent the provisions applicable in Republic of Serbia to goods from specific countries, shall under no circumstances be deemed to confer on the goods thus produced the origin of the country where it is carried out within the meaning of Article 34. of this Law.

The Government shall prescribe additional requirements for determination of origin of goods within the meaning of Article 34. of this Law, the manner of proving the origin of goods, the manner of issuing of the certificate of origin of goods and designates authorities competent for issuing the certificate and providing the opinion on the origin of goods.

Document Proving the Origin of goods and Additional Evidence

## **Article 36**

Customs rules or other legislation may provide that a document must be produced as a proof of the origin of goods.

Notwithstanding the production of that document, the customs authority may, in the event of reasonable doubts, require presentation of any additional proof to ensure that the indication of origin does indeed comply with rules laid down by the relevant legislation.

Section 2

PREFERENTIAL ORIGIN OF GOODS

## **Article 37**

The rules on preferential origin shall lay down the conditions governing acquisition of origin which goods must fulfil in order to benefit from the measures referred to in Article 30. paragraph 3. subparagraphs 4. or 5. of this Law.

The rules of paragraph 1. of this Article shall:

- 1) In the case of goods covered by the agreements referred to in Article 30. paragraph 3. subparagraph 4. of this Law, be determined in those agreements; and
- 2) In the case of goods benefiting from the preferential tariff measures referred to in Article 30. paragraph 3. subparagraph 5. of this Law, be determined in accordance with the regulation adopted by the Government.

The Government shall prescribe the manner of proving the origin of goods, the manner of issuing of the certificate of origin of goods and designates authorities competent for issuing the certificate and providing the opinion on the origin of goods.

## **Chapter 3**

### **VALUE OF GOODS FOR CUSTOMS PURPOSES**

The Purpose of Customs Value

## **Article 38**

The customs value shall be determined for the purposes of applying the Customs Tariff and non-tariff measures laid down by special provisions governing trade in goods.

Transaction Value

## **Article 39**

The customs value of imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to the customs territory of the Republic of Serbia, adjusted, where necessary, in accordance with Articles 46. and 47. of this Law, provided that:

- 1) There are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which:
  - are imposed or required by a law or by the public authorities of Republic of Serbia,
  - limit the geographical area in which the goods may be resold, or
  - do not substantially affect the 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 in accordance with Article 46. of this Law, and
- 4) The buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes in accordance with paragraph 2. of this Article.

For the purposes of paragraph 1. subparagraph 4. of this Article, the following shall apply:

- 1) In determining whether the transaction value is acceptable, the fact that the buyer and the seller are related shall not in itself be sufficient grounds for regarding the transaction value as unacceptable. In such case, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the declarant or otherwise, the customs authority has reasons for considering that the relationship influenced the price, it shall communicate its reasons to the declarant and he shall be given a reasonable opportunity to respond. If the declarant so requests, the communication of the reasons shall be in writing;
- 2) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with the provisions of paragraph 1. of this Article, whenever the declarant demonstrates that such value closely approximates to one of the following occurring at or about the same time:

- the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to Republic of Serbia,
- the customs value of identical or similar goods, as determined under Article 43. of this Law, or
- the customs value of identical or similar goods, as determined under Article 44. of this Law.

3) In applying the criteria referred to in subparagraph 2. of this paragraph, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 46 of this Law and costs incurred by the seller in sales in which he and the buyer are not related and where such costs are not shown in sales in which he and the buyer are related;

4) The comparison referred in subparagraphs 2. and 3. of this paragraph shall be performed at the request of the declarant and only for comparison purposes and not for substitution of values.

The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods and includes all payments made or to be made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to a third party to satisfy an obligation of the seller. The payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instrument and may be made directly or indirectly.

The price actually paid or payable shall refer to the price for the imported goods. The flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods shall not be a part of the customs value.

Marketing and other activities, undertaken by the buyer on his own account, other than those for which an adjustment of the value is provided in accordance with Article 46 of this Law, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller. Their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.

Identical Goods

#### **Article 40**

Where the customs value cannot be determined under Article 39 of this Law, the transaction value of identical goods sold for export to Republic of Serbia and exported at or about the same time as the goods being valued, shall be considered as customs value.

In the determining the customs value referred to in paragraph 1. of this Article, the transaction value of the identical goods sold at a same commercial level, and mainly in the same quantity as the goods being valued is used. When such sale is not found, the transaction value of identical goods sold at a different commercial level and /or in different quantities is used with the necessary adjustments in regard to the differences in the commercial level and/or the quantity, and under the condition that such adjustment may be made based on evidence making clear the justification and

accuracy of the adjustment regardless of the fact whether the value is increased and /or decreased with the adjustment.

When the costs and charges referred to in Article 46. paragraph 1. subparagraph 5. of this Law are included in the transaction value, an adjustment is to be made in order to take into account the substantial differences of those costs and charges of the imported goods and the identical goods arising from the difference in distance and type of transport.

If, in implementation of this Article, more than one transaction value of identical goods is established, the lowest such value is used to determine the customs value of the imported goods.

Similar Goods

### **Article 41**

If the customs value of the imported goods cannot be determined in accordance with Articles 39. and 40. of this Law, the transaction value of similar goods, sold for export to Republic of Serbia and exported at the same or about the same time as the goods being valued, shall be deemed to be the customs value.

When determining of the customs value referred to in paragraph 1. of this Article, the transaction value of similar goods sold at the same commercial level and mainly in the same quantity as the goods being valued is used. When such sale is not found, the transaction value of similar goods sold at a different commercial level and /or in different quantities shall be used with the necessary adjustments in regard to the differences in the commercial level and/or the quantity, and under the condition that such adjustment may be made based on evidence making clear the justification and accuracy of the adjustment regardless of the fact whether the value is increased and /or decreased with the adjustment.

Where the charges referred to in Article 46. paragraph 1. subparagraph 5. of this Law are included in the transaction value, an adjustment is to be made in order to take into account the substantial differences of those costs and charges of the imported goods and the similar goods arising from the difference in distance and type of transport.

If, in implementation of this Article, more than one transaction value of identical goods is established, the lowest such value is used to determine the customs value of the imported goods.

Secondary Methods of Customs Valuation

### **Article 42**

If the customs value of the imported goods cannot be determined in accordance with Articles 39, 40. and 41. of this Law, the customs value shall be determined in accordance with Article 43. of this Law.

If the customs value cannot be determined in accordance with Article 43. of this Law, the customs value shall be determined in accordance with Article 44. of this Law, except in the case when the declarant requests the order of application of Article 43. and Article 44. of this Law to be changed.

### **Article 43**

If the imported goods or identical or similar imported goods are sold in Republic of Serbia in the same condition in which they were imported, the customs value of such imported goods, in accordance with the provisions of this Article, is to be established on the basis of the unit price to which the imported or identical or similar imported goods in such condition, in the greatest aggregate quantity, are sold to persons who are not related to the persons they purchase the goods from, at the same or about the same importation time as the valued goods, under the condition that the price is reduced of the amount of:

- 1) The usual commissions paid or agreed to be paid or the usual additions made for profit and general expenses (including direct and indirect expenses for marketing of the subject goods) related to the sale in Republic of Serbia of imported goods of the same class or type;
- 2) The usual transportation costs and insurance and other related costs incurred in Republic of Serbia;
- 3) The import duties and other charges payable in the Republic of Serbia for the importation or sale of goods;

If neither the imported goods nor the identical or similar imported goods are sold at the same or about the same time of the importation of the goods being valued, the customs value of the goods subject to the provisions of paragraph of this Article, shall be determined by the unit price at which the imported or identical or similar imported goods were sold in Republic of Serbia in the same condition it was imported in, at the earliest date following the importation of the goods being valued, but prior to the expiration of 90 days of such import.

If in the Republic of Serbia, the imported goods or identical or similar imported goods are not sold in the same condition as on importation, in that case, if the importer so requires, the customs value shall be determined based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in Republic of Serbia who are not related to the persons they are buying the goods from, under the condition that in the valuating process, the value incurred with the processing and the reductions referred to in paragraph 1. of this Article, are considered.

### Computed Value

### **Article 44**

The customs value of the imported goods, in accordance with the provisions of this Article, is determined on the basis of the computed value, which is the sum of the following:

- 1) The value of the material and the costs of production or other processing employed in the producing of the imported goods;

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

3) The cost or value of the items referred to in Article 46. paragraph 1. subparagraph 5. of this Law. Person who is not established in Republic of Serbia may not be requested or forced to provide inspection or allow access to any receipt or other document for the purpose of determining the computed value. The customs authority may check the data provided on behalf of the manufacturer of the goods for the purpose of determining the customs value in accordance with this Article in another country, under the condition that the authorities of the respective country are timely notified and do not withstand the inspection.

Determining the Customs Value in another Appropriate Manner

### **Article 45**

If the customs value of imported goods cannot be established based on Articles 39 to 44 of this Law, it shall be established on the basis of data accessible in Republic of Serbia with the use of means which are in accordance with the principles and provisions contained in:

- 1) The Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade of 1994;
- 2) Article VII of the General Agreement on Tariffs and Trade 1994; and
- 3) this Law.

In accordance with the provisions of this Article, the customs value cannot be determined on the basis of:

- 1) the selling price in Republic of Serbia of goods produced in Republic of Serbia;
- 2) a system which provides for customs purposes acceptance of the higher of the two alternative values;
- 3) the price of goods on the local market of the exporting country;
- 4) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with the provisions of Article 44. of this Law;
- 5) price of the goods for export to a country other than Republic of Serbia;
- 6) minimum customs values, or
- 7) arbitrary or fictitious values.

On request, the importer shall be notified in writing of the customs value determined in accordance with the provisions of this Article and of the methods applied in the determination of such value.

Customs value determined under this Article should, to the greatest extent possible, be based on previously determined customs values. The methods of valuation to be employed under this Article should be those laid down in Articles 40. to 44. of this Law but a reasonable flexibility in the application of such methods would be in conformity with the principles and provisions referred to paragraph 1. of this Article.

#### Costs and Payments Included in the Customs Value

### **Article 46**

In determining the customs value under Article 39 of this Law, there shall be added to the price actually paid or payable for the imported goods:

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:

- commissions and brokerage, except buying commissions,
- the cost of containers which are treated as being one, for customs purposes, with the goods in question,
- 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 Republic of Serbia, to the extent that such value has not been included in the price actually paid or payable:

- materials, components, parts and similar items incorporated in the imported goods,
- tools, dies, moulds and similar items used in the production of the imported goods,
- materials consumed in the production of the imported goods, and
- engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in Republic of Serbia and necessary for the production of the imported goods;

3) Royalties and licence fees related to the imported 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 cost of transport and insurance of the imported goods to the point of entrance in the customs territory of the Republic of Serbia and loading, unloading and handling charges associated with the transport of the imported goods to the place of introduction into the customs territory of the Republic of Serbia.

Additions to the price actually paid or payable under 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.

Notwithstanding paragraph 1. subparagraph 3. of this Article, the following shall not be added to the price actually paid or payable for the imported goods in determining the customs value :

- 1) Charges for the right to reproduce the imported goods in Republic of Serbia; and
- 2) 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 of the goods to Republic of Serbia.

Costs and Payments Not Included in the Customs Value

#### **Article 47**

Provided that they are shown separately from the price actually paid or payable, the following shall not be included in the customs value:

- 1) Charges for the transport of goods after their arrival at the place of introduction into the customs territory of the Republic of Serbia;
- 2) Charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation of industrial plants, machinery or equipment;
- 3) Charges for interests under a financing arrangement entered into by the buyer and relating to the purchase of imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing, and where required, the buyer can demonstrate that:
  - such goods are actually sold at the price declared as the price actually paid or payable, and
  - 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 imported goods in Republic of Serbia;
- 5) Buying commissions, i.e. commissions paid by the importer for the agency services related to buying the goods being valued;
- 6) Import duties or other charges payable in Republic of Serbia by reason of the importation or sale of the goods;
- 7) duties and charges payable in the country of export, where imported goods are exempt from payment or may be exempted by way of reimbursement.

Determination of Customs Value of Data Carriers

## **Article 47a**

The customs value of data carriers that contain data or program instructions for the use of data processing equipment (hereinafter referred to as: software support) does not include the price or value of the software support, if that value or price is shown separately from the value of the data carrier.

Integrated circuits, semiconductors and similar devices or products containing such circuits or devices shall not be considered as software support under paragraph 1 of this Article.

Sound, cinematographic or video recordings or instructions shall not be considered as data and software instructions referred to in paragraph 1 of this Article.

Price Reductions and Cash Discounts

## **Article 48**

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

## **Article 49**

The customs value of goods imported payment-free and customs value of temporary imported goods shall be determined in compliance with the provisions of Articles 40. to 45. 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 Articles 40. to 45. 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 46. and 47. 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.

Informing the Importer

## **Article 50**

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 51**

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 46. paragraph 1. subparagraphs 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 46. paragraph 1. subparagraph 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 52**

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 53**

The customs authority may request that the declarant provides all the documents and data needed for determining the customs value under Articles 39. to 49. 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 Articles 40. to 45. of this Law.

Foreign Currency Conversion

## **Article 54**

If for determining the customs value it is necessary to convert the foreign into local currency, the foreign currency shall be converted in accordance with the official middle exchange rate determined on the last working day of the week preceding the week in which the customs value is determined.

Release of Goods Prior to Final Determination of the Customs Value

## **Article 55**

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.

Specific Rules

## **Article 56**

The provisions of Articles 39. to 55. of this Law shall not apply to determination of the customs value for the goods released for free circulation after being assigned a different customs-approved treatment or use if different manner of determination of the customs value for the goods released for free circulation is prescribed by the provisions of this Law and regulations based on this Law.

Precise Requirements and the Manner of Determining of the Customs Value

## **Article 57**

The Government shall prescribe detailed requirements and the manner of determining the customs value referred to in this Chapter.

Title 3

STATUS OF IMPORTED GOODS BROUGHT INTO THE CUSTOMS TERRITORY  
AND ASSIGNING A CUSTOMS-APPROVED TREATMENT OR USE

### Chapter 1

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

Customs Border Crossings

## **Article 58**

Non-domestic goods may be introduced into the customs territory of the Republic of Serbia through the customs border crossings at the time when they are open for circulation.

Any design, construction and remodelling of official premises on border crossings shall be subject to approval by the Minister, based on the prior opinion of the Director of the Customs Administration.

Circulation of goods which are subject to phyto-sanitary, veterinary or other prescribed control shall be allowed only through border crossings, which in accordance with appropriate rules, are designated for entrance and exit of such goods.

In exceptional circumstances of force majeure, major disruption of public order and security in the country, the Government may prescribe that the goods may be brought in or taken out through the designated border crossings only.

#### Entry of Goods into the Customs Territory

### **Article 59**

Goods brought into the customs territory of the Republic of Serbia shall be included in the summary declaration, except for goods transported without stopping through the airspace of the Republic of Serbia.

The Minister shall prescribe the form of summary declaration, which must contain the information necessary for performance of risk analysis and the proper application of customs control, primarily for security and safety purposes, using, where possible, international standards and business practices.

Summary declaration is submitted to the entry customs authority, which may allow submission of the summary declaration to another customs authority, provided that the other customs authority immediately, electronically, transmits or makes available to the first mentioned authority all the necessary information.

Instead of the summary declaration, the customs authority may accept a submission of a company notice and provision of access to data necessary for summary declaration in the computer system of that company.

Summary declaration is submitted or made available to the competent customs authority before the goods are brought into the customs territory of the Republic of Serbia, unless this Law and the regulations adopted under this Law prescribe otherwise.

The government prescribes, in exceptional cases and for certain types of traffic of goods and transport, for certain companies, and keeping in mind the international agreements which provide for special security procedures, the following:

- 1) Detailed conditions under which submission of summary declaration is required and determines the customs authority which may accept the summary declaration;
- 2) The deadline for submission of summary declaration;
- 3) The requirements in terms of the exemption and modification of the deadline referred to in item 2) of this paragraph;
- 4) The conditions under which the request for submission of summary declaration may be waived, or the conditions under which that request may be changed.

#### Lodging the Summary Declaration

### **Article 60**

The summary declaration shall be lodged electronically. Commercial, port and transport documents may be used provided that they contain the necessary particulars. Customs authority may accept paper-based summary declarations in exceptional circumstances,

provided that they apply the same level of risk management as that applied to summary declarations made electronically and that such information can be shared with other customs offices.

The summary declaration shall be lodged by the person who brings the goods, or the one who assumes responsibility for the carriage of the goods into the customs territory of the Republic of Serbia.

The summary declaration may also be lodged by one of the following persons:

- 1) The person in whose name the person referred to in Paragraph 2. acts;
- 2) Any person who is able to present the goods in question or to have them presented to the competent customs authority; or
- 3) Representative of any of the persons referred to in paragraph 2. of this Article or persons referred to in subparagraphs 1. and 2. of this paragraph.

Amending the Summary Declaration

### **Article 61**

The person who lodges the summary declaration shall, at his request, be permitted to amend one or more particulars of the declaration after it has been lodged.

The customs authority shall not approve any amendment referred to in paragraph 1. of this Article, if after the lodging of the declaration any of the following occurs:

- 1) the customs authority has informed the person who lodged the summary declaration that they intend to examine the goods;
- 2) the customs authority has established that the particulars in question are incorrect;
- 3) the customs authority has allowed the removal of the goods.

Procedure in Exceptional Cases

### **Article 61a**

The customs authority may waive the request for submission of summary declaration for goods for which the declaration is submitted prior to the expiration of deadline specified in Article 59 para. 5 or 6 of this Law, if the declaration contains at least the information required for a summary declaration and, until the declaration is accepted in accordance with Article 88 of this Law, it has a status summary declaration.

The customs authority may allow submission of the declaration to the import customs authority, provided that such import customs authority immediately, electronically, transmits or makes available all the necessary information to the entry customs authority.

If the declaration is not filed via electronic data interchange, the customs authority shall apply the same level of risk management as if the declaration was submitted by electronic data interchange.

### **Article 62**

Goods brought into the customs territory shall, from the time of their entry, be subject to customs supervision and may be subject to customs control by the customs authority.

The goods shall remain under customs supervision for as long as necessary to determine their customs status. In the case of non-domestic goods, including the goods referred to in Article 108. of this Law, the goods shall remain under the customs supervision until their customs status is changed, they enter a free zone or a free warehouse, they are re-exported or destroyed in accordance with Article 209. of this Law.

Transport of Goods from the Customs Line to the Place of Delivery

### **Article 63**

The person bringing the goods into the customs territory shall declare the goods and shall, without delay, convey them by the route specified by the customs authority and in accordance with its instructions to:

1) The customs office or to any other place approved by the customs authority; or

2) A free zone, if the goods are to be brought into that free zone directly:

- by waterway or air,

- by land without passing through another part of the customs territory where the free zone adjoins the land frontier between the Republic of Serbia and a third country.

Any person who assumes responsibility for the carriage of goods brought into the customs territory, *inter alia* as a result of transshipment, shall become responsible for compliance with the obligation laid down in paragraph 1. of this Article.

Goods which, although still outside the customs territory of the Republic of Serbia, may be subject to customs controls under the provisions in force and international agreements and shall be treated in the same way as goods brought in the customs territory of the Republic of Serbia.

The provisions of paragraph 1. subparagraph 1. of this Article shall not preclude implementation of any provisions in force with respect to tourist, border and postal traffic, on condition that customs supervision and customs control possibilities are not thereby jeopardized.

Provisions of paragraphs 1. through 4. of this Article and Articles 64. to 78. of this Law shall not apply to goods that have temporarily left the customs territory of the Republic of Serbia by a vessel or an aircraft, moving from one point in the customs territory to another, provided that the transport is performed using scheduled air or ship lines, without stopping in the customs territory of the Republic of Serbia

Paragraph 1. shall not apply to goods on board aircraft crossing the airspace of the Republic of Serbia without having as their destination an airport located in Republic of Serbia.

Unforeseeable Circumstances or Force Majeure

#### **Article 64**

Where, by reason of unforeseeable circumstances or force majeure, the obligations laid down in Article 63. paragraph 1. of this Law cannot be complied with, the person bound by that obligation or any other person taking actions in his place shall inform the competent 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 the precise location of the goods.

Where, by reason of unforeseeable circumstances or force majeure, an aircraft referred to in Article 63. paragraph 6. of this Law is forced to land temporarily in the customs territory, and the obligation laid down in Article 63. paragraph 1. of this Law cannot be complied with, the commanding officer of the aircraft or the vessel or any other person taking actions in their place 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 as well as of those on board the aircraft or the vessel in accordance with paragraph 2. of this Article and, where appropriate, to ensure that they are subsequently conveyed to the customs authority or other place designated or approved by the customs authority.

### Chapter 2

## PRESENTATION OF GOODS TO THE CUSTOMS AUTHORITY

Presentation of Goods

#### **Article 65**

The goods brought in the customs territory of the Republic of Serbia shall be presented to the customs office by the person who brought the goods into the customs territory or by the person who assumes responsibility for carriage of the goods following such entry.

The person presenting the goods to the customs office shall make the reference to summary declaration or the declaration previously filed for such goods.

Application of Provisions

#### **Article 66**

The provisions of Article 65. of this Law shall not preclude the application of the rules in force relating to goods:

1) Carried by travellers;

2) Placed under a customs procedure, where the presentation of goods to the customs authority is not mandatory.

Prior Examination of Goods

### **Article 67**

Goods may, once they have been presented to customs office, and with the permission of the customs authority, be examined or samples may be taken, in order that they may be assigned a customs-approved treatment or use. Such permission shall be granted, on request, to the person authorised to assign the goods such treatment or use.

### Chapter 3

## UNLOADING OF GOODS PRESENTED TO THE CUSTOMS OFFICE

Article 68-70

*(Deleted)*

Unloading and Transhipment of Goods

### **Article 71**

Goods may be unloaded or transhipped from the means of transport carrying them subject to permission of the customs authority in places designated or approved by that customs authority.

The permission referred to in paragraph 1. of this Article shall not be required in the event of imminent danger necessitating the immediate unloading of all or part of the goods, in which case, the customs authority shall be informed accordingly forthwith.

For the purpose of inspecting goods and the means of transport carrying them, the customs authority may at any time require goods to be unloaded and unpacked.

Removal of Goods

### **Article 72**

Goods shall not be removed from their original position without the permission of the customs authority.

### Chapter 4

## OBLIGATION TO ASSIGN GOODS PRESENTED TO THE CUSTOMS AUTHORITY A CUSTOMS-APPROVED TREATMENT OR USE

Assigning Customs-approved Treatment or Use

### **Article 73**

Non-domestic goods presented to the customs authority shall be assigned a customs-approved treatment or use.

## Time Limits for Assigning Customs-approved Treatment or Use

### **Article 74**

Where goods are covered by a summary declaration, the formalities necessary for them to be assigned a customs-approved treatment or use must be carried out within 20 days from the date on which the summary declaration has been lodged.

Notwithstanding paragraph 1. of this Article, where circumstances so warrant, the customs authority may, in justifiable cases, set a shorter period or authorise an extension of the period referred to in paragraph 1. of this Article. Such extension shall not, however, exceed the genuine requirements that are justified by the circumstances.

## Chapter 5 TEMPORARY STORAGE OF GOODS

### Temporary Storage of Presented Goods

#### **Article 75**

Until such time as they are assigned a customs-approved treatment or use, goods presented to a customs authority shall, following such presentation, have the status of goods in temporary storage (hereinafter referred to as: goods in temporary storage).

### Place and Security of Temporary Storage

#### **Article 76**

Goods in temporary storage shall be stored only in places approved by the customs authority under the conditions laid down by that authority.

The customs authority may require the person holding the goods to provide security with a view to ensuring payment of any customs debt which may occur under Article 239 or 240 of this Law.

### Handling of Goods in Temporary Storage

#### **Article 77**

Goods in temporary storage shall be subject only to such forms of handling that ensure their preservation in an unaltered state without modifying their appearance or technical characteristics.

### Handling of Goods in Case of Default of the Time Limit

#### **Article 78**

Where the formalities necessary for the assigning of a customs-approved treatment or use for the goods are not initiated within the period referred to in Article 74. paragraph 1. of this Law, the customs authority shall without delay take all measures necessary, including the sale of the goods, to regularize the situation.

The customs authority may, at the risk and expense of the person holding the goods referred to in paragraph 1. of this Article, have them transferred to another place under customs supervision, until the situation is regularized or the goods are sold, as the case may be.

## Chapter 6 PROVISIONS APPLICABLE TO NON-DOMESTIC GOODS IN TRANSIT

### Provisions on Goods in Transit

#### **Article 79**

The provisions of Articles 63. paragraph 1.subparagraph 1. and Articles 64. to78. of this Law, shall not apply when the goods already placed under a transit procedure are brought into the customs territory.

### Provisions on Presentation of Non-domestic goods in Transit Procedure

#### **Article 80**

Once non-domestic goods which have moved under a transit procedure reach their destination in the customs territory and have been presented to the customs office, the provisions of Articles 67.through 78. of this Law shall apply.

## Chapter 7 OTHER PROVISIONS

### Destruction of Presented Goods

#### **Article 81**

Where the circumstances so require, the customs authority may order the goods presented to be destroyed. The customs authority shall inform the holder of the goods accordingly. The costs of destroying the goods shall be borne by the holder of the goods.

### Unauthorised Bringing of Goods

#### **Article 82**

Where the customs authority finds that goods have been brought unauthorised into the customs territory or have been withheld from customs supervision, it shall take any measures necessary, including sale of the goods, in order to regularize the situation.

The costs of any measures taken, including the costs of destroying the goods shall be borne by the holder of the goods.

### Title 4

## CUSTOMS-APPROVED TREATMENT OR USE OF GOODS

Chapter 1  
GENERAL PROVISIONS

Assigning Customs-approved Treatment or Use

**Article 83**

Save as otherwise provided, goods may at any time and under the conditions laid down in this Law, be assigned any customs-approved treatment or use irrespective of their nature or quantity, or their country of origin, consignment or final destination, if not provided otherwise under this Law .

Notwithstanding paragraph 1. of this Article, customs approved treatment or use of goods shall not be assigned if it precludes the imposition of prohibitions or restrictions prescribed as special measures for the purpose of security and public morality, the preservation of the health and life of humans, animals and plants, the protection of the living environment, the protection of natural rarities, protection of cultural heritage with artistic, historic, archaeological, ethnological value, or technical values, the protection of copyright and other related rights and industrial property rights and the like.

Chapter 2  
CUSTOMS PROCEDURES

Section 1

PLACING OF GOODS UNDER A CUSTOMS PROCEDURE

Obligation to Lodge a Custom Declaration

**Article 84**

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

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

Authority of a Customs Office for Clearance of Certain Goods

**Article 85**

The Minister of Finance may determine certain customs authority for clearance of certain types of goods or administration of certain procedures.

Form of Declaration

**Article 86**

The declaration shall be made:

In writing;

1) Electronically, if technically feasible and subject to authorisation by the customs authority; or

2) Orally or by means of any other act whereby the holder of the goods expresses his wish to place the goods under a customs procedure, where such a possibility is provided for under the regulation in force.

A. Declaration in writing

I. Normal procedure

Completing the Declaration

### **Article 87**

Declaration, accompanied by all the documents required for implementation of the provisions governing the customs procedure for which the goods are declared, in writing shall be made on a prescribed form, must be signed and shall contain all the particulars necessary for implementation of the customs rules governing the customs procedure for which the goods are declared..

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

Acceptance of Declaration

### **Article 88**

A declaration which complies with the conditions laid down in Article 87 of this Law shall be accepted by the customs authority without delay, provided that the goods covered by the declaration are presented to the customs authority.

Declarant

### **Article 89**

Subject to Article 6 of this Law, a declaration may be made by any person who is able to present the goods in question or any other person acting in his place, together with all the documents required to be produced for the application of the rules governing the customs procedure in respect of which the goods were declared.

Where acceptance of a declaration imposes particular obligations on a specific person, the declaration must be made exclusively by that person or on his behalf.

The declarant must be established in Republic of Serbia, with the exception of the persons who:

1) make a declaration for transit or temporary importation; or

2) declare goods on an occasional basis, provided that the customs authority considers this to be justified.

## Amendment of the Declaration

### **Article 90**

Upon request by the declarant, the customs authority may authorise amendment of one or more of the particulars of the declaration after it has been accepted. The amendment shall not have the effect of rendering the declaration applicable to goods other than those it originally covered.

No amendment referred to in paragraph 1. of this Article shall be permitted where authorisation is requested after the customs authority has:

- 1) Informed the declarant that it intends to examine the goods; or
- 2) Established that the particulars in question are incorrect; or
- 3) Released the goods.

## Invalidation of Declaration

### **Article 91**

Upon the request of the declarant, the customs authority shall invalidate a declaration already accepted where the declarant furnishes proof that goods were declared in error for the customs procedure covered by that declaration or 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.

Where the customs authority has informed the declarant of its intention to examine the goods, a request for invalidation of the declaration shall not be accepted until after the examination has taken place.

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

Invalidation of the declaration shall be without prejudice to the application of the penal provisions of this Law.

## Applicable Rules

### **Article 92**

Save as otherwise provided for under provisions in force, all rules governing the customs procedure for which the goods have been declared shall be the those in force on the date of acceptance of the declaration by the customs authority.

## Verification of Declaration

### **Article 93**

For the verification of a declaration which they have accepted, the customs authority may:

1) Examine the declaration, documents covering the declaration and the documents accompanying it. The customs authority may require the declarant to present other documents for the purpose of verifying the accuracy of the particulars contained in the declaration and

2) Examine the goods and take samples for analysis or for detailed examination.

#### Examination of Goods and Taking Samples

### **Article 94**

Transport of the goods to the places where they are to be examined or samples are to be taken, and all the handling necessitated by such examination of the goods 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 be entitled to be present when the goods are examined and when samples are taken. Where it deems appropriate, the customs authority shall require the declarant to be present or represented when the goods are examined or samples are taken in order to provide it 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 for the samples taken. The costs of the analysis and the examination shall be borne by the customs authority.

The Minister shall prescribe the manner of taking samples and methods of analysing them.

#### Partial Examination of Goods

### **Article 95**

Where only a part of the goods covered by a declaration are examined, the results of the partial examination shall be taken to apply to all the goods covered by that declaration.

The declarant may request further examination of the goods if he considers that the results of the partial examination are not valid as regards the remainder of the goods declared.

Where a declaration covers two or more items, the particulars relating to each item shall be deemed to constitute a separate declaration.

#### Verification Results

### **Article 96**

The results of verifying the declaration shall be used for the purposes of applying the customs and other regulations governing the customs procedure under which the goods are placed.

Where the declaration is not verified, the provisions referred to in paragraph 1. of this Article shall be applied on the basis of the particulars contained in the declaration.

#### Identification of Goods

### **Article 97**

The customs authority shall take the measures necessary to identify the goods where identification is required in order to ensure compliance with the conditions governing the customs procedure for which the said goods have been declared.

Customs markings affixed to the goods or means of transport shall be removed or destroyed only by the customs authority or with its permission unless, as a result of unforeseeable circumstances or force majeure, their removal or destruction is essential to ensure the protection of the goods or means of transport.

#### Release of Goods

### **Article 98**

Where the conditions for placing the goods under the procedure in question are fulfilled and provided the goods are not subject to any prohibitive or restrictive measures, the customs authority shall release the goods as soon as the particulars in the declaration have been verified or accepted without verification.

Under the conditions referred to paragraph 1. of this Article, the customs authority shall release the goods where verification of the declaration 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 declaration covers two or more items, the particulars relating to each item shall be deemed to constitute a separate declaration.

#### Securing the Customs Debt Prior to Release of Goods

### **Article 99**

Where acceptance of a declaration gives rise to a customs debt, the goods covered by the declaration shall not be released unless the customs debt has been paid or secured.

In the temporary importation procedure with partial relief from import duties, the goods covered by the declaration shall not be released until a security in accordance with this Law and provisions adopted under this Law is provided.

Where, pursuant to the provisions of this Law governing the customs procedure for which the goods are declared, the customs authority requires the provision of a security for the customs debt that may occur, the said goods shall not be released until such security is provided.

### **Article 100**

Any necessary measures, including return of goods abroad, confiscation and sale, shall be taken by the customs authority if:

1) The goods cannot be released because:

- it has not been possible to undertake or continue examination of the goods within the period prescribed by the customs authority for reasons attributable to the declarant, or

- the documents which must be produced before the goods can be placed under the customs procedure requested have not been produced, or

- payment or security which should have been made or provided in respect of customs debt, have not been made or provided within the period prescribed, or

- the goods are subject to prohibitions or restrictions.

2) The goods are not removed within an appropriate period after their release.

II. Simplified procedures

Simplified Declarations

### **Article 101**

In order to simplify procedures, the customs authority shall, in cases and in a manner prescribed by the Government, grant authorisation for:

1) The declaration to omit certain particulars or for some of the documents referred to Article 87 of this Law not to be attached thereto;

2) A commercial or administrative document, accompanied by request for the goods to be placed under the customs procedure in question, to be lodged in place of the declaration, and

3) the goods to be entered for the customs procedure in question by means of an entry in the records, in which case the customs authority may waive the requirement that the declarant presents the goods.

The simplified declaration, commercial or administrative document or entry in the records must contain the particulars necessary for identification of the goods. Where the goods are entered in the records, the date of such entry must be included.

Within the time limit determined by the customs authority, the declarant shall furnish a supplementary declaration which may be of a general, periodic or recapitulative nature.

The Government may prescribe the cases when the supplementary declaration shall not be furnished.

The supplementary declaration and the simplified declarations shall be deemed to constitute a single, indivisible document taking effect on the date of acceptance of the simplified declaration.

Acceptance of the entry in the records referred to in paragraph 1. subparagraph 3. of this Article, shall have the same legal effect as acceptance of the declaration referred to in Article 87. of this Law.

The Government may prescribe simplified procedure for the transit of goods.

## B. Other declarations

### Application of the Law on Other Forms of Declaration

#### **Article 102**

Where the declaration is made electronically, orally or in any other manner, Articles 87. to 101. shall apply *mutatis mutandis*..

Where the declaration is made electronically, the customs authority may allow accompanying documents referred to in Article 87. paragraph 2. of this Law not to be lodged with the declaration, provided that the documents are available to the customs authority.

## C. Post-clearance examination of declaration

### Post-clearance Examination of Declaration

#### **Article 103**

The customs authority may, *ex officio* or at the request of the declarant, amend the declaration after the release of goods.

The customs authority may, after releasing the goods and in order to satisfy itself as to the accuracy of the particulars contained in the declaration, inspect the accounting and commercial documents and data relating to the import or export operations in respect of the goods concerned or to subsequent commercial operations involving those goods.

Such inspections may be carried out at the premises of the declarant, of any other person directly or indirectly involved in the said operations in a business capacity or at the premises of any other person in possession of the said document and data. The customs authority may also examine and take samples for analysis of the goods where it is still possible for them to be produced.

The customs authority may make copies of the commercial documents referred to in paragraph 2. of this Article and require that extracts or copies of these documents to be supplied to them. The persons referred to in paragraph 3. of this Article shall provide to the customs authority all the requisite assistance.

Where the post-clearance examination of the declaration 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 match the legal situation with the newly established circumstances.

## Section 2

### RELEASE OF GOODS FOR FREE CIRCULATION

#### Release of Goods for Free Circulation

##### **Article 104**

Release for free circulation shall confer on non-domestic goods the customs status of domestic goods. Release for free circulation shall entail application of commercial policy measures, completion of the other formalities laid down in respect of the importation of goods and the charging of any import duties, taxes, excise-taxes and other charges legally due under customs or other regulations.

#### Favourable Tariff Rate

##### **Article 105**

Notwithstanding Article 92 of this Law, provided that the rate of import duty is reduced after the date of acceptance of the declaration, but before the goods are released, the declarant may request application of the more favourable tariff rate, except where it has not been possible to release the goods for reasons attributable to the declarant alone.

#### Joint Tariff Rate

##### **Article 106**

Where a consignment is made up of goods falling within different tariff classifications, and dealing with each of those goods in accordance with its tariff classification for the purpose of drawing up the declaration would entail a burden of work and expense disproportionate to the import duties chargeable, the customs authority may, at the request of the declarant, allow that import duties be charged on the whole consignment on the basis of the tariff classification of the goods which are subject to the highest rate of import duty.

#### Single Tariff Rate

##### **Article 107**

Notwithstanding Article 30. paragraph 1. of this Law, the goods intended for use in the own household, brought in by travellers or received by mail from abroad by natural persons, except the goods that in accordance with this Law are relieved from payment of import duty, shall be subject to a single tariff rate of 10%.

Notwithstanding paragraph 1. of this Article, the traveller or a consignee may request the goods to be subject to the tariff rate prescribed by the Customs Tariff.

The Government shall establish the kind and the value of goods subject to the single tariff rate referred to in paragraph 1. of this Article.

## Customs Supervision over the Goods Released for Free Circulation Under Favourable Tariff Treatment or Relief of Import Duty

### **Article 108**

Where goods are released for free circulation at a reduced or zero rate of import duties on account of their end-use, they shall remain under customs supervision. Customs supervision shall end when the conditions laid down for granting such a reduced or zero rate of import duties cease to apply, where the goods are exported or destroyed or where the use of the goods for purposes other than those laid down for the application of the reduced or zero rate of import duties is permitted subject to payment of the import duties incurred for the goods.

The provisions of Articles 115. and 117. of this Law shall apply *mutatis mutandis* to the goods referred to in paragraph 1. of this Article.

### Loss of Status of Domestic Goods

### **Article 109**

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

- 1) the declaration for release for free circulation is invalidated after release, or
- 2) the import duties payable on those goods are repaid or remitted:
  - under the inward-processing procedure in the form of the drawback system, or
  - in respect of defective goods or goods which fail to comply with the terms of the contract, pursuant to the provisions of Article 275. of this Law, or
  - in situations referred to in Article 276. of this Law where repayment or remission is conditional upon the goods being exported or re-exported or being assigned an equivalent customs-approved treatment or use of goods.

### Section 3

## SUSPENSIVE ARRANGEMENTS AND CUSTOMS PROCEDURES WITH ECONOMIC IMPACT

### A. Common provisions

### Suspensive Arrangements and Customs Procedures with Economic Impact

### **Article 110**

"Suspension arrangement" shall be understood to be applicable, in the case of non-domestic goods, to the following arrangements:

- transit,
- customs warehousing,

- inward-processing in the form of a system of suspension,
- processing under customs control, and
- temporary importation;

"Customs procedure with economic impact" shall be understood to be applicable to the following arrangements:

- customs warehousing,
- inward-processing,
- processing under customs control,
- temporary importation, and
- outward-processing.

"Imported goods" shall mean goods placed under a suspensive procedure and goods which, under the inward-processing procedure in the form of the drawback system, have undergone the formalities for release for free circulation and the formalities provided for in Article 156 of this Law.

"Goods in the unaltered state" shall mean imported goods which, under the inward-processing procedure or the procedures for processing under customs control, have undergone no form of processing.

The Government shall adopt regulations on implementation of suspension arrangements and customs procedures with economic impact, regulations for simplification of these procedures as well as implementing regulations related to measures of economic and agricultural policies.

Authorisation for the Customs Procedure With Economic Impact

#### **Article 111**

The use of any customs procedures with economic impact shall be conditional upon authorisation granted by the customs authority.

Requirements for Granting of the Authorisation

#### **Article 112**

The authorisation for the customs procedure with economic impact shall be granted only:

- 1) To persons who offer every guarantee necessary for the proper conduct of the operations; and
- 2) Where the customs authority can supervise and control the approved procedure.

Content of the Authorisation

### **Article 113**

The authorisation for the customs procedure with economic impact shall include the conditions under which the procedure in question is used.

The holder of the authorisation shall notify the customs authority of all factors arising after the authorisation was granted which may influence its continuation or content.

Goods Obtained From Goods Placed Under a Suspensive Arrangement

### **Article 114**

Any products and goods obtained from goods placed under a suspensive arrangement shall be deemed to have been placed under the same arrangement.

Notwithstanding paragraph 1. of this Article, the Government may prescribe requirements that have to be met for the goods obtained from goods placed under a suspensive arrangement to acquire the status of domestic goods.

Providing Security

### **Article 115**

The customs authority may make the placing of goods under a suspensive arrangement conditional upon the provision of security in order to ensure that any customs debt which may be incurred in respect of those goods will be paid.

The Government may prescribe the manner of providing security, as well as the amount of security and/or conditions for the relief of the obligation to provide security for particular suspensive arrangements.

Discharge of the Procedure With Economic Impact

### **Article 116**

Customs procedure with economic impact shall be discharged when a new customs-approved treatment or use of goods is assigned either to the goods placed under that arrangement or to compensating or processed products placed under it.

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

Transfer of Rights and Obligations of the Holder of a Customs Procedure With Economic Impact

### **Article 117**

The rights and obligations of the holder of a customs procedure with economic impact may, on the conditions laid down by the customs authority, be transferred to other persons who meet the requirements for the procedure in question.

B. Transit procedure

## I. External transit - General provisions

### External Transit, Transit of Goods Placed Under the Customs Procedure With Economic Impact

#### **Article 118**

The external transit procedure shall allow the movement of goods from one point to another within the customs territory of the Republic of Serbia, of:

- 1) non-domestic goods, without such goods being subject to import duties and other charges or to commercial policy measures;
- 2) domestic and non-domestic goods, where necessary to provide for proper application of the provisions relating to repayment or remission of the customs debt.

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

- 1) under the transit procedure laid down in this Law and regulations adopted under this Law; or
- 2) under cover of a TIR carnet (in accordance with the TIR Convention) provided that such movement:
  - began or is to end outside the customs territory of the Republic of Serbia, or
  - relates to consignments of goods which must be unloaded in the customs territory of the Republic of Serbia and which are conveyed with goods to be unloaded in a third country, or
  - is effected between two points in the customs territory of the Republic of Serbia through the territory of a third country;
- 3) under cover of an ATA carnet used as a transit document; or
- 4) under any other document provided for in an international agreement binding on the Republic of Serbia, or
- 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.

The external transit procedure shall apply without prejudice to the specific provisions of customs rules applicable to the movement of goods placed under a customs procedure with economic impact.

The term "principal" shall mean the person who either personally or through the authorised representative requests the transit procedure to be administered and who is responsible for the discharge of such a procedure under provisions in force.

Discharge of the External Transit Procedure

#### **Article 119**

The external transit procedure shall end and the obligations of the holder shall be met when the goods placed under the procedure and the required documents are produced at the customs office of destination in accordance with the provisions of the procedure in question.

The customs authority shall discharge the procedure 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.

## II. External transit - specific provisions

### Transit Procedure in the Territory of the Third Country

#### **Article 120**

The external transit procedure referred to in Article 118. paragraph 2. subparagraph 1. shall apply to goods passing through a territory of a third country, only if:

- 1) provision is made to that effect under an international agreement, or
- 2) the carriage through territory of that country 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. subparagraph 2. the operation of the external transit procedure shall be suspended while the goods are in the territory of the third country.

### Providing Security in Transit Procedure

#### **Article 121**

The principal shall provide a guarantee in order to ensure payment of any customs debt or other charges which may be incurred in respect of the goods, if not provided otherwise under this Law or regulations adopted in accordance with this Law.

The guarantee shall be either:

- 1) an individual guarantee covering a single transit operation, or
- 2) a comprehensive guarantee covering a number of transit operations where the principal has been authorised to use such a guarantee by the Customs Administration.

The authorisation referred to in paragraph 2. subparagraph 2. of this Article shall be granted only to persons who:

- 1) Are established in the Republic of Serbia;
- 2) Are regular users of transit procedures and who are able to demonstrate to the Customs Administration to have the capacity to fulfil their obligations in relation to transit procedures; and
- 3) Have not committed serious or repeated offences against customs or tax laws.

A person who was granted the status of authorised economic operator and a person who meets the criteria referred to in paragraph 3. of this Article, may be authorised to use a comprehensive guarantee for a reduced amount or to have a comprehensive guarantee waiver. The additional criteria for this authorisation shall include:

- 1) The correct use of the transit procedures during a given period;
- 2) Cooperation with the Customs Administration; and
- 3) In respect of the guarantee waiver, a good financial standing which is sufficient to fulfil the commitments of the said persons.

The comprehensive guarantee reduction or waiver authorised in accordance with paragraph 4. of this Article shall not apply to transit operations involving goods which, as determined by the Government, are considered to present increased risks.

The Government shall prescribe additional criteria and the procedure of providing security.

If the circumstances contrary to conditions and additional criteria for granting authorisation referred to in paragraphs 3. and 4. of this Article occur, the Customs Administration may revoke the authorisations issued.

Cases Where Security Is Not Required

#### **Article 122**

No guarantee need be furnished for:

- 1) Air transport;
- 2) Carriage by pipeline or power lines;
- 3) Operations carried out by domestic railway and

Responsibility of the Principal

#### **Article 123**

The principal shall be the holder of the transit procedure and shall be responsible for:

- 1) production of the goods intact at the customs office of destination within the prescribed time limit and with due observance of the measures adopted by the customs authority to ensure identification, and
- 2) Observance of the provisions relating to the transit procedure.

Notwithstanding the paragraph 1. of this Article, a carrier or recipient of goods who accepts goods knowing that they are moving under the transit procedure shall also be responsible for production of the goods intact at the customs office of destination by the prescribed time limit and with due observance of the measures adopted by the customs authority to ensure identification.

## Implementing Regulations, Simplified Procedures

### **Article 124**

The Government shall adopt regulations governing administration of the transit procedure and exceptions applicable to such a procedure.

Provided that implementation of measures applying to goods is guaranteed, by the regulations referred to in paragraph 1. of this Article it may be provided for simplified transit procedures if:

- 1) International agreements stipulate establishing simplified procedures in accordance with the criteria applicable to specific kinds of goods or specific companies.
- 2) The movement of goods in the customs territory of the Republic of Serbia takes place without crossing to the customs territory of another country.

### III. Internal transit

#### Definition of Internal Transit, Movement of Goods

### **Article 125**

The internal transit procedure shall allow the movement of domestic goods from one point to another within the customs territory of the Republic of Serbia, passing through the territory of a third country without any change in their customs status. This provision shall be without prejudice to the application of Article 118. paragraph 1. subparagraph 2. of this Law.

The movement referred to in paragraph 1. may take place either:

- 1) Under the transit procedure provided that such a possibility is provided for in an international agreement;
- 2) Under cover of a TIR Carnet (in accordance with the TIR Convention);
- 3) Under cover of an ATA Carnet used as a transit document;
- 4) Under the document provided for in an international agreement binding on the Republic of Serbia; or
- 5) By mail.

In the cases referred to in paragraph 2. subparagraph 1. of this Article, Articles 119, 121, 122, 123. and 124. shall apply *mutatis mutandis*.

In the cases referred to in paragraph 2. subparagraphs 2. to 5. of this Article, goods shall keep their customs status only if that status is established under the conditions and in the form prescribed by the Government.

#### Prescribing Requirements for Movement of Domestic Goods

### **Article 126**

The Government shall prescribe the conditions under which domestic goods may move from one point to another within the customs territory of the Republic of Serbia and temporarily outside that territory, without alternation of their customs status and without being subject to a customs procedure.

Application of the Internal Transit Procedure

### **Article 127**

The internal transit procedure shall also apply where this Law and regulations adopted under this Law expressly provide for such application.

C. Customs warehousing

Goods Stored in the Customs Warehouse

### **Article 128**

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

- 1) Non-domestic goods, without such goods being subject to import duties or commercial policy measures when placed under this procedure;
- 2) Domestic goods intended for export, which, by placing in a customs warehouse attract the application of measures, prescribed by separate provisions, applicable to the export of such goods.

Customs warehouse shall mean any place approved by and under the supervision of the customs authority where goods may be stored under the conditions laid down .

The Government shall prescribe the cases in which the goods referred to in paragraph 1. of this Article, may be placed under the customs warehousing procedure without being stored in the customs warehouse.

Kinds of Customs Warehouses, Warehouse Keeper and User

### **Article 129**

A customs warehouse may be either a public warehouse or a private warehouse.

Public warehouse shall mean a customs warehouse available for use by any person for the warehousing of goods.

Private warehouse shall mean a customs warehouse reserved for the warehousing of goods by the warehouse keeper.

The warehouse keeper shall be the person authorised by the customs office to operate the customs warehouse.

The customs warehouse may also be operated by the customs authority.

Warehouse user shall be the person bound by the declaration to place the goods under the customs warehousing procedure or to whom the rights and obligations of such a person have been transferred.

#### Authorisation to Operate the Customs Warehouse

##### **Article 130**

Operation of a customs warehouse shall be subject to the issue of an authorisation by the customs authority, unless such authority operates the customs warehouse itself.

Any person wishing to operate a customs warehouse must make a request in writing containing the data required for granting the authorisation, in particular demonstrating that an economic need for warehousing exists. The authorisation shall lay down the conditions for operating the customs warehouse provided for under customs rules.

The authorisation shall be granted only to persons established in the Republic of Serbia.

#### Obligations of the Warehouse Keeper

##### **Article 131**

The warehouse keeper shall be responsible for:

- 1) Ensuring that while the goods are in the customs warehouse they are not removed from customs supervision;
- 2) Fulfilling the obligations that arise from the customs warehousing procedure; and
- 3) Complying with the particular conditions specified in the authorisation for operating a customs warehouse.

#### Obligations of the Warehouse User

##### **Article 132**

By way of derogation from Article 131. of this Law, where the authorisation concerns a public warehouse, it may provide that the responsibilities referred to in Article 131. paragraph 1. subparagraphs 1. or 2. of this Law devolve exclusively upon the warehouse user.

The warehouse user shall at all times be responsible for fulfilling the obligations arising from the placing of goods under the customs warehousing procedure.

#### Transfer of Warehouse Keeper's Rights and Obligations

##### **Article 133**

The rights and obligations of a warehouse keeper may, with the agreement of the customs authority, be transferred to another person.

#### Providing Security

## **Article 134**

In addition to security referred to in Article 115. of this Law, the customs authority may demand that the warehouse keeper provide a guarantee in connection with fulfilment of obligations referred to in Article 131. of this Law.

Record Keeping

## **Article 135**

The warehouse keeper shall keep stock records of all the goods placed under the customs warehousing procedure in a form approved by the customs authority. The approval shall not be required where a public warehouse is operated by the customs authority.

The goods placed under the customs warehousing procedure shall be entered into stock records as soon as they are brought into the warehouse.

The customs authority may relieve the warehouse keeper of the obligation of record keeping where the responsibilities referred to in Article 131. subparagraphs 1. and 2. of this Law lie exclusively with the warehouse user and the goods are placed in the customs warehouse on the basis of a written declaration forming part of the normal procedure or on the basis of an administrative document referred to in Article 101. paragraph 1. subparagraph 2. of this Law.

Storing in the Customs Warehouse of Goods Not Subject to Warehousing Procedure

## **Article 136**

Where an economic need exists and customs supervision is not adversely affected thereby, the customs authority may allow:

- 1) domestic goods other than those referred to in Article 128. paragraph 1. subparagraph 2. of this Law to be stored on the premises of a customs warehouse;
- 2) non-domestic goods to be processed on the premises of a customs warehouse under the inward- processing procedure, subject to the conditions provided for by that procedure; and
- 3) non-domestic goods to be processed on the premises of a customs warehouse under the procedure for processing under customs control, subject to the conditions provided for by that procedure.

In the cases referred to in paragraph 1. of this Article, the goods shall not be subject to the customs warehousing procedure.

The customs authority may require the goods referred to in paragraph 1. of this Article to be entered in the stock records provided for in Article 135. of this Law.

Time Limit of the Warehousing

## **Article 137**

There shall be no limit to the length of time goods may remain under the customs warehousing procedure.

In exceptional cases, depending on the kind of goods and storage conditions, the customs authority may set a time limit by which the warehouse user must assign the goods a new customs-approved treatment or use.

The Minister shall prescribe warehousing time limits for specific goods referred to in Article 128. paragraph 1. subparagraph 2. of this Law that are subject to protective measures of agricultural policy.

Usual Handling

### **Article 138**

Import goods may undergo the usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale.

Domestic goods referred to in Article 128. paragraph 1. subparagraph 2. of this Law placed on the customs warehousing procedure may undergo only the forms of handling expressly stipulated for such goods.

The forms of handling provided for in paragraph 1. of this Article shall be performed under customs supervision and must be authorised in advance by the customs authority.

The Government may prescribe usual forms of handling referred to in paragraphs 1. and 2. of this Article, and upon suggestion of Minister in charge of Agriculture, Forestry and Water Management, prescribe cases where the handling referred to in paragraph 1. of this Article is prohibited with respect to goods that are subject to protective measures of agricultural policy.

Temporary Removal of Goods

### **Article 139**

Where circumstances so warrant, goods may be temporarily removed from the customs warehouse, subject to prior authorisation of the customs authority, who shall stipulate the conditions on which it may take place.

While they are outside the customs warehouse the goods may undergo the usual forms of handling referred to in Article 138. of this Law.

Transfer of Goods

### **Article 140**

The customs authority may allow goods placed under the customs warehousing procedure to be transferred from one customs warehouse to another.

Customs Value of Warehoused Goods

## **Article 141**

Where a customs debt is incurred in respect of import goods and the customs value of such goods is based on a price actually paid or payable which includes the cost of warehousing and of preserving goods while they remain in the warehouse, such costs need not be included in the customs value if they are shown separately from the price actually paid or payable for the goods.

Where the import goods have undergone the usual forms of handling within the meaning of Article 138. of this Law, in determining the amount of import duties, at the request of the declarant, the nature of the goods, the customs value and the quantity to be taken into account shall be those which would have been taken into account for the goods at the time of the incurrance of the customs debt under Article 251. of this Law, if they had not undergone such handling.

Where import goods are released for free circulation in accordance with Article 101. paragraph 1. subparagraph 3. of this Law, the nature of the goods, the customs value and the quantity to be taken into account for the purposes of Article 251. of this Law shall be those applicable to the goods at the time when they were placed under the customs-warehousing procedure.

The provisions of paragraph 3. of this Article shall apply provided that the customs value of those goods was accepted at the time when the goods were placed under the customs-warehousing procedure, unless the declarant requests determination of the customs value at the time of incurrance of the customs debt.

The goods referred to in paragraph 3. of this Article may be subject to post-clearance examination within the meaning of Article 103. of this Law.

Domestic goods subject to protective measures of the agricultural policy

## **Article 142**

Domestic goods referred to in Article 128. paragraph 1. subparagraph 2. of this Law that are subject to protective measures of the agricultural policy and placed under customs-warehousing procedure, must be exported or be assigned another treatment or use in accordance with specific regulation.

D. Inward-processing

I. General provisions

Definition of Inward-processing Procedure

## **Article 143**

Without prejudice to Article 144. of this Law, the inward-processing procedure shall allow the following goods to be used in the customs territory of the Republic of Serbia in one or more processing operations:

1) Non-domestic goods intended for re-export from the customs territory in the form of compensating products, without such goods being subject to import duties or commercial policy measures (suspension system); and

2) Non-domestic goods released for free circulation with repayment or remission of the import duties chargeable on such goods if they are exported from the customs territory in the form of compensating products (draw-back system).

Processing operations shall mean:

- the working of goods, including erecting or assembling them or fitting them to other goods,
- the processing of goods,
- the repair of goods, including restoring them and putting them in order, or
- the use of certain goods, prescribed by the Government, that are not to be found in the compensating products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the production process;

Compensating products shall mean all products resulting from processing operations;

Equivalent goods means domestic goods which are used instead of the import goods for the manufacture of compensating products; and

Rate of yield means the quantity or percentage of compensating products obtained from the processing of a given quantity of import goods.

Use of Equivalent Goods

#### **Article 144**

Where the conditions laid down in this Article are met, the customs authority shall allow:

- 1) Compensating products to be obtained from equivalent goods; and
- 2) Compensating products obtained from equivalent goods to be exported from the Republic of Serbia before importation of the import goods.

Equivalent goods must be of the same quality and have the same characteristics as the imported goods.

Where paragraph 1. of this Article applies, the import goods shall be regarded for customs purposes as equivalent goods and the latter as import goods.

The Government may prescribe measures aimed at prohibiting, imposing certain conditions for or facilitating recourse to paragraph 1. of this Article, as well as prescribe specific cases where the customs authority may allow equivalent goods to be at a more advanced stage of manufacture than the imported goods.

Where the compensating products obtained from equivalent goods are exported before importation of import goods, and where such products would be liable to export duties, if they were not being exported or re-exported under an inward-processing operation, the holder of the authorisation shall provide a security to ensure payment of the export duties should the import goods not be imported within the period prescribed.

## II. Granting the authorisation

### Granting the Authorisation

#### **Article 145**

The customs authority shall issue an authorisation at the request of the person who carries out processing operations or who arranges for them to be carried out.

The authorisation shall be granted only:

- 1) To persons established in Republic of Serbia. The authorisation may be granted to persons established outside Republic of Serbia in respect of imports of a non-commercial nature;
- 2) Where the import goods can be identified in the compensating products, except in the case of use of the goods referred to in Article 143. paragraph 2. subparagraph 1. item 4. of this Law, or, in the case of the use of equivalent goods in accordance with the requirements referred to in Article 144. of this Law; and
- 3) where the inward-processing procedure can help create more favourable conditions for the export or re-export of compensating products, provided that the essential interests of local producers are not adversely affected (economic conditions). The Government shall prescribe the method for determining that the economic conditions referred to in this subparagraph are fulfilled, as well as the cases in which those conditions are deemed to have been fulfilled.

## III. Operation of the procedure

### Time Limit for Export or Re-export of Goods, Implementing Regulations

#### **Article 146**

The customs authority shall specify the period within which the compensating products must be exported or re-exported or assigned another customs-approved treatment or use. That period shall take account of the time required to carry out the processing operations and dispose of the compensating products.

The period referred to in paragraph 1. of this Article shall run from the date on which the non-domestic goods are placed under the inward-processing procedure. The customs authority may grant an extension of that period on submission of a duly substantiated and timely request by the holder of the authorisation. For reasons of simplification, the customs authority may decide that a period which commences in the course of a calendar month or quarter shall end on the last day of a subsequent calendar month or quarter.

Where Article 143. paragraph 1. subparagraph 2. of this Law applies, the customs authority shall specify the period within which the non-domestic goods must be declared for the inward-processing procedure. That period shall run from the date of acceptance of the export declaration, relating to the compensating products obtained from the corresponding equivalent goods.

The Government may prescribe specific time limits for certain processing operations or for certain import goods.

Rate of Yield

#### **Article 147**

The customs authority shall set either the rate of yield of the operation or, where appropriate, the method of determining such rate. The rate of yield shall be determined on the basis of the actual circumstances in which the processing operation is, or is to be, carried out.

Where circumstances so warrant and, in particular, in the case of processing operation carried out under clearly defined technical conditions involving goods of uniform characteristics and resulting in the production of compensating products of uniform quality, the customs authority may set standard rates of yield on the basis of actual data previously ascertained.

Implementing Regulations

#### **Article 148**

The Government shall prescribe cases in which and the conditions under which goods in the unaltered state or compensating products shall be considered to have been released for free circulation.

Determining the Customs Debt

#### **Article 149**

Where a customs debt is incurred in respect of goods placed under the inward-processing procedure, the amount of such debt shall be determined on the basis of the taxation elements appropriate to the import goods at the time of acceptance of the declaration of placing of these goods under the inward-processing procedure.

If at the time of acceptance of the declaration of placing of these goods under the inward-processing procedure, the import goods fulfilled the conditions to qualify for preferential tariff treatment within tariff quotas or ceilings, they shall be eligible for any preferential tariff treatment existing in respect of identical goods at the time of acceptance of the declaration of release for free circulation.

Specific Cases of Determination of the Customs Debt

#### **Article 150**

By way of derogation from Article 149 of this Law, compensating products:

1) Shall be subject to the import duties appropriate to them:

- where they are released for free circulation and appear on the list adopted by the Government, to the extent that they are in proportion to the exported part of the compensating products not included in that list. Exceptionally, the holder of the

authorisation may ask for the import duties on those products to be assessed in the manner referred to in Article 149 of this Law,

- where they are subject to charges within the framework of agricultural policy in accordance with the provisions in force;

2) Shall be subject to import duties calculated in accordance with the customs and other rules applicable to the customs procedure in question or to free zones or free warehouses where they have been placed under a suspensive arrangement or in a free zone or free warehouse;

However:

- the holder of the authorisation may request the duties for these goods to be assessed in accordance with Article 149. of this Law, and

- in cases where the compensating products have been assigned a customs-approved treatment or use referred to above other than processing under customs control, the amount of the import duties levied shall be at least equal to the amount calculated in accordance with Article 149. of this Law;

3) May be made subject to the rules governing assessment of duties laid down under the procedure for processing under customs control where the import goods could have been placed under that procedure;

4) shall enjoy favourable tariff treatment owing to the special use for which they are intended, where provision is made for such treatment in the case of identical imported goods, and

5) shall be relieved of import duties where the duty-free provision is made in the case of identical goods imported in accordance with Articles 216. through 219. of this Law.

#### IV. Processing operations outside the customs territory

Processing Operations Outside the Customs Territory of the Republic of Serbia and Determination of the Customs value

### **Article 151**

Some or all of the compensating products or goods in the unaltered state may be temporarily exported for the purpose of further processing outside the customs territory of the Republic of Serbia if the customs authority so authorises, in accordance with the conditions laid down under customs rules governing outward- processing procedure.

Where a customs debt is incurred in respect of re-imported products, the following shall be charged:

1) import duties on the compensating products or goods in the unaltered state referred to in paragraph 1. of this Article, calculated in accordance with Articles 149. and 150. of this Law; and

2) import duties on products re-imported after processing outside the customs territory of the Republic of Serbia, the amount of which shall be calculated in accordance with

the provisions relating to the outward- processing procedure, on the same conditions as would have applied had the products exported under the latter procedure been released for free circulation before such export took place.

## V. Special provisions relating to the drawback system

### Requirements for the Drawback System

#### **Article 152**

The drawback system may be used for all the goods, except where at the time the declaration of release for free circulation is accepted:

- 1) The import goods are subject to quantitative import restrictions;
- 2) A tariff quota is applied to the import goods;
- 3) The import goods are subject to presentation of an import or export license or certificate within the measures of agricultural policy;
- 4) An export refund or tax has been set for the compensating products.

Repayment of import duties under the drawback system shall not be possible where at the time of acceptance of export declaration for the compensating products, these products are subject to presentation of import or export license or certificate within the framework of agricultural policy or if export or other duty has been set for them.

Regulation adopted under Article 110. paragraph 5. of this Law may determine goods to which provisions of paragraphs 1. and 2. of this Article shall not apply.

### Indication in the Declaration

#### **Article 153**

The declaration of release for free circulation shall indicate that the drawback system is being used and shall provide particulars of the authorisation.

At the request of the customs authority, the authorisation referred to in Article 145. of this Law shall be attached to the declaration of release for free circulation.

### Provisions Not Applicable

#### **Article 154**

Under the drawback system, Article 144. paragraph 1. subparagraph 2. paragraphs 3. and 5, Article 146. paragraph 3. Articles 148. and 149. and Article 150. paragraph 1. subparagraph 3. of this Law shall not apply.

### Activity not Considered Being Export

#### **Article 155**

Temporary exportation of compensating products carried out as provided for in Article 151. paragraph 1. of this Law shall not be considered to be exportation within the meaning of Article 156. of this Law except where such products are not re-imported into the Republic of Serbia within the period prescribed.

## Conditions and the Manner of Repayment or Remittance of Import Duties

### **Article 156**

The holder of the authorisation may request for the import duties to be repaid or remitted where he can establish to the satisfaction of the customs authority that import goods released for free circulation under the drawback system in the form of compensating products or goods in the unaltered state have been either:

1) exported; or

2) placed, with a view to being subsequently re-exported, under the transit procedure, the customs- warehousing procedure, the temporary importation procedure or the inward-processing procedure (suspensive arrangement), or in a free zone or free warehouse, provided that all conditions for use of the procedure have also been fulfilled;

The goods referred to in subparagraph 2. of this paragraph shall be considered to be non-domestic goods.

The Government shall prescribe the period within which the application for repayment must be made.

Without prejudice to Article 150. paragraph 1. subparagraph 2. of this Law, where compensating products or goods in the unaltered state placed under a customs procedure or in a free zone or free warehouse in accordance with paragraph 1 of this Article are released for free circulation, the amount of import duties repaid or remitted shall be considered to constitute the amount of the customs debt.

For the purpose of determining the amount of import duties to be repaid or remitted, Article 150. paragraph 1. subparagraph 1. of this Law shall apply *mutatis mutandis*.

## E. Processing under customs control

### Definition of Processing

### **Article 157**

The procedure for processing under customs control shall allow non-domestic goods to be used in the customs territory of the Republic of Serbia in operations which alter their nature or state, without being subject to payment of import duties or to commercial policy measures, and shall allow the products resulting from such operations (processed products) to be released for free circulation at the rate of import duty appropriate to them.

## Implementing Regulations

### **Article 158**

The government shall prescribe the cases in and specific conditions under which the procedure for processing under customs control may be authorised.

#### Granting an Authorisation

##### **Article 159**

Authorisation for the processing under customs control shall be granted at the request of the person who carries out the processing or arranges for it to be carried out.

#### Conditions for Granting an Authorisation

##### **Article 160**

Authorisation for processing under customs control shall be granted only:

- 1) To persons established in the Republic of Serbia;
- 2) Where the import goods can be identified in the processed products;
- 3) Where it is not economically justifiable to restore the processed product to its initial state;
- 4) Where processing under customs control cannot result in circumvention of application of the rules on origin of goods and quantitative restrictions applicable to the imported goods and
- 5) Where the implementation of such procedure helps create and maintain a processing activity in the Republic of Serbia without adversely affecting the essential interests of local producers of similar goods (economic conditions). The Government may specify cases in which the economic conditions are deemed to have been fulfilled.

#### Application of Other Provisions

##### **Article 161**

For the processing under customs control procedure, the provisions of Article 146. paragraphs 1, 2 and 4. and Article 147. of this Law shall apply *mutatis mutandis*.

#### Determination of Customs Debt

##### **Article 162**

Where, under the procedure for processing under customs control, a customs debt is incurred in respect of goods in the unaltered state or of products that are at an intermediate stage of processing as compared with that provided for in the authorization, the amount of such customs debt shall be determined on the basis of the regulations for determining amount of import duties that were applicable to the import goods at the time of acceptance of the declaration relating to the placing of the goods under the procedure for processing under customs control.

#### Preferential Tariff Treatment

## **Article 163**

Where the import goods qualified for preferential tariff treatment when they were placed under the procedure for processing under customs control, and such preferential tariff treatment is applicable to products identical to the processed products released for free circulation, the import duties for processed products shall be calculated by applying the tariff rate applicable under that treatment.

If the preferential tariff treatment referred to in paragraph 1. of this Article in respect of the import goods is subject to tariff quotas or tariff ceilings, the application of the tariff rate referred to in paragraph 1. of this Article concerning the processed products shall also be subject to the condition that the said preferential tariff treatment is applicable to the import goods at the time of acceptance of the declaration of release for free circulation. In this case, the quantity of import goods actually used in the manufacture of the processed products released for free circulation shall be charged against the tariff quotas or tariff ceilings in force at the time of acceptance of the declaration of release for free circulation, and no quantities shall be counted against tariff quotas or tariff ceilings for products identical to processed products.

### F. Temporary importation

#### Definition

## **Article 164**

Under the temporary importation procedure, the customs authority shall allow the use in the customs territory of the Republic of Serbia of non-domestic goods intended for re-export in an unaltered state except normal depreciation due to the use made of them, with total or partial relief from import duties and without their being subject to commercial policy measures.

#### Granting an Authorisation

## **Article 165**

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

#### Refusal of a Request

## **Article 166**

The customs authority shall not grant authorisation for the temporary importation procedure where it is not possible to identify the import goods. The customs authority may grant authorisation for the temporary importation procedure even where the import goods cannot be identified if, in the view of the nature of the goods or its intended use, the abuse of the procedure is not possible.

#### Time Limit

## **Article 167**

The customs authority shall determine the period within which import goods must have been re-exported or assigned a new customs-approved treatment or use. Such period must be long enough for achieving the objective of the temporary importation.

The maximum period during which goods may remain under the temporary importation procedure shall be 24 months, whereby the special periods may be laid down in the regulation based on the Article 168. of this Law. The customs authority may determine a shorter period, in accordance with the circumstances and with the agreement of the holder of the authorisation.

Where exceptional circumstances so warrant, the customs authority may extend the periods referred to in paragraphs 1. and 2. of this Article in order to permit the objective of temporary importation to be achieved.

Total Relief from Payment of Import Duties

### **Article 168**

The Government shall prescribe cases, special conditions and deadlines for the application of temporary importation procedure with the total relief from import duties.

Partial Relief from Import Duties

### **Article 169**

The use of temporary importation procedure with partial relief from import duties shall be granted in respect of goods which are not covered by the provisions adopted in accordance with Article 168. of this Law or which are covered by such provisions but do not fulfil all the conditions laid down therein for the grant of temporary importation with total relief.

The Government shall prescribe conditions for application of the procedure referred to in paragraph 1. of this Article, as well as the goods in respect of which the application of such procedure may not be granted.

Calculation of Partial Relief from Payment of Import Duties

### **Article 170**

The amount of import duties payable in respect of goods placed under the temporary importation procedure with partial relief from import duties shall be set at 3 %, for every month or fraction of a month during which the goods have been placed under the procedure, of the amount of import duties which would have been payable on the said goods had they been released for free circulation on the date of acceptance of declaration for placing the goods under the temporary importation procedure.

The amount of import duties to be collected shall not exceed the amount that would have been payable if the goods had been released for free circulation on the date on which they were placed under the temporary importation procedure, leaving out of account any interest which may be applicable.

Transfer of the rights and obligations deriving from the temporary importation procedure shall not mean that the same relief arrangements must be applied to each of the periods of use of temporary imported goods.

Where the transfer of the rights and obligations referred to in paragraph 3. of this Article is made with partial relief for both persons authorised to use the procedure during the same month, the initial holder of the authorisation shall be liable to pay the amount of import duties for the whole of that month.

Calculation of Customs Debt

### **Article 171**

Where a customs debt is incurred in respect of goods placed under the temporary importation procedure, the amount of such debt shall be determined on the basis of the taxation elements appropriate to those goods on the day of acceptance of the declaration of placing the goods under the temporary importation procedure, except where regulation adopted in accordance with the Article 168. of this Law prescribes that the amount of the debt shall be determined on the basis of the taxation elements applicable on the day specified in accordance with the Article 251. of this Law.

Where, for a reason other than the placing of goods under the temporary importation procedure with partial relief from import duties, a customs debt is incurred in respect of goods placed under such procedure, the amount of debt shall be equal to the difference between the amount of import duties calculated in accordance with the provision of paragraph 1. of this Article and the amount payable in accordance with the provision of Article 170. of this Law.

G. Outward processing

I. General provisions

Definitions

### **Article 172**

Without prejudice to the provisions of Article 151. and Articles 181. to 186. of this Law, the outward- processing procedure may be authorised for domestic goods temporarily exported from the customs territory of the Republic of Serbia in order to undergo processing operations. The products resulting from the outward-processing procedure may be released for free circulation with total or partial relief from import duties.

Temporary exportation of domestic goods shall entail the application of export duties, commercial policy measures and other formalities prescribed for the exportation of domestic goods from the customs territory of the Republic of Serbia.

Temporary export goods shall mean goods placed under the outward-processing procedure;

Processing operations shall mean operations referred to in Article 143. paragraph 2. subparagraph 1. items 1, 2. and 3. of this Law;

Compensating products shall mean products resulting from processing operations;

Rate of yield shall mean quantity or percentage of compensating products obtained from the processing of a given quantity of temporary export goods.

Limitations

### **Article 173**

The outward-processing procedure shall not be allowed for domestic goods:

- 1) Whose export gives rise to repayment or remission of import duties,
- 2) Which, prior to export, were released for free circulation with total relief from import duties due to their use for special purposes, for as long as the conditions for granting such relief continue to apply, except where the processing operations relate to repair,
- 3) Whose export gives rise to the granting of export refunds or in respect of which a financial advantage other than such refunds is granted within the framework of agricultural policies by virtue of their export.

The Government may prescribe exceptions from the application of paragraph 1. subparagraph 2. of this Article.

II Granting an Authorisation

Granting an Authorisation

### **Article 174**

Authorisation to use the outward-processing procedure shall be issued by the customs authority at the request of the person that arranges for the processing operations to be carried out.

By way of derogation from paragraph 1. of this Article, the authorisation for outward-processing procedure may also be granted to the person that does not arrange for the processing operations to be carried out if the goods in question are goods of domestic origin as defined by the rules on non-preferential origin of goods referred to in Articles 32. to 36. of this Law, and where the processing operation consists in incorporating those goods into non-domestic goods that shall be imported to Republic of Serbia as a compensating product, provided that use of the procedure helps to promote the sale of goods intended for export and that the importation of compensating product does not harm the essential interests of Serbian producers of products identical or similar to the imported compensating products. The Government shall prescribe cases and procedure for implementation of this paragraph.

Conditions for Granting an Authorisation

### **Article 175**

The authorisation may be granted only:

- 1) To persons established in the Republic of Serbia;

2) Where it is possible to establish that the compensating products have resulted from processing of the temporary export goods;

3) Where granting an authorisation does not seriously harm the essential interests of producers of the Republic of Serbia (economic conditions).

The Government may prescribe cases in which derogations from the condition referred to in paragraph 1. subparagraph 2. of this Article shall be allowed.

### III Operation of the procedure

#### Time Limit

#### **Article 176**

The customs authority shall specify the period within which the compensating products must be re- imported into the customs territory of the Republic of Serbia. Such period may be extended based on the submission of a duly substantiated and timely request by the holder of the authorisation.

The customs authority shall set the rate of yield or the method of determining the rate of yield for exportation and importation of goods in the outward-processing procedure.

#### Conditions for Granting Total or Partial Relief From the Payment of Import Duties

#### **Article 177**

The total or partial relief from import duties provided for in Article 178. paragraph 1. of this Law may be granted only where the compensating products are declared for release for free circulation in the name of or on behalf of:

1) The holder of the authorisation or

2) Any other person established in 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.

The total or partial relief from import duties referred to in Article 178. of this Law shall not be granted where one of the conditions or obligations relating to the outward-processing procedure is not fulfilled, unless it is established that the failures have no significant effect on the correct operation of the procedure.

#### Manner of Determining Total or Partial Relief From the Payment of Import Duties

#### **Article 178**

The total or partial relief from payment of import duties provided for in Article 172. paragraph 1. of this Law shall be effected by deducting from the amount of the import duties applicable to the compensating products released for free circulation the amount of the import duties that would be applicable on the same date to the temporary export goods if they were imported into the Republic of Serbia from the country in which they underwent the processing operation or the country of the last processing operation.

The amount to be deducted in accordance with the provision of paragraph 1. of this Article shall be calculated on the basis of the quantity and nature of the goods on the date of acceptance of the declaration placing them under the outward-processing procedure and on the basis of the other taxation elements applicable to such goods on the date of acceptance of the declaration for release of the compensating products for free circulation.

The value of the temporary export goods shall be the value taken into account for those goods in determining the customs value of the compensating products in accordance with Article 46. paragraph 1. subparagraph 2. item 1. of this Law or, if the value cannot be determined in that way, the difference between the customs value of the compensating products and the processing costs determined by reasonable means.

Notwithstanding paragraphs 2. and 3. of this Article:

- 1) Certain costs shall not be taken into account in calculating the amount to be deducted if it is so prescribed in regulations adopted by the Government;
- 2) Where, prior to being placed under the outward-processing procedure, the temporary export goods were released for free circulation at a reduced tariff rate due to their use for special purposes, and for as long as the conditions for granting the reduced tariff rate continue to apply, the amount to be deducted shall be equal to the amount of import duties actually levied when the goods were released for free circulation.

Where temporary export goods qualify on their release for free circulation for a reduced or zero tariff rate due to their use for special purposes, such rate shall be applicable to compensating products, provided that the goods underwent operations consistent with such use in the country where the processing operation or last processing operation took place.

Where compensating products qualify for a preferential regime measure within the meaning of Article 30. paragraph 3. subparagraphs 4. or 5. of this Law and if such measure applies to goods falling within the same tariff classification as the temporary export goods, the tariff rate to be taken into account in establishing the amount to be deducted in accordance with the provision of paragraph 1. of this Article shall be the rate which would apply to the temporary export goods if they fulfilled the conditions for application of preferential measure.

The provisions of this Article shall not be applicable if the international agreement accepted by Republic of Serbia provides for the total or partial relief from the import duties for compensating products.

Repair Free of Charge

### **Article 179**

Where the outward-processing procedure has been granted for the purpose of repair of the temporary export goods, such goods may be released for free circulation with total relief from the import duties if it is established to the satisfaction of the customs authority that the goods were repaired free of charge because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect.

Paragraph 1. of this Article shall not apply where account was taken of the manufacturing defect at the time when the goods were first released for free circulation.

Repair Paid For

### **Article 180**

Where the outward-processing procedure has been granted for the purpose of repair of the temporary export goods in return for payment, the partial relief from the import duties provided for in Article 172. of this Law may be granted. The amount of import duties shall be calculated on the basis of the taxation elements pertaining to the compensating products on the date of acceptance of the declaration of their release for free circulation, whereby the customs value shall be equal to the amount of the repair costs, provided that those costs represent the only payment made by the holder of the authorisation and are not influenced by any links between the holder of the authorisation and the operator.

By way of derogation from Article 178. of this Law, the Government may prescribe cases and specific conditions under which costs of processing operation apply as the basis for calculating the customs debt when the goods are released for free circulation following an outward-processing procedure.

IV. Outward-processing using the standard exchange system

Standard Exchange System

### **Article 181**

In accordance with the provisions of Articles 181. to 186. of this Law, the standard exchange system shall permit an imported product (hereinafter referred to as: replacement product) to replace a compensating product.

The customs authority may allow the use of the standard exchange system where the processing operation involves the repair of domestic goods that is not subject to special regulations adopted within the framework of agricultural policies.

The provisions applicable to compensating products shall also apply to replacement products, except for provisions of Article 186. of this Law.

The customs authority may permit replacement products to be imported under the prescribed conditions before the goods for which procedure has been granted are exported (prior importation). In that event, the security must be provided to cover the amount of the import duties for the replacement product.

Replacement Product

### **Article 182**

Replacement products shall have the same tariff classification, be of the same commercial quality and possess the same technical characteristics as the temporary export goods had the latter undergone the repair in question.

Where the temporary export goods have been used before exportation, the replacement products must also have been used and may not be new products.

The customs authority may permit derogations from the application of paragraph 2. of this Article if the replacement products are supplied free of charge on the basis of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect of goods.

Authorising a Standard Exchange System

### **Article 183**

Standard exchange system may be authorised only where it is possible to verify that the replacement product complies with the conditions laid down in Article 182. of this Law.

Prior Importation

### **Article 184**

In the case of prior importation, the goods for temporary exportation shall be exported within a period of two months from the date of acceptance by the customs authority of the declaration for release of the replacement products for free circulation.

Where exceptional circumstances so warrant, the customs authority may, at the timely request of the holder of the authorisation, extend the period referred to in paragraph 1. of this Article within reasonable limits.

Amount To Be Deducted in the Case of Prior Importation

### **Article 185**

In the case of prior importation, where provisions of Article 178. of this Law are applied, the amount to be deducted shall be determined on the basis of the taxation elements applicable to the goods for temporary export on the date of acceptance of the declaration placing the goods under the outward-processing procedure.

Provisions Not Applicable

### **Article 186**

Provisions of Articles 174. paragraph 2. and 175. paragraph 1. subparagraph 2. of this Law shall not apply within the context of standard exchange system.

V. Other provisions

Commercial Policy Measures

### **Article 187**

Commercial policy measures shall be applicable in the outward-processing procedures.

Section 4

## EXPORT PROCEDURE

### Definition

#### **Article 188**

Under the export procedure, the customs authority shall allow domestic goods to leave the customs territory of the Republic of Serbia. Export procedure shall entail the application of export formalities including commercial policy measures and, where prescribed, calculation of export customs duties.

With the exception of goods placed under the outward-processing procedure or a transit procedure in accordance with Article 125. of this Law, all domestic goods intended for export from the customs territory of the Republic of Serbia shall be placed under the export procedure.

The Government shall prescribe cases in which and conditions under which goods leaving the customs territory of the Republic of Serbia are not subject to an export declaration.

The export declaration shall be submitted to the customs authority responsible for supervising the area where the exporter is established or where the goods are packed or loaded for exportation.

The Government may prescribe derogations from paragraph 4. of this Article.

### Conditions for Exportation of Goods

#### **Article 189**

Release of the goods for export shall be granted on the condition that the goods are exported from the customs territory of the Republic of Serbia in the same condition as when the export declaration was accepted.

### Temporary Exportation of Goods

#### **Article 190**

The provisions of this Law governing the temporary import procedure shall apply *mutatis mutandis* in the case the goods are temporarily exported with the intention of being re-imported in an unaltered state.

### Chapter 3

## OTHER TYPES OF CUSTOMS APPROVED TREATMENT OR USE OF GOODS

### Section 1

#### FREE ZONES AND FREE WAREHOUSES

##### A. General provisions

## Definition

### **Article 191**

Free zones and free warehouses shall be parts of the customs territory or premises situated in that territory, but separated from the rest of the territory in which:

- 1) Non-domestic goods are considered, for the purpose of collecting import duties and applying commercial policy import measures, as not being on the customs territory of the Republic of Serbia, provided they are not released for free circulation or placed under any other customs procedure or used or consumed in the free zone or the free warehouse under the conditions other than those provided for in customs regulations;
- 2) Domestic goods intended for export, which, by virtue of being placed in a free zone or free warehouse, fulfill the conditions prescribed by separate regulations, shall be subject to measures applicable to the export of goods.

Entrance and Exit in the Free Zone or Free Warehouse, Construction of Facilities in the Free Zone

### **Article 192**

Free zones shall be fenced. The customs authority shall define the entry and exit points of each free zone or free warehouse.

The construction of any facility in a free zone shall require the prior authorisation of the customs authority.

Customs Supervision

### **Article 193**

The area, the entry and exit points of free zones and free warehouses shall be subject to the measures of customs supervision.

Persons and means of transport entering or leaving a free zone or free warehouse shall be subject to customs control.

Access to a free zone or free warehouse may be denied to persons for whom there is a doubt that they shall not comply with the rules prescribed by this Law and other regulations in force.

The customs authority may check goods entering, leaving or remaining in a free zone or free warehouse or conduct other measures of customs supervision.

B. Placing of Goods in Free Zones and Free Warehouse

Placing of Goods in Free Zones and Free Warehouse

### **Article 194**

Both domestic and non-domestic goods may be placed in a free zone or free warehouse. The customs authority may require that goods which present a danger or

are likely to spoil other goods or which, for other reasons, require special facilities be placed in premises specially equipped to receive them.

Presentation of Goods Placed in Free Zone or Free Warehouse to the Customs Authority

### **Article 195**

Without prejudice to Article 193. paragraph 4. of this Law, goods directly entering a free zone or free warehouse, without entering the other part of the customs territory, need not be presented to the customs authority, nor need a declaration be lodged.

Goods shall be presented to the customs authority and undergo the prescribed customs formalities only where:

- 1) they have been placed under a customs procedure which is discharged when the goods enter a free zone or free warehouse. Where the customs procedure in question permits exemption from the obligation to present goods, such presentation shall not be required;
- 2) they have been placed in a free zone or free warehouse on the basis of a decision to grant repayment or remission of customs debt;
- 3) they qualify for the application of measures referred to in Article 191. paragraph 1. subparagraph 2. of this Law.

The customs authority may require separate records of goods subject to the payment of export duties or to other regulations governing exportation.

At the request of the party concerned, the customs authority shall certify the domestic or foreign status of goods placed in a free zone or free warehouse.

C. Operation of free zones and free warehouses

Time Limit

### **Article 196**

There shall be no limit to the length of time goods may remain in free zones or free warehouses.

For certain goods referred to in Article 191. paragraph 1. subparagraph 2. of this Law, specific time limits may be prescribed.

Conditions for Performing Economic Activity in Free Zones and Free Warehouses

### **Article 197**

Any economic activity in a free zone and free warehouse shall be performed under the customs supervision, under the conditions prescribed by this Law. The carrying on of such activities in a free zone and free warehouse shall be notified in advance to the customs authority.

The customs authority may impose certain prohibitions or restrictions on the activities referred to in paragraph 1. of this Article, having regard to the nature of the goods concerned or the requirements of customs supervision.

The customs authority shall allow carrying on activities in a free zone or free warehouse to persons who provide the necessary guarantees related to the enabling of customs supervision and control.

Activities in the Zone

### **Article 198**

Non-domestic goods placed in a free zone or free warehouse may, while they remain in a free zone or free warehouse,:

- 1) be released for free circulation under the conditions laid down by that procedure and by Article 203. of this Law;
- 2) undergo the usual forms of handling referred to in Article 138. paragraph 1. of this Law without authorisation;
- 3) be placed under the inward-processing procedure under the conditions laid down by that procedure;
- 4) be placed under the procedure for processing under customs control under the conditions laid down by that procedure;
- 5) be placed under the temporary importation procedure under the conditions laid down by that procedure;
- 6) be abandoned to the state in accordance with Article 209. of this Law;
- 7) be destroyed, provided that the person concerned supplies the customs authority with all the necessary information on the goods.

Where the goods are placed under one of the procedures referred to in subparagraphs 3, 4. or 5. of paragraph 1. of this Article, the customs authority may, in so far as is necessary to take account of the operating and customs supervision conditions of the free zones or free warehouses, adapt the control measures to such conditions.

Domestic Goods Subject to Special Measures of Agricultural Policies

### **Article 199**

Domestic goods referred to in Article 191. paragraph 1. subparagraph 2. of this Law, which are covered by special measures of agricultural policies, shall undergo, in a free zone or free warehouse, only those forms of handling that expressly prescribed for such goods in conformity with Article 138. paragraph 2. of this Law. Such handling may be undertaken without authorisation.

Special Conditions

### **Article 200**

Non-domestic goods and domestic goods referred to in Article 191. paragraph 1. subparagraph 2. of this Law, shall not be consumed or used in free zones or in free warehouses, except in cases referred to in Articles 198. and 199. of this Law.

Records

### **Article 201**

All persons engaged in storing, processing, or sale or purchase of goods in a free zone or free warehouse shall keep stock records in a form approved by the customs authority. The goods shall be entered in the stock records as soon as they are brought into the premises of such person. The stock records must enable the customs authority to identify the goods and must contain information on their movement.

Where goods are transhipped within a free zone, the records relating to such operation shall be kept at the disposal of the customs authority. The short-term storage of goods in connection with such transshipment shall be considered to be an integral part of the operation.

The Government shall prescribe the form of keeping records referred to in paragraph 1. of this Article and the manner of performing customs supervision in a free zone and in free warehouse.

D. Removal of goods from free zones or free warehouses

Removal of Goods

### **Article 202**

Goods leaving a free zone or free warehouse may be:

- 1) Exported or re-exported from the customs territory of the Republic of Serbia or
- 2) Brought into another part of the customs territory of the Republic of Serbia.

The provisions of Articles 58. to 82. of this Law, with the exception of Articles 73. to 78. where domestic goods are concerned, shall also apply to goods brought into other parts of the customs territory of the Republic of Serbia, except in the case of goods leaving the free zone by air without being placed under a transit procedure or any other customs procedure.

Customs Value and Calculation of Customs Debt

### **Article 203**

Where a customs debt is incurred in respect of non-domestic goods brought from the free zone or free warehouse into other parts of the customs territory of the Republic of Serbia, and the customs value of such goods is based on the price actually paid or payable which includes the cost of warehousing or of preserving goods while they remain in the free zone or free warehouse, such costs shall not be included in the customs value if they are shown separately from the price actually paid or payable for the goods.

Where a customs debt is incurred for the products obtained in the free zone under the inward-processing procedure when brought from the free zone into other parts of the customs territory, the amount of the debt shall be determined on the basis of the value of the imported goods contained in compensating products.

Where the goods have undergone one of the usual forms of handling referred to in Article 138. paragraph 1. of this Law, the declarant may request, provided that such handling was covered by an authorization granted by the customs authority in accordance with Article 138. paragraph 4. of this Law, that the nature of the goods, the customs value and the quantity to be taken into consideration in determining the amount of import duties shall be those which would be taken into account in respect of those goods, at the time referred to in Article 251. of this Law had they not undergone such handling. The Government shall prescribe cases to which this paragraph shall not apply.

Procedures with Domestic Goods Subject to Measures of Agricultural Policies

#### **Article 204**

Domestic goods referred to in Article 191. paragraph 1. subparagraph 2. of this Law which are covered by agricultural policy, may be assigned a treatment or use provided for by the rules under which they are eligible, by virtue of their being placed in a free zone or free warehouse, for measures normally attaching to the export of such goods.

Should the goods referred to in paragraph 1. of this Article be returned to another part of the customs territory of the Republic of Serbia or if, a treatment or use referred to in paragraph 1. of this Article has not been approved by the expiry of the period prescribed pursuant to Article 196. paragraph 2. of this Law, the customs authority shall take the measures laid down by the relevant legislation governing specific fields relating to failure to comply with the specified treatment or use.

Proof of Status of Goods

#### **Article 205**

Where goods are brought into or returned to another part of the customs territory of the Republic of Serbia or placed under a customs procedure, the certificate referred to in Article 195. paragraph 4. of this Law may be used as proof of the domestic or foreign customs status of such goods.

Where the domestic or foreign status of goods cannot be proved by the certificate or other means, the goods shall be considered to be:

- 1) Domestic goods, for the purposes of payment of export duties, obtaining export licenses and applying of prescribed export trade measures;
- 2) Non-domestic goods in all other cases.

Implementation of Regulations

#### **Article 206**

The customs authority shall control the implementation of the rules governing exportation, outward- processing, re-exportation, suspensive procedures or the internal transit procedure, as well as provisions of Articles 210. to 214. of this Law, where goods are to leave the customs territory of the Republic of Serbia from a free zone or free warehouse.

## Aircrafts Supplies

### **Article 207**

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. subparagraph 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.

## Duty Free Shops

### **Article 208**

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.

## Section 2

### RE-EXPORTATION, DESTRUCTION AND ABANDONMENT

#### Definition and Conditions

## **Article 209**

Non-domestic goods may be:

- 1) re-exported from the customs territory of the Republic of Serbia;
- 2) destroyed; or
- 3) abandoned to the state.

Re-exportation shall, where appropriate, involve application of the prescribed formalities for exportation of goods, including application of commercial measures.

The Government shall prescribe cases in which non-domestic goods may be placed under the suspensive inward-processing procedure with a view to non-application of commercial measures non-domestic goods on their exportation from the Republic of Serbia.

Re-exportation or destruction of goods shall be the subject of the prior notification of the customs authority. The customs authority shall prohibit re-exportation of goods should the formalities or measures specified in paragraph 2. of this Article so provide. Where goods placed under an economic customs procedure are intended for re-exportation, a declaration in accordance with Articles 83. through 103. of this Law shall be lodged. In such cases, Article 188. paragraphs 3. and 4. of this Law shall apply.

The Government shall prescribe conditions and manner for abandonment of goods to the state.

Destruction or abandonment of goods shall not entail any expense for the state.

Any waste or scrap resulting from destruction shall be assigned a customs approved treatment or use prescribed for non-domestic goods.

The waste or scrap shall remain under customs supervision in accordance with Article 62. paragraph 2. of this Law.

Title 5

## **GOODS LEAVING THE CUSTOMS TERRITORY OF THE REPUBLIC OF SERBIA**

Goods Leaving the Customs Territory of the Republic of Serbia, Deadlines and Conditions

## **Article 210**

Declaration must be filed or, if a declaration is not required – a summary declaration, for goods leaving the customs territory of the Republic of Serbia, except for goods being transported without stopping through the airspace of the Republic of Serbia.

The Government, in exceptional cases and for certain types of traffic of goods and transport, for certain companies, and keeping in mind the international agreements which provide for special security procedures, shall prescribe:

- 1) the time limit by which the declaration or a summary declaration is to be lodged at the customs authority of export before the goods are brought out of the customs territory of the Republic of Serbia;
- 2) the rules for exceptions from and variations to the time limit referred to above;
- 3) the conditions under which the requirement for a summary declaration may be waived or adapted; and
- 4) the cases in which and the conditions under which goods leaving the customs territory of the Republic of Serbia are not subject to either a declaration or summary declaration.

Declaration

### **Article 211**

Where goods leaving the customs territory of the Republic of Serbia are assigned to a customs approved treatment or use for the purpose of which a declaration is required under the customs rules, such declaration shall be lodged at the customs authority of export before the goods are to be brought out of the customs territory of the Republic of Serbia.

Where the customs authority of export is different from the customs authority of exit, the customs authority of export shall immediately communicate or make available electronically all the necessary particulars to the customs authority of exit.

The declaration shall contain at least those particulars necessary for the summary declaration referred to in Article 213. paragraph 1. of this Law.

If the declaration is not filed via electronic data interchange, the customs authority shall apply the same level of risk management as if the declaration was submitted by electronic data interchange.

Summary Declaration

### **Article 212**

Where goods leaving the customs territory of the Republic of Serbia are not assigned to a customs approved treatment or use for which a declaration is required, a summary declaration shall be lodged at the customs authority of exit before the goods are to be brought out of the customs territory of the Republic of Serbia.

The customs authority may allow the summary declaration to be lodged at another customs authority provided that this customs authority, immediately communicates or makes available electronically the necessary data to the customs authority of exit.

Instead of the summary declaration, the customs authority may accept a submission of a company notice and provision of access to data necessary for summary declaration in the computer system of that company.

Lodging of Summary Declaration

## **Article 213**

The Minister shall prescribe data set and format for the summary declaration, containing the particulars necessary for risk analysis and the proper application of customs controls, primarily for security and safety purposes, using where appropriate, international standards and commercial practices.

Summary declaration shall be submitted electronically, while commercial, port or transport documents may be used if they contain the necessary information. The customs authority may, in exceptional cases, accept a summary declaration in writing, if it is possible to apply the same level of risk management that is applied to summary declarations filed in electronic data exchange if such data may be exchanged with other customs offices. The summary declaration shall be lodged by:

- 1) the person who carries the goods out or who assumes responsibility for the carriage of the goods out of the customs territory of the Republic of Serbia; or
- 2) a person who declares or can declare to the competent customs authority the goods being carried out; or
- 3) an agent of one of the persons referred to in subparagraphs 1. or 2. of this paragraph.

The customs authority shall, at his request, authorise the person referred to in paragraph 3. of this Article to amend or supplement the summary declaration after it has been lodged. However, no amendment, or supplement shall be possible after the customs authority has:

- 1) informed the person who lodged the summary declaration that it intends to examine the goods; or
- 2) established that the data whose amendment is sought are incorrect, or
- 3) allowed the removal of the goods.

Customs Supervision of Goods Leaving the Customs Territory

## **Article 214**

Goods leaving the customs territory of the Republic of Serbia shall be subject to customs supervision. Goods may be the subject of checks by the customs authority in accordance with the provisions in force. Goods shall leave the customs territory through the border crossings referred to in Article 58. of this Law using the route and instructions determined by the customs authority.

Title 6

CUSTOMS RELIEFS

Chapter 1

RELIEF FROM PAYMENT OF IMPORT DUTY

## Relief from Payment of Import Duty for Foreign Persons

### **Article 215**

Relief from the payment of import duty 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 customs duty 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 duty 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 Duty for Natural Persons

### **Article 216**

Relief from the payment of import duty 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 - for medications for personal use received in consignments from abroad;
- 7) Citizens of the Republic of Serbia and foreign citizens permanently residing in the Republic of Serbia - for items inherited abroad;
- 8) 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;
- 9) Scientists, writers and artists - for their own works brought in from abroad;
- 10) 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;
- 11) Drivers of motor vehicles - for fuel and oil in factory installed tanks;
- 12) Disabled persons - for orthopedic and other devices used as substitutes for the missing or damaged organs, and for spare parts and dispensable parts for the use of such devices;
- 13) Disabled persons with body disability of at least 70%, military disabled persons from the 1st to 5th category, civilians disabled in a war from the 1st to 5th category, blind persons, persons suffering from dystrophy or similar muscular or neuromuscular diseases, paraplegia and quadriplegia, cerebral paralysis, infantile cerebral paralysis and multiple sclerosis, parents of multi-handicapped children that are either under public care or under direct parental care - for passenger motor vehicles and other motor vehicles principally designed for the transport of persons (other than those of heading 8702 of the Customs tariff), including station wagons, except off-road vehicles, brought or received from abroad for personal use;
- 14) Disabled persons of the 1st and 2nd category and persons whose disability corresponds to the degree of disability prescribed for the 1st and 2nd category that underwent professional rehabilitation necessary for performing certain economic activity - for the equipment necessary for performing of such activity that is not produced in the Republic of Serbia;
- 15) Associations of disabled persons (deaf and hearing impaired persons, blind and visually impaired persons, persons with muscular dystrophy, paraplegics, persons with neuromuscular disabilities etc.) and members of such associations - for specific equipment, devices and instruments, spare parts thereof and disposable material

necessary for the use of such equipment that are not produced in the Republic of Serbia;

16) 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 Duty for Legal and Other Persons

### **Article 217**

Relief from the payment of import duty 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 duty relief in accordance with the provision of this subparagraph 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 duty 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. subparagraphs 3. to 10. of this Article shall also apply to entrepreneurs.

Goods Exempted from Payment of Import Duty

### **Article 218**

Import duty shall not be payable for:

1) New equipment which are not manufactured in the country and are imported for the purposes of new production or expansion of the existing production, modernization of the production, introduction of the new or modernization of the existing technology, except passenger motor vehicles and gambling machines;

2) Promotional material and samples received from abroad free of charge;

3) Items brought in or received 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;

4) 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;

5) Consignments of negligible value of a non-commercial nature.

Conditions and Procedures for Exercising Right to Relief from Payment of Customs Duty

### **Article 219**

The Government may specify the type, quantity and value of goods referred to in Articles 215. to 218. of this Law, eligible for relief from the payment of import duty, as well as time limits, conditions, and procedures for exercising right to relief from the payment of import duty.

Disposal of the Goods Exempted from the Payment of Customs Duty, or the Goods for Which Import Duty is Not Payable

### **Article 220**

Goods which have been granted a relief from the payment of import duty pursuant to the provisions of Articles 215. and 216. paragraph 1. subparagraphs 1, 3 and 4, Articles 217. and 218. of this Law, shall not be transferred to other person, given for use to other persons 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 motor vehicles referred to in Article 216. paragraph 1. subparagraph 13. of this Law. Period referred to in paragraph 1. of this Article for new passenger motor vehicles referred to in Article 216. paragraph 1 subparagraph 13 of this Law shall be five years.

Where customs authority authorizes different use of goods, 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 duty 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.

## Chapter 2 RETURN OF GOODS

Definition, Time Limit, Conditions

### **Article 221**

Domestic goods which, having been exported from the customs territory of the Republic of Serbia, are returned to the customs territory of the Republic of Serbia within a period of three years and released for free circulation shall, at the request of the declarant, be granted relief from import duties.

The customs authority may extend the three-year period, at the request of the declarant, in case of special circumstances. Where, prior to their exportation from the customs territory of the Republic of Serbia, the returned goods had been released for free circulation at reduced or zero rate of import duty because of their use for special purpose, relief from import duties under this Article shall be granted only if goods are to be re-imported for the same purpose.

Where the purpose for which the goods are to be imported is no longer the same, the amount of import duties chargeable upon such goods shall be reduced by the amount of import duties levied on the goods when they were first released for free circulation. Should the amount of previously paid import duties exceed that levied on the entry for free circulation of returned goods, no refund of import duties shall be granted.

The relief from import duties provided for in paragraph 1. of this Article, shall not be granted in the case of:

1) goods exported from the customs territory of the Republic of Serbia under the outward-processing procedure, unless those goods remain in the state in which they were exported;

2) goods subject to special measures, including exportation to third countries, under conditions prescribed by the Government.

Requirement to Import Goods in the Same Condition, Derogation

### **Article 222**

The customs authority shall grant the relief from import duties provided for in Article 221. of this Law for goods that are re-imported in the same state in which they were exported. The Government shall prescribe the circumstances in which and the conditions under which derogations from this provision shall be allowed.

Goods from the Inward-Processing Procedure

### **Article 223**

The provisions of Articles 221. and 222. of this Law shall apply *mutatis mutandis* to compensating products originally exported or re-exported subsequent to an inward-processing procedure.

The amount of import duties for goods referred to in paragraph 1. of this Article shall be determined on the basis of the rules applicable under the inward-processing procedure, the date of re-export being regarded as the date of release for free circulation.

## Chapter 3

### PRODUCTS OF SEA-FISHING AND OTHER PRODUCTS TAKEN FROM THE SEA

Goods Exempted from the Payment of Import Duty

### **Article 224**

Without prejudice to Article 33. paragraph 2. subparagraph 6. of this Law, the following products shall be exempt from import duties when they are released for free circulation:

1) Products of sea-fishing and other products taken from the territorial sea of another country by vessels registered or recorded in the Republic of Serbia and flying its flag;

2) Products obtained from products referred to in subparagraph 1. of this Article on board factory-ships fulfilling the conditions laid down in that subparagraph.

Title 7

## CUSTOMS DEBT AND CALCULATION OF IMPORT DUTIES

### Chapter 1

#### SECURITY TO COVER CUSTOMS DEBT

## Providing Security

### **Article 225**

Where, in accordance with customs rules, the customs authority requires security to be provided in order to ensure payment of a customs debt, such security shall be provided by the person who is liable or who may become liable for that debt. Security for covering customs debt shall include security for ensuring the payment of all duties, fees and charges that are collected by customs authority on importation and exportation of goods in accordance with separate regulations.

The customs authority shall require only one security to be provided in respect of one customs debt.

The customs authority may authorise the security to be provided by a person other than the person from whom it is required.

State administration authorities shall not be required to provide security to cover a customs debt.

The customs authority may waive the requirement for provision of security to cover customs debt where the customs debt does not exceed 500 EUR in equivalent Dinar value.

The Government may prescribe other cases where security shall not be required, or where security in a reduced amount shall be granted.

## Other Cases of Providing Security

### **Article 226**

Where customs legislation prescribes that the provision of security is optional, such security may be required at the discretion of the customs authority in so far as it considers that a customs debt which has been or may be incurred is not certain to be paid within the prescribed period.

The security referred to in paragraph 1. of this Article may be required:

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

## Comprehensive Security

### **Article 227**

At the request of the person referred to in Article 225. paragraphs 1. and 3. of this Law, the customs authority may allow comprehensive security to be provided to cover two or more operations in respect of which a customs debt has been or may be incurred.

The Government shall prescribe conditions and procedure for provision of security referred to in paragraph 1. of this Article.

Amount of Security

### **Article 228**

Where customs legislation makes it compulsory for security to be provided, and subject to the specific provisions governing transit procedure, the customs authority shall fix the amount of such security at a level equal to:

- 1) the precise amount of the customs debt or debts in question where that amount can be established at the time when the security is provided;
- 2) in other cases, the maximum amount of the customs debt or debts that have been or may be incurred.

Where comprehensive security is provided for several customs debts which vary in amount over time, the amount of such security shall be set at a level enabling the customs debts to be covered at all times.

If the customs authority requires security to be provided where customs legislation provides that the provision of security to cover customs debt is optional, the amount of the security shall not exceed the amount determined applying the provisions of paragraph 1. of this Article.

Types of Security

### **Article 229**

Security to cover customs debt may be provided by either a cash deposit or by a guarantee.

The Government may prescribe types of security other than those referred to in paragraph 1. of this Article if they provide equivalent assurance that the customs debt will be paid.

Cash Deposit

### **Article 230**

A cash deposit shall be made in accordance with provisions in force.

The following shall be deemed equivalent to a cash deposit:

- 1) submission of a check or bill of exchange, the payment of which is guaranteed by the person on whom it is drawn and which is acceptable to the customs authority;
- 2) submission of any other payment instrument acceptable to the customs authority.

Guarantee

### **Article 231**

The guarantor shall undertake in writing to pay jointly and severally with the debtor the amount of customs debt covered by the guarantee, within the prescribed period, including the compensatory interest and expenses incurred in the procedure of collecting the outstanding customs debt.

The guarantor shall be a person residing or having headquarters in the Republic of Serbia, and the proposed guarantee acceptable according to the opinion of the customs authority.

The customs authority may refuse to approve the guarantor or type of security proposed where it estimates that it does not ensure payment of the customs debt within the prescribed period.

Choosing Type of Security, Refusal of Security

### **Article 232**

The person required to provide security shall be free to choose between the types of security prescribed in Article 229. of this Law.

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

Refusal of Security

### **Article 233**

The customs authority may refuse the proposed security where it does not consider that such security is certain to shall ensure payment of the customs debt.

Additional or New Security

### **Article 234**

Where the customs authority establishes that the security provided does not ensure, or is no longer certain to ensure, payment of the customs debt in full or in a timely manner, it may require the person referred to in Article 225.paragraph 1. of this Law to provide additional security or to replace the original security with a new one.

Release of the Security

### **Article 235**

Security instrument for payment of the customs debt shall not be released until the customs debt is terminated, or until the circumstances arise due to which a customs debt may not arise again. After the termination of the customs debt, or after the circumstances arise due to which a customs debt may not arise again, the security instrument for payment of the customs debt shall be released without delay.

Once the customs debt has been terminated in part or may arise only in respect of part of the amount that has been secured, part of the security shall be released at the request of the person concerned, unless the amount involved is small and therefore does not justify such action.

### **Article 236**

The Government may prescribe specific conditions, form and manner of providing security in order to take account of international agreements.

## Chapter 2 INCURRENCE OF A CUSTOMS DEBT

### Incurrence of a Customs Debt

#### **Article 237**

A customs debt on importation shall be incurred through:

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

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

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

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

### Customs Debt Arising from Unlawful Introduction of Goods

#### **Article 238**

A customs debt on importation shall also be incurred through:

- 1) The unlawful introduction into the customs territory of the Republic of Serbia of goods liable to import duties;
- 2) The unlawful introduction of goods referred to in paragraph 1. subparagraph 1. of this Article from a free zone into another part of the customs territory of the Republic of Serbia

For the purpose of this Article, unlawful introduction of goods shall mean any introduction of goods in violation of the provisions of Articles 63. to 66. of this Law and Article 202. paragraph 1. subparagraph 2. of this Law.

The customs debt shall be incurred at the moment when the goods are unlawfully introduced into the customs territory.

The debtor shall be the person who:

- 1) introduced the goods unlawfully;
- 2) participated in the unlawful introduction of the goods and who was aware or should have been aware that such introduction was unlawful,
- 3) acquired or held the goods referred to in paragraph 1. of this Article and who was aware or should have been aware at the time of acquiring or receiving the goods that they had been introduced unlawfully.

#### Customs Debt on Removal of Goods from Customs Supervision

##### **Article 239**

A customs debt on importation shall also be incurred through the unlawful removal from customs supervision of goods liable to import duties.

The customs debt shall be incurred at the moment when the goods are removed from customs supervision.

The debtor shall be the person who:

- 1) removed the goods from customs supervision;
- 2) participated in removal of goods from customs supervision and who was aware or should have been aware that the goods were being removed from customs supervision;
- 3) acquired or held the goods removed from the customs supervision and who was aware or should have been aware at the time of acquiring or receiving the goods that the goods had been removed from customs supervision; and
- 4) is required to fulfill the obligations arising from temporary storage of the goods or from the customs procedure under which those goods have been placed.

#### Customs Debt Arising from Non-Fulfilment of the Obligations or Conditions

##### **Article 240**

A customs debt on importation, in cases not referred to in Article 239 of this Law, shall be incurred through:

- 1) non-fulfilment of the obligations arising from temporary storage of goods or customs procedure under which the goods have been placed, or
- 2) non-compliance with one of the conditions governing the placing of the goods under relevant customs procedure or the granting of a reduced or zero tariff rate by virtue of the end-use of the goods.

Notwithstanding paragraph 1 of this Article, the customs debt shall not be incurred if it is established that the failures have no significant effect on the correct operation of the temporary storage or certain customs procedure. The customs debt shall be incurred at the moment when the obligation whose non-fulfilment gives rise to the customs debt ceases to be met or at the moment when the goods are placed under certain customs procedure where it is established subsequently that one of the conditions governing the

placing of the goods under such procedure or the granting of a reduced or zero rate of import duty by virtue of the end-use of the goods was not fulfilled.

The debtor shall be the person who is required either to fulfil the obligations arising from temporary storage of goods or from the use of the relevant customs procedure under which the goods have been placed, or to comply with the conditions governing the placing of the goods under such procedure.

Customs Debt Arising from Incorrect Treatment or Use of Goods in the Free Zone or Free Warehouse

### **Article 241**

A customs debt on importation shall be incurred through the consumption or use of goods in a free zone or a free warehouse in a manner or under conditions other than those laid down by legislation in force. Where goods disappear in a free zone or a free warehouse and where their disappearance cannot be explained to the satisfaction of the customs authority, it shall be considered that such goods have been consumed or used in the free zone or the free warehouse in contravention to provisions in force.

The customs debt shall be incurred at the moment when the goods are consumed or are first used under conditions other than those laid down by legislation in force.

The debtor shall be the person who consumed or used the goods and any person that participated in such consumption or use, if that person was aware or should reasonably have been aware that the goods were being consumed or used under conditions other than those laid down by customs and other legislation in force.

Where the customs authority regards goods which have disappeared as having been consumed or used in the free zone or the free warehouse, and it is not possible to determine the debtor within the meaning of paragraph 3. of this Article, the person liable for payment of the customs debt shall be the last person known to customs authority to have been in possession of the goods.

Event of Non-Incurrence of Customs Debt

### **Article 242**

By way of derogation from Articles 238. and 240. paragraph 1. subparagraph 1. of this Law, no customs debt shall be incurred in respect of specific goods where the person proves that the obligations which arise from:

- 1) the provisions of Articles 63. to 66. and Article 202. paragraph 1. subparagraph 2. of this Law; or
- 2) temporary storage of such goods; or
- 3) the use of the customs procedure under which such goods have been placed,

could not have been fulfilled due to the total destruction or irretrievable loss of the goods as a result of the actual nature of the goods, unforeseeable circumstances, *force majeure* or as a consequence of authorisation granted by the customs authority. Irretrievably lost goods shall be goods rendered unusable by any person.

A customs debt shall not be deemed to be incurred in respect of goods released for free circulation at a reduced or zero rate of import duty by virtue of their end-use, where such goods are exported or re-exported with the permission of the customs authority.

#### Waste or Scrap Resulting from Destruction of Goods

##### **Article 243**

Where, in accordance with the provisions of Article 242. paragraph 1. of this Law, no customs debt is deemed to be incurred in respect of goods released for free circulation at a reduced or zero rate of import duty on account of their end-use, any scrap or waste resulting from destruction of such goods shall be deemed to be non-domestic goods.

#### Customs Debt in Case of Goods Released for Free Circulation at Reduced Rate of Import Duty

##### **Article 244**

Where in accordance with provisions of Article 239. or Article 240. paragraph 1. subparagraph 1. of this Law a customs debt is incurred in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount paid when the goods were released for free circulation shall be deducted from the amount of the customs debt.

The provision of paragraph 1. of this Article shall apply *mutatis mutandis* where a customs debt is incurred in respect of scrap and waste resulting from the destruction of such goods.

#### Incurrence of Customs Debt on Exportation Where a Declaration Has Been Lodged

##### **Article 245**

A customs debt on exportation shall be incurred when the goods liable to export duties, under cover of a declaration, are exported from the customs territory of the Republic of Serbia.

The customs debt shall be incurred at the time of acceptance of export declaration for such goods.

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

#### Incurrence of Customs Debt on Exportation Where a Declaration Has Not Been Lodged

##### **Article 246**

A customs debt on exportation shall be incurred through the removal from the customs territory of the Republic of Serbia of goods liable to export duties even though a declaration has not been lodged.

The customs debt shall be incurred at the time when such goods leave the customs territory.

The debtor shall be the person who:

- 1) removed the goods;
- 2) participated in removal of such goods and who was aware or should reasonably have been aware that the declaration had not been, but should have been lodged.

Other Cases of Incurrence of Customs Debt on Exportation

#### **Article 247**

A customs debt on exportation shall be incurred through failure to comply with the conditions under which the goods were allowed to leave the customs territory of the Republic of Serbia with total or partial relief from customs duties.

The customs debt shall be incurred at the time when the goods reach a destination other than that for which they were allowed to leave the customs territory with total or partial relief from export duties or, should the customs authority be unable to determine that time, at the time of expiry of the time limit set for the production of evidence on fulfilment of conditions under which such relief has been granted.

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

Customs Debt for Goods Subject to the Measures of Prohibition or Restriction

#### **Article 248**

The customs debt referred to in Articles 237. to 241. and 246. and 247. of this Law shall be incurred even if it relates to goods subject to measures of prohibition or restriction on importation or exportation. However, no customs debt shall be incurred on the unlawful introduction into the customs territory of the Republic of Serbia of counterfeit currency, narcotics and psychotropic substances which do not enter into the economic circuit strictly supervised and controlled by the competent authorities with a view to their use for medical and scientific purposes. For the purposes of implementing criminal and offence procedures for acts that are in violation of customs regulations, the customs debt shall be deemed to have been incurred where criminal and offence regulations prescribe that customs duties or existence of the customs debt provide the basis for determining penalties, or the existence of a customs debt provides grounds for taking penalty proceedings.

Customs Debt for Goods Subject to Favourable Tariff Treatment

#### **Article 249**

Where, in accordance with provisions of Article 30. paragraph 3. subparagraph 7, Articles 108, 172. or Articles 215. to 223. of this Law, customs regulations provide for favourable tariff treatment of goods due to their nature or end-use or for, relief or total or partial exemption from import or export duties, such preferential tariff treatment, relief or total or partial exemption shall also apply in cases where a customs debt is incurred, pursuant to Articles 238. to 241, 246. or 247. of this Law, on condition that the behaviour of the person concerned involves neither fraudulent dealing nor obvious

negligence and if he produces evidence that all other conditions for the application of favourable tariff treatment, relief or total or partial exemption have been satisfied.

## Joint and Several Liability

### **Article 250**

Where several persons are liable for payment of one customs debt, they shall be jointly and severally liable for the payment of such debt.

## Rules Applicable to Calculation of Customs Debt

### **Article 251**

Save as otherwise provided for by this Law, the amount of the import or export duty applicable to certain goods shall be determined on the basis of the rules applicable to those goods at the time when the customs debt is incurred. The provisions of this paragraph are without prejudice to paragraphs 2. and 3. of this Article.

Where it is not possible to determine precisely when the customs debt is incurred, the time to be taken into account shall be the time when the customs authority concludes that the goods are in a situation in which a customs debt is incurred.

Where the information available to the customs authority enables it to establish that the customs debt was incurred prior to the time referred to in paragraph 2. of this Article, the amount of the import or export duty payable on the goods in question shall be determined on the basis of the rules applicable to such goods at the earliest time when existence of the customs debt may be established from the information available.

In the circumstances and under the conditions prescribed by the Government, compensatory interest shall be applied in order to prevent the wrongful acquisition of a financial advantage through deferment of the date on which the customs debt was incurred or calculated.

## Place of Incurrence of Customs Debt

### **Article 252**

A customs debt shall be incurred at the place where the declaration or the export declaration referred to in Articles 237, 245. and 253. is lodged or where the supplementary declaration referred to in Article 101. of this Law is to be lodged.

Notwithstanding paragraph 1. of this Article, a customs debt shall also be incurred:

- 1) at the place where the events and circumstances from which it arises occur;
- 2) if it is not possible to determine the place referred to in subparagraph 1. of this paragraph, at the place where the customs authority concludes that the goods are in a situation in which a customs debt is incurred; and
- 3) if the goods have been entered for a customs procedure which has not been discharged, and the place of incurrence of the customs debt cannot be determined pursuant to subparagraphs 1. and 2. of this paragraph within period of time determined,

at the place where the goods were either placed under the customs procedure or were introduced into the customs territory of the Republic of Serbia under that customs procedure.

Where the data available to the customs authority enables them to establish that the customs debt was already incurred when the goods were in another place at an earlier date, the customs debt shall be deemed to have been incurred at the place which may be established as the location of the goods at the earliest time when existence of the customs debt may be established.

#### Preferential Tariff Treatment Provided in International Agreements

##### **Article 253**

If international agreements provide for the granting on importation into those countries of preferential tariff treatment for goods originating in the Republic of Serbia, on condition that, where the goods have been obtained under the inward-processing procedure, the goods not originating in the Republic of Serbia or the country with which such agreement has been concluded incorporated in such originating goods shall be subject to the payment of import duties. The customs debt on importation shall be incurred by validation of the documents necessary to enable such preferential tariff treatment to be obtained in the third country.

The customs debt referred to in paragraph 1. of this Article shall be deemed to be incurred at the moment of acceptance of export declaration for such goods.

The debtor shall be the declarant. In the event of indirect representation, the person on whose behalf the declaration has been lodged shall also be a debtor.

The amount of the import duties corresponding to the customs debt shall be determined in the same manner as in the case of a customs debt that would result from the acceptance, on the same date, of the declaration for release for free circulation of the non-domestic goods for the purpose of terminating the inward-processing procedure.

#### Chapter 3 RECOVERY AND PAYMENT OF THE CUSTOMS DEBT

##### Determination of the amount of import or export duty

##### **Article 254**

The amount of import or export duty (hereinafter referred to as: the amount of duty) 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 252. of this Law, as soon as they have the necessary information.

Without prejudice to Article 103. paragraph 2. of this Law, the customs authority may accept the amount of duty payable determined by the declarant.

##### Notification of the customs debt

##### **Article 255**

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 252. of this Law.

Notwithstanding paragraph 1. of this Article the debtor shall not be notified of the customs debt in the following situations:

- 1) where, pending a final determination of the amount of import or export duty, a provisional commercial policy measure taking the form of a duty has been imposed;
- 2) where the amount of duty payable exceeds that determined on the basis of a binding information;
- 3) where the original decision not to notify the customs debt to the debtor or to notify it with an amount of duty at a figure less than the amount of duty payable was taken on the basis of provisions invalidated at a later date by a court decision;
- 4) in cases where the customs authority is exempted under the customs legislation from notification of the customs debt.

Where the amount of duty payable is equal to the amount entered in the declaration, the debtor shall not be specifically notified of the amount, but shall be considered to have been notified at the moment of the release of the goods by the customs authority. Where the amount specified in the declaration is not equal to the amount calculated by the customs authority, the customs authority shall communicate the amount of the debt to the debtor in an appropriate manner.

Where paragraph 3. of this Article does not apply, the customs debt shall be notified to the debtor within 14 days of the date on which the customs authority is in a position to determine the amount of duty payable.

The Government shall prescribe the cases referred to in paragraph 2. subparagraph 4. of this Article.

Time limits for notification of the customs debt

### **Article 256**

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 criminal proceedings, the three year period laid down in paragraph 1. of this Article shall be extended to a period of 10 years.

Where an appeal is lodged under Article 12. of this Law, the periods laid down in paragraphs 1. and 2. of this Article shall be expanded for the duration of the appeal proceedings.

Where liability for a customs debt is reinstated pursuant to Article 279. of this Law, the periods laid down in paragraphs 1. and 2. of this Article shall be suspended from the date on which the repayment or remission application was submitted in accordance

with Article 273. paragraph 4. of this Law, until a decision on the repayment or remission is taken.

Entry in the accounts

### **Article 257**

The customs authority referred to in Article 254. of this Law, shall enter in their accounts, in accordance with the national legislation, the amount of duty payable as determined in accordance with that Article, except in cases referred to in Article 255. paragraph 2. of this Law.

The customs authority need not enter in the accounts amounts of duty which, pursuant to Article 256. of this Law, could no longer be notified to the debtor.

The Minister shall determine the practical procedures for the entry in the accounts of the amounts of duty. 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 258**

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 duties, or of any other act having the same legal effect as such acceptance, the amount of such customs debt shall be entered in the accounts as soon as the amount of customs debt has been calculated.

Provided that payment has been guaranteed, the total amount of customs debt 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 no later than 2 days following the expiry of the period concerned.

Where it is prescribed that goods may be released before certain conditions which govern either the determination of the amount of customs debt incurred or the obligation to pay the customs debt are fulfilled, entry in the accounts shall take place no later than 2 days following the day on which the amount of customs debt is determined or the obligation to pay that debt is fixed.

Where a customs debt is incurred under conditions other than those referred to in paragraphs 1. and 2. of this Article, the amount of debt shall be entered in the accounts within 2 days of the date on which the customs authority is in a position to:

- 1) calculate the amount of duty in question and
- 2) determine the identity of the debtor.

Customs authority may extend the time limits laid down in this Article if special circumstances prevent the customs authority from entering into accounts within the prescribed time limits. Extended time limits shall not exceed 8 days.

Time limits referred to in paragraph 5. of this Article shall not apply in unforeseeable circumstances or in cases of force majeure.

Subsequent Entry in the Accounts

### **Article 259**

Where the amount of duty resulting from the customs debt has not been entered into accounts in accordance with Article 258. of this Law or has been entered in the accounts at a level lower than the amount legally owed, the amount of debt or the amount which remains to be recovered shall be entered into accounts within two days of the day on which the customs authority becomes aware of the situation and is in a position to calculate the actual debt and to determine the debtor (subsequent entry in the accounts). These time limits may be extended in accordance with Article 258. of this Law.

Except in the cases referred to in Article 255. paragraph 2. subparagraphs 2. and 3. of this Law, subsequent entry in the accounts shall not occur where:

- 1) the original decision not to enter duty in the accounts or to enter it in the accounts at a figure less than the amount legally owed was taken on the basis of provisions invalidated at a later date by a court decision;
- 2) the amount of duty legally owed was not entered in the accounts as a result of an error on the part of the customs authority which could not reasonably have been detected by the person liable for the payment, under condition that such person has acted in good faith and complied with the provisions laid down as regards the declarations.

Where the preferential status of the goods is established on the basis of a system of administrative cooperation involving the authorities of a third country, 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.

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

The person liable for the payment of customs debt shall be considered to be in good faith if he can demonstrate that, during the period of trading operations, he has taken due care to ensure that the conditions for the preferential treatment have been fulfilled.

The person liable for the payment of customs debt shall not be considered to be in good faith if there was a notice 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.

The Government shall specify the amount of duty up to which the subsequent entry in the accounts shall not be performed.

Periods for Settling the Debt, Suspension of Collection

## **Article 260**

Amounts of customs debt communicated in accordance with Article 255. of this Law, shall be paid by debtor within the following periods:

1) If the person is not entitled to any of the facilities laid down in Articles 262. to 265. of this Law, the payment shall be made within the period prescribed, which shall not exceed 8 days following communication to the debtor of the amount of debt owed, except in cases from Article 12. paragraph 2. of this Law.

In the case of aggregation of entries in the accounts under the conditions laid down in Article 258. paragraph 2. of this Law, it shall be so fixed as not to enable the debtor to obtain a longer period for payment than if he had been granted deferred payment.

The extension of the period may be granted by the customs authority upon request of the debtor where the amount of duty to be paid results from action for post-clearance recovery, where such extension shall not exceed the time necessary for the debtor to take the appropriate steps to discharge the obligation.

2) If the person is entitled to any of the facilities laid down in Articles 262. to 265. of this Law, the payment shall be made no later than the expiry of the period or periods specified in relation to those facilities.

The period for settling the obligation of the debtor to pay the debt shall be suspended where:

1) an application for remission of debt is made in accordance with Articles 273, 275. and 276. of this Law;

2) goods are seized with a view to subsequent confiscation in accordance with Article 271. paragraph 1. subparagraph 4. indent 2. or subparagraph 5. of this Law, or

3) the customs debt was incurred under Article 239. of this Law and there is more than one debtor.

The Government may prescribe periods referred to in paragraph 2. of this Article.

Payment Methods

## **Article 261**

Payment shall be made in cash or by any other means of payment in accordance with the provisions in force. It may also be made by adjustment of credit balance where the provisions in force so provide.

Deferment of Payment

## **Article 262**

The customs authority shall, at the request of the person concerned, provided the amount of duty payable relates to goods declared for a customs procedure which entails the obligation to pay such duty, grant deferment of payment of that amount under the conditions laid down in Articles 263. and 264. of this Law.

## Granting of Deferment of Payment

### **Article 263**

The granting of deferment of payment shall be conditional on the provision of security by the applicant.

The customs authority shall decide which of the following procedures must be used when granting deferment of payment:

- 1) Separately in respect of each amount of duty entered in the accounts under the conditions laid down in Article 258. paragraph 1. or Article 259. paragraph 1. of this Law; or
- 2) Globally, in respect of all amounts of duty entered in the accounts under the conditions laid down in Article 258. paragraph 1. of this Law during a period fixed by the customs authority not exceeding 31 days; or
- 3) Globally, in respect of all amounts of duty forming a single entry in the accounts in accordance with Article 258. paragraph 2. of this Law.

## Calculating the Period in Case of Deferment of Payment

### **Article 264**

The period for which payment is deferred shall be 30 days and it shall be calculated as follows:

- 1) where payment is deferred in accordance with Article 263. paragraph 2. subparagraph 1. of this Law, the period shall be calculated from the day on which the amount of duty is entered in the accounts by the customs authority. Where Article 258. of this Law is applied, the period of 30 days shall be reduced by the number of days in excess of 2 days necessary to enter the amount in the accounts;
- 2) where payment is deferred in accordance with Article 263. paragraph 2. subparagraph 2. of this Law, the period shall be calculated from the day on which the granted period expires. It shall be reduced by the number of days corresponding to half the number of days of the granted period;
- 3) where payment is deferred in accordance with Article 263. paragraph 2. subparagraph 3. of this Law, the period shall be calculated from the expiry day of the period during which goods in question were released. It shall be reduced by the number of days corresponding to half the number of days of the period granted for entering in the accounts of the total debt.

Where the number of days in the periods referred to in paragraph 1. subparagraphs 2. and 3. of this Article is an odd number, the number of days to be deducted from the 30-day period in accordance with paragraph 1. subparagraphs 2. and 3. of this Article shall be equal to the half of the next lowest even number.

## Refusal of Deferment of Payment

### **Article 265**

Customs authority shall not grant deferred payment in respect of amounts of duty which, although relating to goods entered for a customs procedure which entails the obligation to pay such duty, are entered in the accounts in accordance with the provisions in force concerning acceptance of incomplete declarations, because the declarant has not, by the time of expiry of the period set, provided the information necessary for definitive determination of the customs value of the goods or has not supplied the particulars or the document missing when the incomplete declaration was accepted.

Customs authority may grant deferment of payment in the cases referred to in paragraph 1. of this Article where the amount of duty to be recovered is entered in the accounts before the expiry of a period of 30 days from the date on which the amount originally charged was entered in the accounts or, if it was not entered in the accounts, from the date on which the declaration relating to the goods in question was accepted. The duration of the deferment of payment granted in such circumstances shall not extend beyond the date of expiry of the period which, pursuant to Article 264. paragraph 2. of this Law, was granted in respect of the amount of duty originally fixed, or which would have been granted had the amount of duty legally due been entered in the accounts when the goods in question were declared.

Payment of Duty Without Awaiting Expiry of the Period Granted

#### **Article 266**

The debtor may pay all or part of the amount of duty without awaiting expiry of the period he has been granted for deferred payment.

Third Person

#### **Article 267**

An amount of duty owed may be paid by a third person instead of the debtor in accordance with regulations.

Enforced Collection of Payment of the Customs Debt

#### **Article 268**

Where the amount of customs debt has not been paid within the prescribed period, the customs authority shall charge default interest on arrears and avail itself of all options open to it under legislation in force to collect the debt, including forced collection of payment.

The Government may prescribe amount of debt and interest which shall not be subject to forced collection.

Calculation of Interest

#### **Article 269**

Where the amount of the customs debt has not been paid within the prescribed period, the customs authority shall calculate an interest on the amount of the debt, from 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.

Falling Under the Statute of Limitations

### **Article 270**

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 annul the accumulation of elapsed time within which collection of customs debt is allowed, and the accumulation of time re-starts 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 elapse from the date on which the customs debt was incurred.

## Chapter 4 EXTINCTION OF THE CUSTOMS DEBT

Manners of Debt Extinction

### **Article 271**

A customs debt shall be extinguished:

- 1) By payment of the amount of debt;
- 2) By remission of the amount of debt;
- 3) By falling under the statute of limitations and in cases of legally determined inability of payment by the debtor,
- 4) Where, in respect of goods declared for a customs procedure entailing the obligation to pay import duties:
  - the declaration is invalidated,
  - the goods, before their release are seized and simultaneously or subsequently confiscated, destroyed on the instructions of the customs authority, destroyed or abandoned to the state in accordance with Article 209. of this Law, or destroyed or irretrievably lost as a result of their nature or unforeseeable circumstances or *force majeure*.
- 5) Where goods in respect of which a customs debt is incurred in accordance with Article 238. of this Law are seized upon their unlawful introduction and simultaneously or subsequently confiscated.

In the event of seizure or confiscation of the goods, the customs debt shall be deemed not to have been extinguished where the customs debt provides the basis for determining criminal or offence penalties or the existence of a customs debt is grounds for taking criminal or offence proceedings.

A customs debt incurred in accordance with provisions of Article 253. of this Law shall be extinguished where all formalities carried out in order to enable preferential tariff treatment, as specified in Article 253. of this Law, are cancelled.

## Chapter 5 REPAYMENT AND REMISSION OF CUSTOMS DEBT

### Definitions

#### **Article 272**

Repayment means the total or partial refund of debt which has been paid.

Remission means a decision to waive collection of all or part of the debt or decisions to render void an entry in the accounts of all or part of the debt which has not been paid.

### Conditions and Manner of Repayment and Remission of a Debt

#### **Article 273**

Where it is established that, when it was paid, the customs debt was not legally owed or it has been entered in the accounts contrary to Article 259. paragraph 2. of this Law, the debt shall be repaid up to the amount so determined.

Where it is established that, when it was entered in the accounts, the customs debt was not legally owed or it has been entered in the accounts contrary to Article 259. paragraph 2. of this Law, the debt shall be remitted up to the amount so determined.

Customs authority shall not grant repayment or remission when the facts which led to the payment or entry in the accounts of an amount which was not legally owed are the result of deliberate action of the person concerned against the provisions in force.

Customs authority shall grant repayment or remission, upon submission of an application by the person concerned, within a period of three years from the date on which the amount of the debt was communicated to the debtor. Customs authority shall extend this period if the person concerned provides evidence that he was prevented from submitting the application within the said period as a result of unforeseeable circumstances or *force majeure*.

Customs authority shall grant repayment or remission on its own initiative where it discovers, within the period of three years from the day the debt was communicated to the debtor, the irregularities referred to in paragraphs 1. and 2. of this Article.

### Repayment in the Event of Invalidation of Declaration

#### **Article 274**

Customs authority shall, upon submission of an application by the person concerned within the periods prescribed for submission of the application for invalidation of the declaration, grant repayment of customs debt, where a declaration is invalidated and the duties have been paid.

### Repayment or Remission for Defective Goods

## **Article 275**

Customs authority shall grant repayment or remission of customs debt in so far as it is established that the amount of duties entered in the accounts relates to goods placed under certain customs procedure and rejected by the importer because at the time of the acceptance of the declaration 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 also include goods damaged before their release.

Customs authority shall grant repayment or remission of import debt on condition that:

- 1) 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;
- 2) The goods are exported from the customs territory of the Republic of Serbia.

At the request of the person concerned, the customs authority shall permit the goods to be destroyed or to be placed, with a view to re-export, under the transit procedure, the warehousing procedure, in a free zone or free warehouse instead of being exported. For the purposes of being assigned one of the abovementioned customs procedures or uses, the goods shall be deemed to be non-domestic goods.

Customs authority shall not grant repayment or remission of import debt in respect of goods which, before being released for free circulation, were temporarily imported for testing purposes, unless it is established that the fact that the goods were defective or did not comply with the terms of the contract could not have been detected in the course of such testing.

Customs authority shall grant repayment or remission of import debt for the reasons specified in paragraph 1. of this Article upon submission of an application, by person concerned, to the customs authority within twelve months from the date on which the amount of such debt was communicated to the debtor.

Notwithstanding paragraph 6. of this Article, the customs authority may permit the period to be exceeded for duly justified reasons.

Other Cases of Repayment or Remission

## **Article 276**

Notwithstanding situations referred to in Articles 273, 274. and 275. of this Law, The Government may prescribe other situations in which customs debt may be repaid or remitted, resulting from circumstances in which no deception or obvious negligence may be attributed to the debtor or other participants in the customs procedure, as well as special conditions and procedure for repayment or remission of debt.

Repayment or remission of debt for the reasons set out in paragraph 1. of this Article shall be granted upon submission of an application by the declarant to the customs authority, within 12 months from the date on which the debt was communicated to the debtor. The customs authority may extend this period in justifiable cases.

Amount Not to Be Repaid or Remitted

#### **Article 277**

Customs authority shall grant repayment or remission of the customs debt only if the amount to be repaid or remitted exceeds the amount specified by the Government.

Interest on Repaid Debt

#### **Article 278**

Repayment by the customs authority of customs debt, including credit interest and interest on arrears collected on payment of that debt, shall not give rise to the payment of interest by the customs authority .

Notwithstanding paragraph 1. of this Article, interest shall be paid in accordance with provisions of Article 269. paragraph 1. of this Law, where a decision to grant a request for repayment is not implemented within three months from the date of adoption.

Repayment of Interest and Obligation to Pay the Originally Determined Debt

#### **Article 279**

Where a customs debt has been remitted or repaid in error, the debtor shall pay the originally determined debt. Debtor shall, if any interest referred to in Article 278. this Law has been paid, reimburse it to the customs authority.

Title 8

**BORDER ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS**

Import, Export and Transit of Goods Infringing Intellectual Property Rights

#### **Article 280**

Importation, exportation or transit 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 281**

The customs authority shall, upon request of the intellectual property right holder, suspend the customs procedures and withhold the goods in case of suspicion that importation, exportation or transit 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.

An appeal against any decision of the customs authority refusing the request of the intellectual property right holder referred to in paragraph 1. of this Article or refusing to grant an extension of the time period to undertake measures necessary for deterrence of the infringement of the intellectual property rights may be lodged to the Ministry by the person concerned.

Ex Officio Actions of the Customs Authority

### **Article 282**

The customs authority may, *ex officio*, suspend the customs procedure and the release of imported or exported or transited goods, where the customs authority suspects of infringement of certain intellectual property rights.

Compensation of Damages

### **Article 283**

The customs authority shall not be liable to compensate the importer or the owner of the goods for any damages resulting from withholding the goods in accordance with Articles 281. and 282. of this Law.

Person referred to in Article 281. paragraph 1. of this Law shall be liable to pay to the importer or the owner of the goods compensation for any damage caused to them through the wrongful detention of goods based upon his request.

Information on Suspension of the Customs Procedure

### **Article 284**

Where, pursuant to Article 282. of this Law, the customs authority decides to suspend the procedure, it will notify without delay:

- 1) The importer;
- 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 importation, exportation or transit 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 285**

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 286**

Measures related to the protection of intellectual property rights provided for in Articles 280. to 285. of this Law shall not apply to smaller quantities of non-commercial goods found in personal baggage of travellers or being sent in smaller consignments.

Prescribing Requirements and the Manner of Implementation of Measures

### **Article 287**

The Government shall lay down the conditions and the manner of implementation of measures referred to in Articles 280. to 286. of this Law.

Title 9

## SALE OF CUSTOMS GOODS AND DISTRIBUTION OF REVENUE

Sale of Customs Goods, Prescribing Requirements and the Method of Sale

### **Article 288**

The customs goods shall be sold after the fulfillment of requirements set forth by this Law, and as a rule, at a public auction.

The customs authority may immediately, without a public auction, sell perishable goods and live animals seized pursuant to Article 298. paragraph 6. of this Law.

The Government shall lay down requirements and method for the sale of customs goods.

Donation of goods without reward (restitution) or Destruction of Goods

### **Article 289**

The Government may donate the goods of historical, archaeological, ethnographical, cultural, artistic and scientific importance, as well as the goods intended for humanitarian purposes, to state bodies, institutions responsible for the protection of cultural artifacts, humanitarian organizations and other users of humanitarian aid, and for other justifiable purposes.

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 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.

Distribution of Revenues

### **Article 290**

Revenues originating from the fines collected and from the sale of customs goods shall be the revenue of the budget of the Republic.

Title 10

## **VIOLATION OF CUSTOMS REGULATIONS CHAPTER I CUSTOMS OFFENCES**

### **I. General provisions**

Definition

### **Article 291**

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 292**

Any legal person, sole proprietor 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) Brings in or takes the goods outside the border crossing or at the time when the border crossing is not open for traffic; brings in or takes out the concealed goods through the border crossing (Article 58.);
- 2) Removes the goods under customs supervision, thus circumventing the customs control (Articles 62, 72, 108, 123, 131);
- 3) Does not declare the goods being brought, through border crossings, into the customs territory of the Republic of Serbia or does not present the goods to the customs authority (Articles 63. and 65.);
- 4) Does not declare all the goods subject to the customs procedure in the declaration (Article 84.);
- 5) Does not declare goods he takes in from the free zone or a free warehouse into the rest of the customs territory of the Republic of Serbia (Article 203.).

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 293**

Any legal person, sole proprietor or 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, favorable 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 23, 30, 31, 84, 87, 104, 112, 113, 150, 152, 169, 172, 177 to 180, 249 to 252);
- 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 220.).

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 294**

Any legal person shall be fined 50,000 - 1.500,000 Dinars, if such legal person:

- 1) 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 relief from payment of import duties, payment of reduced amount or granting of any customs facility, or right to be obtained, which could not be obtained under the applicable law (Articles 11, 111, 112, 113);
- 2) 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 23, Article 53. paragraph 1, Articles 94. and 201.);
- 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 procedure with economic effect and determining of preferential origin of goods subject to that document (Articles 32. and 37.);
- 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 (Articles 71. and 72.);

- 5) Fails to include in the declaration all the particulars of the goods that are crucial for the tariff classification in accordance with the nomenclature, or includes in the declaration the tariff line which differs from the information on characteristics of the goods, where such act causes or may cause payment of reduced import duties or other charges, or within export procedure, submits to the customs authority export declaration containing the information on larger quantity, higher value or the origin of goods different from that determined by the customs authority (Article 87. paragraph 1);
- 6) Within export procedure, submits to the customs authority, either directly or indirectly, documents containing false information, whereby such act causes or may cause an authorisation for the privileged procedure to be granted or rights to be obtained, which could not be obtained under the applicable law (Article 87. paragraph 2);
- 7) Fails to duly protect the customs markings affixed to the goods from damage or destruction, or removes the markings 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 customs markings was necessary to protect the goods or the means of transport (Article 97. paragraph 2);
- 8) Acts in contravention to Article 89. of this Law or does not comply with the obligations that must be fulfilled when the simplified procedure has been granted (Article 101.);
- 9) Acts as if the goods have been released for free circulation before completing the formalities necessary for such release and payment of all the duties prescribed by this Law, or does not comply with other laws or measures of trade policy or other regulations pertinent to the importation of goods (Article 104.);
- 10) Does not comply with the obligations arising from the grant of the customs procedure with the economic effect (Article 113. paragraph 1, Article 144. paragraph 1, Article 159.);
- 11) Does not notify the customs authority of any treatment of goods which was taken subsequent to the grant of the customs procedure with the economic effect and which is important for the context and validity of that grant (Article 113. paragraph 2);
- 12) (*deleted*)
- 13) In the process of outward processing treats the goods in contravention to this Law (Article 172. paragraph 1);
- 14) Brings the goods in or takes them out from the free zone or the free warehouse, at the place other than that designated as entrance and exit points, does not present to the customs authority the goods subsequent to their entering into the free zone or a free warehouse, does not produce the copy of the transport document that accompanies the goods, or does not produce the goods upon the request of the customs authority (Article 192. paragraph 1, Article 193. paragraph 4, Article 195. paragraph 2);
- 15) Does not notify the customs authority of a construction of a structure in the free zone or a free warehouse, on carrying out industrial, commercial or service providing activity in the free zone or a free warehouse, or carries out any such activity in spite of

the prohibition or limitation imposed by the customs authority (Article 197. paragraph 1.);

16) Does not maintain prescribed records of the goods that have entered into the free zone or the free warehouse as well as the records of movement and transshipment of goods (Article 201);

17) Treats the goods from the free customs shop in contravention to this Law (Article 208);

18) Does not notify the customs authority of re-exportation or destruction of goods (Article 209 paragraph 4);

19) Notifies the customs authority that certain goods are leaving the customs territory of the Republic of Serbia, while not having such goods or where such goods are not found in the means of transport (Article 210).

A fine of 10,000 dinars to 300,000 dinars shall be imposed on the sole proprietor for an offense referred to in paragraph 1 of this Article.

A fine of 10,000 dinars to 100,000 dinars shall be imposed on a natural person and a responsible person in the legal person for an offense referred to in paragraph 1 of this Article.

#### **Article 295**

A fine of 100,000 dinars shall be imposed on a legal person, if such person:

1) Does not keep the documentation during the prescribed period (Article 26.);

2) Fails to transport the goods within time limits, by the route and in a manner determined by the customs authority (Article 63.);

3) Fails to lodge the summary declaration in accordance with Article 59 of this Law or lodges the summary declaration after the expiration of prescribed time limit (Article 68.);

4) 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 71. paragraph 3.);

5) Fails to submit a request necessary to assign the customs-approved treatment or use of the goods or fails to carry out such formalities within the prescribed time limits (Articles 73. and 74.);

6) 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 76. and 77.);

7) Fails to lodge supplementary declaration or lodges the supplementary declaration after the expiration of prescribed time limit (Article 101.);

7a) Fails to complete the transit procedure and fails to hand over the goods to the customs authority of destination in unaltered form or fails to hand over the goods in it

for the prescribed time limit, or fails to respect the other measures taken by the customs authority in order to ensure the identity of the goods (Art. 119 and 121);

8) Continues to operate in the customs warehouse referred to in Article 128. paragraph 1. and Article 138. of this Law in contravention to the authorisation of the customs authority or without any authorisation of the customs authority (Article 128. paragraph 1. and Article 138.);

9) Fails to fulfill obligations and meet requirements as the customs warehouse keeper (Articles 131, 139. and 140.);

10) Fails to fulfill obligations and meet requirements as the customs warehouse user (Article 132.);

11) 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 135.);

12) Does not export or fails to re-export the goods under inward processing procedure, within prescribed time limit, or fails to request other customs approved treatment or use of goods within the same time limit (Article 146. paragraph 1);

13) Does not export temporary imported or brought-in goods within the time limit established, or fails to request other customs approved treatment or use of goods within the prescribed time limit (Articles 167 and 181);

A fine of 50,000 dinars shall be imposed on a sole proprietor for an offense referred to in paragraph 1 of this Article.

A fine of 10,000 dinars shall be imposed on a natural person and a responsible person in the legal person for an offense referred to in paragraph 1 of this Article. Article 296

A fine in the amount of 40,000 dinars shall be imposed on a legal person who commits an offense under Art. 294 and 295 of this Law, provided that the customs value of goods that were the subject of the offense does not exceed the sum of 1,000 Euros in dinars equivalent, calculated in accordance with Article 54 of this Law.

A fine of 20,000 dinars shall be imposed on a sole proprietor for an offense referred to in paragraph 1 of this Article.

### **Article 296**

A fine in the amount of 40,000 dinars shall be imposed on a legal person who commits an offense under Art. 294 and 295 of this Law, provided that the customs value of goods that were the subject of the offense does not exceed the sum of 1,000 Euros in dinars equivalent, calculated in accordance with Article 54 of this Law.

A fine of 20,000 dinars shall be imposed on a sole proprietor for an offense referred to in paragraph 1 of this Article.

A fine in the amount of 10,000 dinars shall be imposed on a natural person and a responsible person within the legal person, who commits the offense referred to in Article 294 of this Law, provided that the customs value of the goods that were the

subject of the offense does not exceed the sum of 1,000 Euros in dinars equivalent, calculated in accordance with Article 54 of this Law.

Responsibility of another Person

### **Article 297**

A legal person, sole proprietor, natural person, and responsible person in the legal person that buys, sells, puts on sale, receives as a gift, conceals, takes over in order to provide accommodation in the appropriate storage space or transports, stores, uses, or by any means acquires goods for which such person knows or for which, taking into account the given circumstances should have known that they were the subject of the offense under Art. 292 to 295 of this Law shall each be punished as prescribed for that offense.

III. Protective measures

Confiscation of Goods

### **Article 298**

Goods being subject of the offences referred to in Articles 292. and 293. 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 299**

Means of transportation used to transport the goods that are the subject of the offences referred to in Article 292. 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.

## **Article 300**

*(Deleted)*

Payment of Default Interest

## **Article 301**

Where the fine has not been paid in time, the default interest 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.

Jurisdiction

## **Article 302**

The customs authority issues a misdemeanor warrant for offenses which are punishable by a fine in the amount fixed in accordance with the provisions of the law governing misdemeanors.

For offenses for which no misdemeanor warrant is issued, the customs authority submits the request for initiating misdemeanor proceedings.

Urgency

## **Article 303**

If the offender is a person whose residence is outside the customs territory of the Republic of Serbia, and all the conditions for issuing a misdemeanor warrant were fulfilled, misdemeanor warrant shall be issued within 48 hours.

## **Article 304**

*(Deleted)*

## Statute of Limitations

### **Article 305**

Misdemeanor proceedings may not be initiated after expiry of three years from the day when the violation occurred.

The procedure for issuing a misdemeanor warrant may not be initiated or lead after expiry of three years from the day the violation occurred.

The limitation period shall be interrupted by any action of the competent authority undertaken with the aim of issuance of a misdemeanor warrant.

The limitation period begins to run again after each interruption but shall in any way expire after six years from the day the offense was committed.

## Application of the Law on Offences

### **Article 306**

The provisions of the Law on Offences shall be applicable to customs offense proceedings.

## Title 11

## TRANSITIONAL AND FINAL PROVISIONS

## Customs Privileges

### **Article 307**

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 308**

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 309**

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.

In accordance with the provision of Article 58. paragraph 2. of this Law the Government shall establish the customs check-points where customs supervision and customs control shall be performed, and where the customs procedure shall be administered for the purpose of the implementation of paragraph 1. of this Article.

The Government may establish specific conditions for circulation of goods referred to in paragraph 1. of this Article.

Provision that Cease to Apply

### **Article 310**

On the day this Law comes into effect, the Customs Law ("RS Official Gazette" No. 73/03...62/06) except Articles 252. to 329. 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. 73/03...62/06) shall apply if they are not in contravention of this Law.

Effective Date

### **Article 311**

This Law shall come into force on the eighth day following that of its publication in the "Official Gazette of the Republic of Serbia", and shall be effective after 30 days elapse from the date of coming into force.

Independent Article of the Law on Amendments to the Customs Law

("Official Herald of the Republic of Serbia", No. 29/2015)

This Law shall enter into force on the eighth day after the day of its publication in the "Official Herald of the Republic of Serbia".

("Official Gazette of the RS", No. 18/2010, 111/2012 and 29/2015)

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## AKTIVA sistem doo, Novi Sad



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### Misija, vizija, cilj

Profesionalnim pružanjem usluga najvišeg nivoa iz oblasti administrativno - ekonomsko - finansijsko - pravnog segmenta poslovanja, od osnivanja firme pa tokom celog njenog postojanja, na ekonomičan način omogućiti mikro i malim preduzećima i preduzetnicima da se u celosti posvete svojoj osnovnoj delatnosti, a administraciju da sa poverenjem prepuste Agenciji.

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