

CUSTOMS LAW

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Pursuant to Article 82 paragraph 1 item 2 and Article 91 paragraph 1 of the Constitution of Montenegro, the Parliament of Montenegro of the 27th convocation, at the Eighth Session of the First Regular (Spring) Session in 2022, on July 30, 2022, has passed the

CUSTOMS LAW ¹

I. BASIC PROVISIONS

Subject matter

Article 1

This Law shall regulate the manner and procedures that apply to goods entering and exiting the customs territory of Montenegro.

Application

Article 2

This Law shall apply also outside the customs territory of Montenegro in accordance with a ratified international agreement.

Customs territory of Montenegro

Article 3

¹ (Official Gazette of Montenegro" no. 086/22 of 03.08.2022)

- (1) The customs territory of Montenegro shall comprise of the territory of Montenegro, including territorial waters, bays and airspace, shall be enclosed by the customs boundary line that is identical to the state border of Montenegro.
- (2) Entry or exit of goods shall be through border crossings of the customs territory of Montenegro.
- (3) Circulation of goods subject to phytosanitary, veterinary and other control shall be done through designated border crossings of the customs territory of Montenegro, in accordance with the law.
- (4) Design, construction or reconstruction of the border crossing referred to in paragraph 2 of this Article, in part designated for performing of customs supervision and customs procedure, shall be done based on the approval of the state administration authority competent for customs affairs (hereinafter referred to as "the Customs Authority").

Supervision of International Trade

Article 4

Supervision of international trade in goods shall be performed for the reason of:

- 1) protecting the financial interests of Montenegro;
- 2) protection from unfair and illegal trade, while advancing legitimate business activity;
- 3) ensuring the security and safety of Montenegro and its residents, and the protection of the environment; and
- 4) compliance between customs controls' quality and facilitation of legitimate trade.

Belonging of Revenues

Article 5

Customs revenue and other revenues generated in the customs procedure shall be the revenue of the Budget of Montenegro.

Use of Gender-Sensitive Language

Article 6

The expressions used in this law for natural persons in the masculine gender shall imply the same expressions in the feminine gender.

Definitions

Article 7

- (1) For the purposes of this Law, the following definitions shall apply:
 - 1) risk means the likelihood and the impact of an event occurring, with regard to the entry, exit, transit, movement or use for special purposes of goods moved between the customs territory of Montenegro and countries or territories outside that territory, as well as to the presence within the customs territory of Montenegro of foreign goods, which may have one of the following effects:
 - preventing the correct application of customs and other regulations,
 - compromising the financial interests of Montenegro,
 - posing a threat to the security and safety of the Montenegro and its residents, to public morality, human, animal or plant health, national treasure of historical, artistic or archaeological value, intellectual property rights, consumer rights, environment and similar;

- 2) customs formalities means all the activities carried out in order to apply the customs regulations;
- 3) entry summary declaration means the representation or action whereby a person informs the customs authorities, in the prescribed form and manner and within a specific time-limit, that goods are to be brought into the customs territory of Montenegro;
- 4) exit summary declaration means the representation or action whereby a person informs the customs authorities, in the prescribed form and manner and within a specific time-limit, that goods are to be taken out of the customs territory of Montenegro;
- 5) temporary storage declaration means the representation or action whereby a person indicates, in the prescribed form and manner, that goods are in temporary storage;
- 6) customs declaration (hereinafter: the declaration) means the representation or action whereby a person requests, in the prescribed form and manner, to place goods under a given customs procedure, with an indication, where appropriate, of any specific procedures to be applied;
- 7) re-export declaration means the representation or action whereby a person requests, in the prescribed form and manner, to take foreign goods, with the exception of those under the free zone procedure or in temporary storage, out of the customs territory of Montenegro;
- 8) re-export notification means the act whereby a person requests, in the prescribed form and manner, to take foreign goods that are under the free zone procedure or in temporary storage out of the customs territory of Montenegro;
- 9) Person established in Montenegro means:
 - a natural person who has habitual residence in Montenegro,
 - a legal person or an association of persons having its registered office, branch (registered part of a foreign company), or permanent business establishment in Montenegro which includes permanent place of business, with necessary human and technical resources;
- 10) declarant means the person lodging a customs declaration, a temporary storage declaration, an entry summary declaration, an exit summary declaration, a re-export declaration or a re-export notification in his own name or the person in whose name such a declaration or notification is lodged;
- 11) customs representative means a person appointed by another person to take actions and formalities required in accordance with customs regulation in doing business with customs authorities.
- 12) customs procedure means a procedure including placing goods in release for free circulation, special procedures and export;
- 13) temporary storage means putting the foreign goods temporarily under customs supervision in the period between their presentation to customs and their placing under a customs procedure or re-export;
- 14) customs debt means the obligation on a person to pay the amount of import or export duty, which applies to specific goods under the legislation;
- 15) debtor means any person liable for a customs debt;
- 16) import duty means customs duty payable on the import of goods;
- 17) export duty means customs duty payable on the export of goods;

- 18) customs status means the status of goods as domestic or foreign;
- 19) domestic goods means:
- goods wholly obtained in the customs territory of Montenegro and not incorporating goods imported from countries or territories outside the customs territory of Montenegro,
 - goods brought into the customs territory of Montenegro from countries or territories outside that territory and released for free circulation,
 - goods obtained or produced in the customs territory of Montenegro, either solely from goods referred to in point 2 of this item or from goods referred to in points 1 and 2 of this item;
- 20) foreign goods means goods other than those referred to in item 19 or which have lost their customs status as domestic goods;
- 21) risk management means the systematic identification of risk, including through random checks, and the implementation of all measures necessary for limiting exposure to risk;
- 22) release of goods means the act whereby the customs authorities make goods available for the purposes specified for the customs procedure under which they are placed;
- 23) customs supervision means action taken in general by the customs authority with a view to ensuring that customs regulations and, where appropriate, other provisions applicable to goods subject to such action are observed;
- 24) repayment means the refunding of an amount of import or export duty that has been paid;
- 25) remission means the waiving of the obligation to pay an amount of import or export duty which has not been paid;
- 26) processed products means goods placed under a processing procedure which have undergone processing operations;
- 27) presentation of goods to the customs authority means the notification to the customs authority of the arrival of goods at the customs office or at any other place designated or approved by the customs authority and the availability of those goods for customs controls;
- 28) holder of the goods means the person who is the owner of the goods or who has a similar right of disposal over them or who has physical control of them;
- 29) holder of the procedure means:
- the person who lodges the customs declaration, or on whose behalf that declaration is lodged; or
 - the person to whom the rights and obligations in respect of a customs procedure have been transferred;
- 30) commercial policy measures means non-tariff measures in respect to export and import of goods;
- 31) processing operations means:
- the working of goods, including erecting or assembling them or fitting them to other goods,
 - the processing of goods,
 - the destruction of goods,
 - the repair of goods, including restoring them and putting them in order,

- the use of goods which are not to be found in the processed products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process (production accessories);
- 32) rate of yield means the quantity or percentage of processed products obtained from the processing of a given quantity of goods placed under a processing procedure;
- 33) decision means any act by the customs authority pertaining to the customs regulations giving a ruling on a particular case, and having legal effects on the person or persons concerned;
- 34) carrier means:
- a) in the context of entry into the customs territory of Montenegro - the person who brings the goods, or who assumes responsibility for the carriage of the goods, as well as:
 - in the case of combined transportation - the person who operates the means of transport which, once brought into the customs territory of Montenegro, moves by itself as an active means of transport;
 - in the case of maritime or air traffic under a vessel-sharing or contracting arrangement, the person who concludes a contract and issues a bill of lading or air waybill for the actual carriage of the goods into the customs territory of Montenegro;
 - b) in the context of exiting the customs territory of Montenegro - the person who takes the goods out, or who assumes responsibility for the carriage of the goods, as well as:
 - in the case of combined transportation, where the active means of transport leaving the customs territory of Montenegro is only transporting another means of transport which, after the arrival of the active means of transport at its destination, will move by itself as an active means of transport - the person who will operate the means of transport which will move by itself once the means of transport leaving the customs territory of Montenegro has arrived at its destination;
 - in the case of maritime or air traffic under a vessel-sharing or contracting arrangement - the person who concludes a contract, and issues a bill of lading or air waybill, for the actual carriage of the goods out of the customs territory of Montenegro;
- 35) buying commission means a fee paid by an importer to an agent for services of representing them in the purchase of goods being valued.

II. RIGHTS AND OBLIGATIONS OF PERSONS WITH REGARD TO THE CUSTOMS REGULATIONS

Section A

PROVISION OF INFORMATION

Means for the exchange and storage of information and data requirements

Article 8

- (1) Exchanges of information in respect to declarations, applications, or decisions, within the customs authority and between persons performing economic activity in accordance with this Law (hereinafter referred to as "the economic operators") and the

customs authority, and the storage of such information, as required under the law, shall be made using electronic data-processing techniques.

- (2) In order to ensure the exchange and storage of information referred to in paragraph 1 of this Article, the type, form, structure and code of data shall be defined.
- (3) Electronic data processing systems referred to in paragraph 1 of this Article shall be developed in accordance with the Work Programme related to the development of the use of these systems.
- (4) The programme referred to in paragraph 3 of this Article shall provide:
 - 1) harmonised exchange of information based on internationally accepted data models and message formats;
 - 2) redesign of customs and other related processes, in order to improve efficiency, effectiveness and uniform application, as well as reduce compliance costs; and
 - 3) offer to economic operators a wide range of electronic customs services.
- (5) The work program referred to in paragraph 3 of this Article shall be updated regularly.
- (6) For the purpose of exchanging information referred to in paragraph 1 of this Article, an economic operator shall submit an application to the customs authority for obtaining an authorisation for electronic data exchange.
- (7) Upon receipt of the application referred to in paragraph 6 of this Article, the customs authority shall issue an approval to the economic operator in accordance with Article 16 of this Law.
- (8) Notwithstanding paragraph 1 of this Article, the information may be exchanged in a different manner in accordance with the law as follows:
 - 1) on a permanent basis where duly justified by the type of traffic or where the use of electronic data-processing techniques is not appropriate for the customs formalities concerned;
 - 2) on a temporary basis, in the event of a temporary failure of the computerised system of the customs authority or of the economic operators.
- (9) The Work Programme referred to in paragraph 3 of this Article and the detailed manner of exchange and storage of information referred to in paragraph 8 of this Article shall be prescribed by the Government of Montenegro (hereinafter referred to as: "the Government").
- (10) The type, form, structure, and code of data referred to in paragraph 2 of this Article shall be prescribed by the state administration authority responsible for finance (hereinafter referred to as "the Ministry").

Registration

Article 9

- (1) Economic operators established in the customs territory of Montenegro shall register with the customs authority responsible for the place where they are established.
- (2) In specific cases, economic operators not established in the customs territory of Montenegro shall register with the customs authority responsible for the place where they first lodge a declaration or submit specific application.
- (3) Persons other than economic operators shall not be required to register with the customs authority unless otherwise provided.
- (4) Persons referred to in the paragraph 3 of this Article that are required to register, shall:

- 1) register with the customs authority responsible for the place where they have been established in the customs territory of Montenegro;
 - 2) register with the customs authority responsible for the place where they first lodge a declaration or submit specific application if they are not established in the customs territory of Montenegro.
- (5) The detailed manner of registration of economic operators shall be prescribed by the Government.

Exchange of additional information between customs authority and economic operators

Article 10

- (1) Customs authority and economic operators shall exchange additional information for the purpose of mutual cooperation in the identification and counteraction of risk.
- (2) The exchange referred to in paragraph 1 of this Article may take place under a written agreement and may include access to the computer systems of economic operators by the customs authority.

Provision of information by the customs authority

Article 11

- (1) A natural person, legal person and any association of persons which is not legal person, but which has been recognised, in accordance with the regulations, the ability to perform legal actions (hereinafter referred to as "the person") may request information concerning the application of the law from the customs authority.
- (2) The request referred to in paragraph 1 of this Article may be rejected if it does not relate to an action related to international trade in goods that is actually planned.
- (3) The customs authority shall maintain a regular dialogue with economic operators and other authorities involved in international trade in goods.
- (4) The regulations and other acts governing customs, general administrative decisions, and application forms shall be published on the customs authority's web page.

Provision of information to the customs authority

Article 12

- (1) Any person involved in the accomplishment of customs formalities or in customs controls shall, at the request of the customs authority and within any time limit specified by the customs authority, provide this authority with all the requisite documents and information.
- (2) The person lodging a customs declaration, temporary storage declaration, entry summary declaration, exit summary declaration, re-export declaration or re-export notification, or submitting an application for an authorisation or any other decision, shall be responsible for the following:
 - 1) the accuracy and completeness of the information given in the declaration, notification or application;
 - 2) the authenticity, accuracy and validity of any document supporting the declaration, notification or application;
 - 3) where applicable, compliance with all of the obligations relating to the placing of the goods in question under the customs procedure concerned, or to the conduct of the authorised operations.

- 4) the authenticity and accuracy of any information provided to the customs authority or required by that authority.
- (3) If the declaration or notification is lodged, or the application is submitted, or information is provided, by a customs representative, as referred to in Article 13 of this Law, that customs representative shall be bound by the obligations set out in paragraph 2 of this Article.

Section 2

CUSTOMS REPRESENTATION

Customs representative

Article 13

- (1) Any person may appoint a customs representative to take all or some acts in a procedure conducted by the customs authority.
- (2) Representation may be either direct, in which case the customs representative shall act in the name of and on behalf of another person, or indirect, in which case the customs representative shall act in his own name but on behalf of another person.
- (3) A customs representative shall be established in Montenegro.
- (4) Notwithstanding paragraph 3 of this Article, the customs representative shall not be required to be established in the customs territory of Montenegro if they act on behalf of persons who are not required to be established in the customs territory of Montenegro, unless this Law prescribes otherwise.

Empowerment of customs representative

Article 14

- (1) When performing customs formalities, a customs representative shall state before the customs authority which person they represent, and shall specify whether the representation is direct or indirect.
- (2) A person who fails to state that they are acting as a customs representative or who state that they are acting as a customs representative without being empowered to do so shall be deemed to be acting in their own name and on their own behalf.
- (3) A person stating that they are acting as a customs representative shall provide evidence of their empowerment by the person represented, on request by the customs authority.
- (4) The customs authority shall not require a person acting as a customs representative, carrying out acts and formalities on a regular basis, to produce on every occasion evidence of empowerment, provided that such person is in a position to produce such evidence on request by the customs authority.

Conditions for performing representation activities

Article 15

- (1) Representation before the customs authority may be performed by companies or entrepreneurs who meet the conditions referred to in paragraph 4 of this Article and have an approval to perform those activities.
- (2) In the event where companies or entrepreneurs lodge a customs declaration in the name and on behalf of another person or in their own name, and on behalf of another

person, the customs declaration may be signed on behalf of the empowerment holder only by a person holding a license to perform representation activities.

- (3) The approval for performing representation activities shall be issued by the customs authority, based on a written application of a company or an entrepreneur who meets the following conditions:
 - 1) it is established in the customs territory of Montenegro, except in the cases referred to in Article 13, paragraph 4 of this Law;
 - 2) it is registered to perform representation activities;
 - 3) employs at least one person who has a license to perform representation activities.
- (4) The customs authority shall revoke the approval to perform representation activities in the following cases:
 - 1) if the approval was issued based on incorrect information;
 - 2) if the customs representative ceases to meet the conditions prescribed for granting the approval;
 - 3) if the customs representative violates customs and other regulations for the application of which the customs authority is responsible;
 - 4) if the customs representative has been finally convicted of a criminal offense related to the performance of representation activities, as well as for another criminal offense that makes them unfit to perform those activities;
 - 5) at the request of the approval holder;
 - 6) if bankruptcy proceedings have been initiated against the customs representative.
- (5) A new approval may not be issued to a customs representative whose approval has been revoked within two years from the day of its revocation.
- (6) The license for performing representation activities shall be issued by the customs authority at the request of a natural person who has a habitual residence in the customs territory of Montenegro.
- (7) Detailed conditions referred to in paragraph 4 of this Article and the manner of issuing approvals and licenses for performing representation activities shall be prescribed by the Government.

Section C

DECISIONS RELATING TO THE APPLICATION OF THE CUSTOMS REGULATIONS

Decisions taken upon application

Article 16

- (1) A person applying for a decision relating to the application of the customs regulations shall supply all the information required by the customs authority in order to take that decision.
- (2) Except if otherwise provided, the customs authority shall be designated by the place where the applicant's main accounting records are held or accessible, and where all or part of the activities to be covered by the decision are to be carried out.
- (3) Customs authority shall, without delay and at the latest within 30 days of receipt of the application, verify whether the conditions for the acceptance of that application are fulfilled.

- (4) If the customs authority establishes that the application contains all the information required in order for them to be able to take the decision, it shall communicate its acceptance to the applicant within the period referred to in paragraph 3 of this Article.
- (5) The competent customs authority shall take a decision as referred to in paragraph 1 of this Article, and shall notify the applicant thereof without delay and at the latest within 120 days of the date of acceptance of the application.
- (6) If the customs authority is unable to comply with the time-limit for taking a decision, it shall inform the applicant of that fact before the expiry of that time-limit, stating the reasons and indicating the further period of time which they consider necessary in order to take a decision and that further period of time shall not exceed 30 days, except if otherwise provided by this Law.
- (7) Without prejudice to the application of provision referred to in paragraph 6 of this Article, the customs authority may extend the time-limit for taking a decision if the applicant requests an extension to carry out adjustments in order to ensure the fulfilment of certain conditions and criteria.
- (8) Adjustments actions and the further period of time necessary to carry them out shall be communicated to the customs authority deciding on the extension.
- (9) The decision referred to in paragraph 5 of this Article shall take effect from the date on which the applicant receives it, or is deemed to have received it, unless this Law or the customs authority's decision specify otherwise.
- (10) Except if otherwise provided in the customs regulations, the decision shall be valid without limitation of time.
- (11) Before taking a decision which would not be in the applicant's interest, the customs authority shall communicate the grounds on which it intends to base its decision to the applicant, who shall be given the opportunity to express his point of view within a period prescribed from the date on which he receives that communication or is deemed to have received it, after which the applicant shall be notified, in the appropriate form, of the decision.
- (12) The provisions of paragraph 11 of this Article shall not apply:
 - 1) if it concerns a decision referred to in Article 22 paragraph 1 herein;
 - 2) in the event of refusal of the benefit of a tariff quota if the specified tariff quota volume is reached, in accordance with Article 36 paragraph 5 of this Law;
 - 3) if the nature or the level of a threat to the security and safety of Montenegro and its residents, to human, animal or plant health, to the environment or to consumers so requires;
 - 4) if the decision aims at securing the implementation of another decision for which the provision of paragraph 11 of this Article;
 - 5) if it would prejudice checks initiated for the purpose of combating fraud.
- (13) Provisions of the law governing general administrative procedure shall apply to the procedure before the customs authority, unless provided otherwise by this Law.
- (14) The detailed manner of taking the decision referred to in paragraph 1 of this Article shall be prescribed by the Government.

Management of decisions taken upon application

Article 17

- (1) The holder of the decision shall comply with the obligations resulting from that decision.

- (2) The holder of the decision shall inform the customs authority without delay of any factor arising after the decision was taken, which may influence its continuation or content.
- (3) The customs authority which took a decision may at any time annul, amend or revoke it if it does not conform to the customs regulations, without prejudice to provisions laid down in other regulation which specify the cases in which decisions are invalid or become null and void.
- (4) The customs authority shall monitor the conditions and criteria to be fulfilled by the holder of a decision as well as compliance with the obligations resulting from that decision.
- (5) If the holder of the decision has been established for less than three years, the customs authority shall closely monitor it during the first year after the decision is taken.
- (6) The customs authority may re-assess the decision if there is a change in the regulations affecting the decision.
- (7) The customs authority responsible for taking the decision shall suspend the decision instead of annulling, revoking or amending it in accordance with paragraph 3 of this Article and Articles 18 or 19 of this Law, if:
 - 1) it considers that there may be sufficient grounds for annulment, revocation or amendment of the decision, but it still does not have all the necessary elements to decide on annulment, revocation or amendment;
 - 2) it considers that the conditions for the decision have not been met or that the holder of the decision does not fulfil the obligations arising from that decision and that it is appropriate to leave time to the person to whom the decision applies to take measures to ensure compliance or acting in compliance with obligations;
 - 3) the holder of the decision seeks suspension because he is temporarily unable to meet the conditions specified in the decision or to act in accordance with the obligations arising from that decision.
- (8) The Government shall prescribe in detail the manner of monitoring the decision referred to in paragraph 4 of this Article, the manner of reassessment referred to in paragraph 6 of this Article and the manner of suspension of the decision referred to in paragraph 7 of this Article.

Annulment of favourable decisions

Article 18

- (1) The customs authority shall annul a decision favourable to the holder of the decision if the following conditions are fulfilled:
 - 1) the decision was taken based on incorrect or incomplete information;
 - 2) the holder of the decision knew or ought reasonably to have known that the information was incorrect or incomplete;
- (2) The customs authority shall notify the person to whom the decision referred to in paragraph 1 of this Article refers.
- (3) Annulment shall take effect from the date on which the initial decision took effect, unless otherwise specified in the decision in accordance with this Law.

Revocation and amendment of favourable decisions

Article 19

- (1) The customs authority shall revoke or amend a decision favourable for the holder of the decision in cases other than those referred to in Article 18 of this Law if:
 - 1) one or more of the conditions for taking that decision were not or are no longer fulfilled; or
 - 2) upon application by the holder of the decision.
- (2) A favourable decision addressed to several persons may be revoked only in respect of a person who fails to fulfil an obligation imposed under that decision, unless otherwise provided.
- (3) The customs authority shall notify the person to whom the decision referred to in paragraph 1 of this Article refers.
- (4) The provision of Article 16 paragraph 9 of this Law shall apply also to the revocation or amendment of the decision.
- (5) If the legitimate interests of the holder of the decision so require, the customs authority may defer the date on which revocation or amendment takes effect up to one year.
- (6) The date on which the decision's revocation or amendment takes effect shall be indicated in the revoking or amending decision.
- (7) The manner of revocation of the decision referred to in paragraph 2 of this Article shall be prescribed by the Government.

Decisions taken ex officio

Article 20

Provisions of Article 16 paragraphs 9 to 13, Article 17 paragraph 3 and Articles 18 and 19 of this Law shall also apply to decisions taken ex officio by the customs authority.

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

Article 21

The revocation, amendment or suspension of a favourable decision shall not affect goods which, at the moment when the revocation, amendment or suspension takes effect, have already been placed and are still under a customs procedure or in temporary storage by virtue of the revoked, amended or suspended decision, unless the applicant requests otherwise.

Decisions relating to binding information

Article 22

- (1) The customs authority shall, upon application in writing by the person concerned, take decisions relating to binding tariff information (hereinafter referred to as "the BTI decisions"), or decisions relating to binding origin information (BOI decisions).
- (2) The customs authority shall not accept the application referred to in paragraph 1 of this Article in any of the following circumstances:
 - 1) if it is made, or has already been made by or on behalf of the holder of a decision in respect of the same goods and, for BOI decisions, under the same circumstances determining the acquisition of origin;
 - 2) if it does not relate to any intended use of the BTI or BOI decision or any intended use of a customs procedure.
- (3) BTI or BOI decisions shall be binding only in respect of the tariff classification or determination of the origin of goods:

- 1) 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 BTI or BOI decision takes effect;
 - 2) on the holder of the decision, as against the customs authority, only from the date on which he receives, or is deemed to have received the decision.
- (4) BTI or BOI decisions shall be valid for a period of three years from the date on which the decision takes effect.
- (5) For the application of a BTI or BOI decision in the context of a particular customs procedure, the holder of the decision shall 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 and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in the decision.

Management of decisions relating to binding information

Article 23

- (1) A BTI decision shall cease to be valid before the end of the period referred to in Article 22 paragraph 4 of this Law if it no longer conforms to the regulations, as a result of the following:
 - 1) an amendment to the nomenclatures referred to in Article 36 paragraph 3 items 1 and 2 of this Law;
 - 2) the publication of the regulation referred to in Article 37 paragraph 4 of this Law.
- (2) In cases referred to in paragraph 1 of this Article, the BTI decision shall cease to be valid on the date of starting application of the regulation.
- (3) A BOI decision shall cease to be valid before the end of the period referred to in Article 22 paragraph 4 of this Law in the following cases:
 - 1) if it, due to amending regulations or ratifying an international agreement no longer conforms to the regulations or international agreement;
 - 2) if it is no longer compatible with the Agreement on Rules of Origin established in the World Trade Organisation (WTO) or with the explanatory notes or origin opinions adopted for the interpretation of that Agreement.
- (4) In cases referred to in paragraph 3 of this Article, the BOI decision shall cease to be valid on the date of starting application of the regulation or international agreement, or the explanatory notes or origin opinions.
- (5) BTI or BOI decisions shall not cease to be valid with retroactive effect.
- (6) By way of exception from Article 17 paragraph 3 and Article 18 of this Law, BTI and BOI decisions shall be annulled if they are based on inaccurate or incomplete information from the applicants.
- (7) BTI and BOI decisions shall be revoked in accordance with Article 17 paragraph 3 and Article 19 of this Law, except upon request by persons on which the decision refers to.
- (8) BTI and BOI decisions may not be amended.
- (9) The customs authority shall revoke a BTI decision if it is no longer compatible with the interpretation of any of the nomenclatures referred to in Article 36 paragraph 3 items 1 and 2 of this Law, due to any of the following:
 - Supplementary explanatory note to the EU Combined Nomenclature;

- a judgment of the Administrative Court, with effect from the date of the final judgement;
 - classification decisions, classification opinions or amendments of the explanatory notes to the Nomenclature of the Harmonised Commodity Description and Coding System, adopted by the Organisation set-up by the Convention establishing a Customs Cooperation Council, done at Brussels on December 15, 1950, referred to in Article 37 paragraph 4 of this Law.
- (10) The customs authority shall revoke a BOI decision if it is no longer compatible with a judgment of the Administrative Court, with effect from the date of the final judgement.
- (11) In cases referred to in paragraphs 1 item 2 or paragraphs 3, 9 or 10 of this Article, the BTI or BOI decision may still be used in respect of binding contracts which were based upon that decision and were concluded before it ceased to be valid or was revoked, while the extended use may not apply to a BOI decision taken for goods yet to be exported.
- (12) The extended use referred to in paragraph 11 of this Article shall not exceed six months from the date on which the BTI or BOI decision ceases to be valid or is revoked, and in the case of a product for which a certificate or document accompanying goods is submitted when customs formalities are carried out, the period of six months shall be replaced by the period of validity of such certificate or document.
- (13) By way of exception from paragraph 11 of this Article, the regulations referred to in Article 37 paragraph 4 of this Article may exclude that extended application or determine shorter period of its duration.
- (14) In order to benefit from the extended use of a BTI or BOI decision, the holder of that decision shall lodge an application to the customs authority that took the decision within 30 days of the date on which it ceases to be valid or is revoked, indicating the quantities of goods for which a period of extended use is requested.
- (15) The customs authority shall take a decision on the extended use and notify the holder, without delay, and at the latest within 30 days of the date on which it receives all the information required to take that decision.
- (16) The detailed conditions for application of the BTI or BOI decisions and special cases of their revocation shall be prescribed by the Government.

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

Article 24

- (1) Upon application in writing, the customs authority may take decisions relating to binding information with regard to elements based on which import or export duties and other measures in respect of trade in goods are applied.
- (2) Provisions of Article 23 of this Law shall apply mutadis mutandis to procedures of cessation of validity, revocation, annulment, suspension and extended use of the decision referred to in paragraph 1 of this Article.
- (3) The detailed manner of taking, use and suspension of decisions referred to in paragraphs 1 and 2 of this Article shall be prescribed by the Government.

Section Ć

AUTHORISED ECONOMIC OPERATOR

Application and authorisation

Article 25

- (1) An economic operator who is established in the customs territory of Montenegro and who meets the criteria set out in Article 26 of this Law may apply for the status of authorised economic operator.
- (2) The customs authority shall, following consultation with other competent authorities if necessary, grant the status of authorised economic operator, which shall be subject to monitoring.
- (3) The status of authorised economic operator shall be acquired by obtaining the following authorisations:
 - 1) of an authorised economic operator for customs simplifications, which shall enable the holder to benefit from certain simplifications in accordance with the customs regulations; or
 - 2) of an authorised economic operator for security and safety that shall entitle the holder to facilitations relating to security and safety.
- (4) Authorisations referred to in paragraph 3 of this Article may be held at the same time.
- (5) Customs authority shall, on the basis of the recognition of the status of authorised economic operator for customs simplifications and provided that the requirements related to a specific type of simplification provided for in the customs regulations are fulfilled, authorise the operator to benefit from that simplification and shall not re-examine those criteria which have already been examined when granting the status of authorised economic operator.
- (6) The authorised economic operator referred to in paragraph 3 of this Article shall enjoy more favourable treatment than other economic operators in respect of customs controls according to the type of authorisation granted, including fewer physical and document-based controls.
- (7) The customs authority shall grant benefits resulting from the status of authorised economic operator to persons established in countries or territories outside the customs territory of Montenegro, who fulfil conditions and comply with obligations defined by the relevant legislation of those countries or territories, insofar as those conditions and obligations are recognised in Montenegro as equivalent to those imposed to authorised economic operators established in the customs territory of Montenegro and such a granting of benefits shall be based on the principle of reciprocity, in accordance with confirmed international agreement.
- (8) The type and scope of simplifications referred to in paragraph 3 item 1 of this Article, type, and range of facilitations referred to in paragraph 3 item 2 of this Article and detailed manner of gaining more favourable treatment referred to in paragraph 6 of this Article shall be prescribed by the Government.

Granting of status

Article 26

- (1) The criteria for the granting of the status of authorised economic operator shall be the following:
 - 1) the absence of any serious infringement or repeated infringements of customs regulations and taxation rules, including no record of serious criminal offences relating to the economic activity of the applicant;

- 2) the possession by the applicant of a high level of control of his operations and of the flow of goods, by means of a system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;
 - 3) financial solvency, which shall be deemed to be proven if the applicant has good financial standing, which enables them to fulfil commitments, with due regard to business activities;
 - 4) with regard to the authorisation referred to in Article 25 paragraph 3 item 1 of this Law, practical standards of competence or professional qualifications directly related to the activity carried out; and
 - 5) with regard to the authorisation referred to in Article 25 paragraph 3 item 2 of this Law, appropriate security and safety standards, which shall be considered as fulfilled if the applicant demonstrates that he maintains appropriate measures to ensure the security and safety of the international supply chain including in the areas of physical integrity and access controls, logistical processes and handling of specific types of goods, personnel and identification of his business partners.
- (2) Detailed criteria referred to in paragraph 1 of this Article shall be prescribed by the Government.

Section C

LEGAL REMEDY

Right of appeal

Article 27

- (1) The appeal may be lodged with the ministry against the decision in the first instance taken by the customs authority in the administrative procedure.
- (2) A person who has applied to the customs authority for a decision and has not obtained a decision on that application within the time limits referred to in Article 16 paragraphs 5, 6 and 7 of this Law shall be entitled to an appeal.

Suspension of implementation

Article 28

- (1) The appeal shall not stay the implementation of the decision.
- (2) The customs authority which has taken a decision in the first instance in the administrative procedure may suspend implementation of the decision in whole or in part if evidence submitted and facts indicate that the decision is inconsistent with the customs regulations and that risk of great damage to the person implementing the decision, due to which the suspension of implementation is justified.
- (3) If in the case referred to in paragraph 2 of this Article, the disputed decision relates to calculation of import or export duty, suspension of implementation may be granted only if an appropriate guarantee is provided.
- (4) Provision of guarantee referred in paragraph 3 of this Article shall not be required if it would represent unduly great burden or cause great economic damage for the debtor.

Administrative dispute

Article 29

The administrative dispute before the competent court may be initiated against the decision of second instance taken in the administrative procedure, in accordance with provisions of the law governing administrative disputes.

Section D

CUSTOMS CONTROLS

Risk management and customs controls

Article 30

- (1) Customs controls shall be specific acts performed by the customs authority in order to ensure compliance with the law during entry, exit, transit, movement, storage and end-use of goods moved between the customs territory of Montenegro and countries or territories outside that territory, and the presence and movement within the customs territory of Montenegro of goods other than domestic goods and goods placed under the end-use procedure.
- (2) The customs authority may carry out any customs controls referred to in paragraph 3 of this Article it deems necessary.
- (3) Customs controls shall in particular consist of examining goods, taking samples, verifying the accuracy and completeness of the information given in a declaration or notification and the existence, authenticity, accuracy and validity of documents, examining the accounts and other records of economic operators, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official enquiries and other similar acts.
- (4) Customs controls shall be performed:
 - 1) primarily based on risk analysis using electronic data-processing techniques, with the purpose of identifying and evaluating the risks and implementing necessary measures, based on criteria developed by the customs authority, and
 - 2) by random checks.
- (5) Customs controls shall be applied within a risk management framework, based upon the exchange of risk information and risk analysis results within customs authority and establishing risk criteria and standards, control measures and priority control areas.
- (6) When establishing risk criteria and standards, control measures and priority control areas, the customs authority shall take the following into account:
 - 1) the proportionality to the risk;
 - 2) the urgency of the necessary application of the controls;
 - 3) the probable impact on trade flow and on control resources.
- (7) After establishing the risk criteria and standards referred to in paragraph 6 of this Article, the customs authority shall define the following:
 - 1) a description of the risks;
 - 2) indicators of risk to be used to select goods or economic operators for customs control;
 - 3) the type of customs controls;
 - 4) the duration of the application of the customs controls.
- (8) The priority area referred to in paragraph 6 of this Article shall cover customs procedures, types of goods, traffic routes, modes of transport or economic operators which are subject to increased levels of risk analysis and customs controls during a certain period.

- (9) Customs authority shall undertake risk management to differentiate between the levels of risk associated with goods subject to customs control or supervision and to determine whether the goods will be subject to specific customs controls, and where that control will be implemented.
- (10) The risk management referred to in paragraph 9 of this Article shall include collecting data and information, analysing and assessing risk, taking action and regularly monitoring and reviewing that process and its outcomes, based on standards and strategies.
- (11) Customs authority and other states' authorities shall exchange risk information and risk analysis results if:
 - 1) they assessed risks as being significant and requiring customs control and the results of the control establish that the event triggering the risks has occurred; or
 - 2) the control results do not establish that the event triggering the risks has occurred, but threat is considered to present a high risk within the customs authority or some other state.
- (12) The manner of ensuring uniformed implementation of customs control shall be prescribed by the Government.

Cooperation between competent authorities

Article 31

- (1) If other competent authorities perform controls in respect of the same goods, the customs authority shall, in close cooperation with those authorities, perform controls wherever possible, at the same time and place as customs controls (one-stop-shop).
- (2) When performing the controls, customs and other competent authorities shall, for the purposes of minimising risk and combating fraud, exchange data received in the context of the entry, exit, transit, movement, storage and end-use of goods, including postal traffic, the results of any control, as well as data relating to the presence of foreign goods.

Post-release control

Article 32

- (1) The customs authority may verify the accuracy and completeness of the information given in a declaration, temporary storage declaration, entry summary declaration, exit summary declaration, re-export declaration or re-export notification, as well as the existence, authenticity, accuracy and validity of any supporting document and may examine the accounts of the declarant and other records relating to the operations in respect of the goods in question or to prior or subsequent commercial operations involving those goods after having released them.
- (2) The customs authority may examine the goods referred to in paragraph 1 of this Article or take samples, if possible.
- (3) Post-release control may be carried out at the premises of the holder of the goods or of the holder's representative, of a person directly or indirectly involved in business operations referred to in paragraph 1 of this Article or at the premises of a person in possession of the documents referred to in paragraph 1 of this Article.
- (4) If post-release control shows that regulations for application of customs procedure were implemented based on false or incomplete information, the customs authority shall take necessary measures in order to remedy irregularities.

- (5) When performing post-release control by the customs authority, the provisions of the law governing performance of inspection supervision shall apply mutatis mutandis.

Section Dž

KEEPING OF DOCUMENTS AND OTHER INFORMATION, AND CHARGES AND COSTS

Keeping of documents and other information

Article 33

The documents and information referred to in Article 12 paragraph 1 of this Law shall be kept for at least three years:

- 1) from the last day of the calendar year in which the declaration for release for free circulation or export is accepted,
 - 2) from the last day of the calendar year in which the goods cease to be subject to customs supervision, in the case of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use,
 - 3) from the last day of the calendar year in which the other customs procedure has been discharged or temporary storage has ended,
 - 4) after the expiry of the three years period, if a customs control in respect of a customs debt shows that the relevant entry in the accounts has to be corrected and the person concerned has been notified of this.
- (2) If an appeal has been lodged or if court proceedings have begun, the documents and information shall be kept for the period provided for in paragraph 1 of this Article or until the appeals procedure or court proceedings are terminated, whichever is the later.

Charges and costs

Article 34

- (1) The customs authority shall not collect charges for the performance of activities within its competence.
- (2) By a way of exception from paragraph 1 of this Article, the customs authority may collect charges for:
 - 1) attendance, if requested by a person, by customs staff outside official office hours or at premises other than customs premises;
 - 2) analyses or expert reports on goods and postal fees for the return of goods to an applicant;
 - 3) the examination or sampling of goods for verification purposes, or the destruction of goods, if costs other than the cost of using customs staff are involved;
 - 4) exceptional control measures, if these are necessary due to the nature of the goods or to a potential risk;
 - 5) organisation of training for taking special professional exam for representation activities before the customs authority and for taking that exam.
- (3) The amount of charges referred to in paragraph 2 of this Article shall be prescribed by the Government.

Foreign currency conversion

Article 35

If in the procedure of customs value determination it is necessary to convert foreign currency into currency being the legal tender in Montenegro, the foreign currency shall be calculated according to official exchange rate valid on the day of obligation to pay customs debt incurring, unless otherwise determined by international agreements.

III. CUSTOMS TARIFF AND TARIFF CLASSIFICATION OF GOODS

Customs Tariff

Article 36

- (1) Import and export duty due shall be determined based on the customs tariff.
- (2) Other measures prescribed by regulations governing specific fields relating to trade in goods shall, where appropriate, be applied in accordance with the tariff classification of those goods.
- (3) For the purpose of this Law, the customs tariff shall comprise the following:
 - 1) nomenclature of goods as laid down in the law governing the customs tariff;
 - 2) nomenclature which is wholly or partly based on the nomenclature referred to in paragraph 1 of this Article, and which is established with a view to the application of measures relating to trade in goods;
 - 3) basic rate of customs duty applicable to goods covered by the nomenclature referred to in item 1 of this paragraph;
 - 4) the preferential tariff measures contained in agreements which Montenegro has concluded with certain countries or territories or groups of countries or territories;
 - 5) preferential tariff measures adopted unilaterally by Montenegro in respect of certain countries or territories or groups of countries or territories;
 - 6) autonomous measures providing for a reduction in, or exemption from, customs duty on certain goods;
 - 7) favourable tariff treatment specified for certain goods, by reason of their nature or end-use, in the framework of measures referred to under items 3 to 6 or 8 of this paragraph;
 - 8) other tariff measures in accordance with the law.
- (4) Upon application by the declarant, for the goods fulfilling the prescribed conditions, the measures laid down in paragraph 3 items 4 to 7 of this Article shall apply instead of basic rate of customs duty.
- (5) If application of the measures referred to in paragraph 3 items 4 to 7 of this Article, or the exemption from measures referred to in paragraph 3 item 8 of this Article is restricted to a certain volume of imports or exports, such application or exemption shall, in the case of tariff quotas, cease as soon as the specified volume of imports or exports is reached.
- (6) If the application of the measures referred to in paragraph 3 of this Article is limited to a certain value or volume of imports or exports in a certain period of time, in the case of tariff maximums, such application shall cease after reaching the prescribed maximum.
- (7) The release for free circulation or export of goods to which the measures referred to in paragraphs 1 to 3 of this Article, may be subject to customs supervision.
- (8) A detailed manner of application of autonomous measures referred to in paragraph 3, item 6 of this Article, measures on uniform management of tariff quotas and tariff maximums referred to in paragraphs 5 and 6 of this Article, and performing supervision

over the release for free circulation or export of goods, referred to in paragraph 7 of this Article, shall be prescribed by the Government.

Tariff classification of goods

Article 37

- (1) The tariff classification of goods shall consist in the determination of one of the subheadings or further subdivisions of the nomenclature under which those goods are to be classified.
- (2) For the application of non-tariff measures, tariff classification of goods shall consist in the determination of one of the subheadings or further subdivisions of the nomenclature, or of any other nomenclature which is established by regulations of Montenegro and which is wholly or partly based on the nomenclature of Customs Tariff referred to in Article 36 paragraph 3 item 1 of this Law or which provides for further subdivisions to it, under which those goods are to be classified.
- (3) The subheading or further subdivision determined in accordance with paragraphs 1 and 2 of this Article shall be used for the purpose of applying the measures linked to that subheading.
- (4) Classification of goods in the Customs Tariff shall be performed also in accordance with decisions on classification of goods taken by the World Customs Organisation's Harmonised System Committee, or decisions on classification of certain goods in European Union's Combined Nomenclature, taken by the European Commission.
- (5) Decisions on classification referred to in paragraph 4 of this Article shall be published on the customs authority web page.

IV. ORIGIN OF GOODS

Section A

NON-PREFERENTIAL ORIGIN

Acquisition of origin

Article 38

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

Scope

Article 39

- (1) Non-preferential origin of goods shall be determined for the purposes of applying the following:
 - 1) Customs Tariff, except for measures referred to in Article 36 paragraph 3 items 4 and 5 of this Law;
 - 2) measures, other than tariff measures, established by regulations governing specific fields relating to trade in goods; and

- 3) other measures relating to the origin of goods.
- (2) A detailed manner of determining non-preferential origin of goods shall be prescribed by the Government.

Proof of origin

Article 40

- (1) If an origin of goods has been indicated in the declaration, pursuant to the law, the customs authority may require the declarant to prove the origin of the goods.
- (2) If the declarant has provided proof of origin of goods pursuant to the law, the customs authority may, in the event of reasonable doubt, require submitting additional evidence in order to ensure that the indication of origin complies with the rules laid down by the law and the ratified international agreements.
- (3) If the exigencies of trade so require, a document proving origin may be issued in Montenegro in accordance with the rules of origin in force in the country or territory of destination or any other method identifying the country or territory where the goods were wholly obtained or underwent their last substantial transformation.
- (4) A detailed manner of issuing and verifying evidence referred to in paragraphs 1 and 2 of this Article shall be prescribed by the Government.

Section B

PREFERENTIAL ORIGIN

Preferential origin of goods

Article 41

- (1) In order to benefit from the measures referred to in Article 36 paragraph 3 items 4 or 5 of this Law or from non-tariff preferential measures, goods shall comply with paragraphs 2 to 5 of this Article.
- (2) In the case of goods benefiting from preferential measures:
 - contained in agreements which Montenegro has concluded with one or more countries or territories, the rules on preferential origin shall be laid down in those agreements,
 - in the case of goods benefiting from preferential measures adopted unilaterally by Montenegro in respect of other country or territory, the Government shall adopt measures laying down the rules on preferential origin.
- (3) The rules on origin shall be based either on the criterion that goods are wholly obtained or on the criterion that goods result from sufficient processing or working.
- (4) The Government may grant a temporary exception from the rules on preferential origin referred to in paragraph 2 item 2 of this Article pursuant to paragraph 5 of this Article or at the request of a beneficiary country or territory.
- (5) The temporary exception from the rules referred to in paragraph 2 item 2 shall be granted in the following cases:
 - 1) internal or external factors temporarily deprive the country or territory of the ability to comply with the rules on preferential origin;
 - 2) to enable the country or territory to prepare itself to implement those rules.
- (6) After receiving a request stating the reasons why exception is required, the Government shall decide on that request.

- (7) The request referred to in paragraph 6 of this Article, the beneficiary state or territory shall submit evidence on temporary exception referred to in paragraph 5 of this Article.
- (8) The temporary exception shall be limited to the duration of the effects of the internal or external factors giving rise to it or the length of time needed for the beneficiary country or territory to achieve compliance with the rules.
- (9) If an exception is granted, the beneficiary country or territory shall provide information to the Government concerning the use of the exception and the management of the quantities for which the exception is granted.
- (10) If states or groups of states, by their unilateral decision, grant preferential customs duties on domestic goods exported to those states or groups of states, the rules of origin laid down in that decision shall apply.
- (11) The Government shall prescribe a more detailed manner of determining the preferential origin referred to in paragraph 1 of this Article.

V. CUSTOMS VALUE OF GOODS

Scope

Article 42

The customs value of goods, for the purposes of applying the customs tariff and non-tariff measures, shall be determined by applying the method of customs valuation based on transaction value referred to in Article 43 of this Law and secondary methods of customs valuation referred to in Article 47 of this Law.

Method of customs valuation based on the transaction value

Article 43

- (1) The customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to Montenegro, in compliance with Articles 44 and 45 of the present Law.
- (2) The price actually paid or payable shall be the payments made or to be made by the buyer to the seller or by the buyer to a third party for the benefit of the seller for the imported goods and include payments made or to be made as a condition of sale of the imported goods.
- (3) The transaction value shall apply provided that:
 - 1) there are no restrictions as to the disposal or use of the goods by the buyer, other than those:
 - a) determined in accordance with the law;
 - b) limiting the geographical area in which the goods may be resold;
 - c) which do not substantially affect the customs value of the goods;
 - 2) the sale or price is not subject to condition or consideration for which a value cannot be determined with respect to the goods being valued;
 - 3) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made;
 - 4) the buyer and seller are not related or the relationship did not influence the price.
- (4) The manner of determining customs value of goods in accordance with paragraphs 1 and 2 of this Article shall be prescribed by the Government.

Elements of the transaction value

Article 44

- (1) In determining the customs value of Article 43 of this Law, the price actually paid or payable for the imported goods shall be supplemented:
- 1) to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods, by the following:
 - a) commissions and brokerage, except buying commissions,
 - b) the cost of containers which are treated as being one, for customs purposes, with the goods in question; and
 - c) the cost of packing, for labour or materials;
 - 2) the value, apportioned as appropriate, of the following goods and services if supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
 - a) materials, components, parts and similar items incorporated into the imported goods;
 - b) tools, dies, moulds and similar items used in the production of the imported goods;
 - c) materials consumed in the production of the imported goods; and
 - d) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in Montenegro and necessary for the production of the imported goods;
 - 3) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
 - 4) 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 costs up to the place where goods are brought into the customs territory of Montenegro as follows:
 - a) transport and insurance of the imported goods; and
 - b) loading, unloading and handling associated with the transport of the imported goods.
- (2) Additions to the price actually paid or payable, pursuant to paragraph 1 of this Article, shall be made only based on objective and quantifiable data.
- (3) In determining the customs value, only additions to the price actually paid or payable referred to in paragraph 1 of this Article shall be made.
- (4) The manner of determining additions to the price actually paid or payable shall be prescribed by the Government.

Costs not to be included in the customs value

Article 45

- (1) In determining the customs value of Article 43 of this Law, none of the following shall be included:
- 1) the costs of transport of the imported goods after their entry into the customs territory of Montenegro;

- 2) the costs of construction, erection, assembly, maintenance or technical assistance, undertaken after the entry into the customs territory of Montenegro of the imported goods such as industrial plants, machinery or equipment;
 - 3) the costs of interest under a financing arrangement entered into by the buyer and relating to the purchase of the imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and, where required, the buyer can demonstrate that the following conditions are fulfilled:
 - a) such goods are actually sold at the price declared as the price actually paid or payable,
 - b) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;
 - 4) charges for the right to reproduce the imported goods in Montenegro;
 - 5) buying commissions;
 - 6) import duties or other charges payable in Montenegro by reason of the import or sale of the goods;
 - 7) notwithstanding of Article 44 paragraph 1 item 3 of this Law, payments made by the buyer for the right to distribute or resell the imported goods, if such payments are not a condition of the sale for export to Montenegro of the goods;
 - 8) duties and charges levied in the country of export, from which the imported goods are exempt or may be exempted by application of the drawback system.
- (2) The manner of determining costs that are not included in the price of goods actually paid or payable shall be prescribed by the Government.

Simplification for determination of customs value

Article 46

- (1) The customs authority may, upon application by the person, authorise that the following amounts be determined based on specific criteria, if they are not quantifiable on the date on which the declaration is accepted:
 - 1) amounts which are to be included in the customs value in accordance with provision of Article 43 paragraph 2 of this Law; and
 - 2) the amounts referred to in Articles 44 and 45 of the present Law.
- (2) The customs authority shall issue authorisation referred to in paragraph 1 of this Article if:
 - disproportionate administrative costs incurred by application of the procedure referred to in Article 121 of this Law;
 - the determined customs value shall not be substantially different from the value determined without having that authorisation.
- (3) Detailed conditions referred to in paragraph 2 of this Article shall be prescribed by the Government.

Secondary methods of customs valuation

Article 47

- (1) If the customs value of goods cannot be determined of Article 43 of this Law, it shall be determined by proceeding sequentially, in accordance with paragraph 3 items 1 to

4 of this Article, until the first item under which the customs value of goods can be determined.

- (2) Notwithstanding paragraph 1 of this Article, the order of application of paragraph 3 items 1 to 4 of this Article shall be reversed if the declarant so requests.
- (3) The customs value, pursuant to paragraph 1, shall be:
 - 1) the transaction value of identical goods sold for export to the customs territory of Montenegro and exported at or about the same time as the goods being valued;
 - 2) the transaction value of similar goods sold for export to the customs territory of Montenegro and exported at or about the same time as the goods being valued;
 - 3) the value based on the unit price at which the imported goods, or identical or similar imported goods, are sold within the customs territory of Montenegro in the greatest aggregate quantity to persons not related to the sellers; or
 - 4) the computed value, consisting of the sum of:
 - a) the cost or value of materials and fabrication or other processing employed in producing the imported goods,
 - b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of export for export to Montenegro,
 - c) the cost or value of the elements referred to in Article 44 paragraph 1 item 5 of this Law.
- (4) If the customs value cannot be determined under paragraph 1 of this Article, it shall be determined based on data available in the customs territory of Montenegro, using methods consistent with the principles and general provisions of the following:
 - 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 of 1994.
- (5) The detailed manner of determining secondary methods of customs valuation of goods shall be prescribed by the Government.

Determination of customs value of data carriers

Article 48

- (1) The customs value of data carriers bearing data or software instructions for use of data processing equipment (hereinafter referred to as "the: programme support), shall not include the price or value of the software support, provided that the price or value is declared separately from the value of the value of data carriers. (2) Integrated circuits, semiconductors and other devices or products containing such circuits or devices shall not be considered as data carriers referred to in paragraph 1 of this Article.
- (3) Audio, cinematographic, or video recordings or instructions shall not be considered software support referred to in paragraph 1 of this Article.

Price reductions and cash discounts

Article 49

In determining customs value of imported goods, the contracted price reductions shall be accepted, as usual cash discounts for identical or similar imported goods, if they were contracted before the importation and effected within the contracted period.

Goods imported without payment of equivalent value, temporarily imported goods, goods imported on the basis of lease or rental, damaged goods, release of goods before the final determination of customs value.

Article 50

- (1) The customs value of goods imported without payment of equivalent value, as well as the customs value of temporarily imported goods shall be determined in accordance with the provisions of Article 47 of this Law.
- (2) If the customs value of goods imported on the basis of lease or rental cannot be determined in accordance with the provisions of Article 47 of this Law and for which the contract does not provide for the possibility of purchase, the customs value shall be determined on the basis of amount of lease or rent, in compliance with provisions of Articles 44 and 45 of the present Law.
- (3) The customs value of the goods damaged before being released to the declarant shall be determined based on the relevant contracted price reduced by a percentage in which it was damaged.
- (4) The customs authority shall determine the percentage of damage referred to in paragraph 3 of this Article by assessment or based on the findings of an expert of the relevant profession.
- (5) If in the procedure of determining the customs value of imported goods it is necessary to postpone the final determination of customs value, the goods may be handed over to the declarant provided that payment of customs duties in the form of a deposit in the amount of possible customs debt is guaranteed.

Shipment of several types of goods subject to different rates of customs duty

Article 51

- (1) If the consignment consists of several types of goods subject to customs clearance at different rates of customs duty, the total amount of costs related to the sale of goods, as well as transport, insurance and delivery costs are calculated in proportion to the value of each type of goods.
- (2) Notwithstanding paragraph 1 of this Article, the customs authority may, at the request of the declarant, add the costs referred to in paragraph 1 of this Article relating to several types of goods in one consignment, to the value of goods for which import duties are highest.

Obligations of the declarant or importer

Article 52

- (1) The declarant shall state in the declaration the information that there is a contractual obligation to pay costs, fees, part of the value of delivered goods and services or part of the revenue referred to in Article 44, paragraph 1, items 2, 3 and 4 of the present Law.
- (2) The importer shall report to the customs authority any resale, disposal or use of imported goods from which the obligation to pay a certain amount to the seller arises, in accordance with Article 44 paragraph 1 item 4 of this Law, no later than 30 days from the payment date.

Rights and obligations of the customs authority that determines the customs value

Article 53

- (1) The customs authority may request the declarant to produce all the requisite documents and information necessary for determining the customs value as provided for in Articles 42 to 48 of this Law.
- (2) The customs authority may verify authenticity and accuracy of representation, document, or declaration submitted for determining customs value.

Notice to importer

Article 54

The customs authority shall provide the importer, at his request, with a written explanation of the manner in which the customs value of the imported goods has been determined.

VI. INCURRENCE OF A CUSTOMS DEBT

Section A

CUSTOMS DEBT ON IMPORT

Release for free circulation and temporary admission

Article 55

- (1) A customs debt on import shall be incurred through the placing of foreign goods liable to import duty under the following customs procedures:
 - 1) release for free circulation, including the end-use;
 - 2) temporary admission with partial relief from import duty.
- (2) The customs debt referred to in paragraph 1 of this Article shall be incurred at the time of acceptance of the declaration.
- (3) The declarant shall be the debtor and in the event of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor.
- (4) If a declaration in respect of one of the procedures referred to in paragraph 1 is drawn up on the basis of information which leads to all or part of the import duty not being collected, the person who provided the information required to draw up the declaration and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

Customs debt for non-originating goods

Article 56

- (1) If a prohibition of drawback of, or exemption from, import duty applies to non-originating goods used in the manufacture of products for which a proof of origin is issued or made out in the framework of a preferential arrangement between Montenegro and other countries or territories, a customs debt on import shall be incurred in respect of those non-originating goods, through the acceptance of the re-export declaration relating to the products in question.
- (2) If a customs debt is incurred pursuant to paragraph 1 of this Article, the amount of import duty corresponding to that debt shall be determined under the same conditions as in the case of a customs debt resulting from the acceptance, on the same date, of the customs declaration for release for free circulation of the non-originating goods

used in the manufacture of the products in question for the purpose of ending the inward processing procedure.

Customs debt incurred through non-compliance

Article 57

- (1) For goods liable to import duty, a customs debt on import shall be incurred through non-compliance with any of the following:
 - 1) one of the obligations laid down in the law concerning the introduction of foreign into the customs territory of Montenegro, their removal from customs supervision, or the movement, processing, storage, temporary storage, temporary admission or disposal of such goods within that territory;
 - 2) one of the obligations laid down in the law concerning the end-use of goods within the customs territory of Montenegro;
 - 3) a condition governing the placing of foreign goods under a customs procedure or the granting, by virtue of the end-use of the goods, of duty exemption or a reduced rate of import duty.
- (2) The time at which the customs debt is incurred shall be either of the following:
 - 1) the moment when the obligation the non-fulfilment of which gives rise to the customs debt is not met or ceases to be met;
 - 2) the moment when a declaration is accepted for the placing of goods under a customs procedure if it is established subsequently that a condition governing the placing of the goods under that procedure or the granting of a duty exemption or a reduced rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.
- (3) In cases referred to under paragraph 1 items 1 and 2 of this Article, the debtor shall be:
 - 1) any person who was required to fulfil the obligations in accordance with this Law;
 - 2) any person who was aware or should reasonably have been aware that an obligation under this Law was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation, or who participated in the act which led to the non-fulfilment of the obligation;
 - 3) any person who acquired or held the goods in question and who was aware or should reasonably have been aware at the time of acquiring or receiving the goods that an obligation under the customs regulations was not fulfilled.
- (4) In cases referred to in paragraph 1 item 3 of this Article, the debtor shall be the person:
 - 1) who is required to comply with the conditions governing the placing of the goods under a customs procedure or the customs declaration of the goods placed under that customs procedure or the granting of a duty exemption or reduced rate of import duty by virtue of the end-use of the goods;
 - 2) the person who provided the information and who knew, or who ought reasonably to have known, that such information entered into declaration was false, which information is required under the law and related to the conditions governing the placing of the goods under that customs procedure, and if information is given to the customs authority under the law, and related to the conditions governing the placing of the goods under that customs procedure, and due to which all or part of the import duty not being collected.

Deduction of an amount of import duty already paid

Article 58

- (1) If a customs debt is incurred, pursuant to Article 57 paragraph 1 of this Law in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount of import duty paid when the goods were released for free circulation shall be deducted from the amount of import duty corresponding to the customs debt.
- (2) The provision of paragraph 1 of this Article shall apply if a customs debt is incurred in respect of scrap and waste resulting from the destruction of such goods.
- (3) If a customs debt is incurred, pursuant to Article 57 paragraph 1 of this Law in respect of goods placed under temporary admission with partial relief from import duty, the amount of import duty paid under partial relief shall be deducted from the amount of import duty corresponding to the customs debt.

Section B

CUSTOMS DEBT ON EXPORT

Export and outward processing

Article 59

- (1) A customs debt on export shall be incurred through the placing of goods liable to export duty under the export procedure or the outward processing procedure.
- (2) The customs debt referred to in paragraph 1 of this Article shall be incurred at the time of acceptance of the declaration.
- (3) The declarant shall be the debtor and in the event of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor.
- (4) If a customs declaration is drawn up on the basis of information which leads to all or part of the export duty not being collected, the person who provided the information required for the declaration and who knew, or who should reasonably have known, that such information was false shall also be a debtor.

Customs debt incurred through non-compliance

Article 60

- (1) For goods liable to export duty, a customs debt on export shall be incurred through non-compliance with either of the following:
 - 1) one of the obligations laid down in this Law for the exit of the goods;
 - 2) the conditions under which the goods were allowed to be taken out of the customs territory of Montenegro with total or partial relief from export duty.
- (2) The time at which the customs debt is incurred shall be:
 - 1) the moment at which the goods are taken out of the customs territory of Montenegro without a declaration;
 - 2) the moment at which the goods reach a destination other than that for which they were allowed to be taken out of the customs territory of Montenegro with total or partial relief from export duty;
 - 3) the moment of expiry of the time limit set for the production of evidence that the conditions entitling the goods to such relief have been fulfilled, should the customs authority be unable to determine the moment referred to in item 2 of this Article.
- (3) In cases referred to in paragraph 1 item 1 of this Article, the debtor shall be:

- 1) any person who was required to fulfil the obligations in accordance with this Law;
 - 2) any person who was aware or should reasonably have been aware that the obligation was not fulfilled in accordance with this Law and who acted on behalf of the person who was obliged to fulfil the obligation;
 - 3) any person who participated in the act which led to the non-fulfilment of the obligation and who was aware or should reasonably have been aware that a declaration had not been lodged but should have been.
- (4) In cases referred to in paragraphs 1 item 2 of this Article, the debtor shall be any person who is required to comply with the conditions under which the goods were allowed to be taken out of the customs territory of Montenegro with total or partial relief from export duty.

Section C

PROVISIONS COMMON TO CUSTOMS DEBTS INCURRED ON IMPORT AND EXPORT

Prohibitions and restrictions

Article 61

- (1) The customs debt on import or export shall be incurred even to goods, which are subject to measures of prohibition or restriction on import or export of any kind, except as follows:
- 1) for the unlawful introduction into the customs territory of Montenegro of counterfeit currency;
 - 2) the introduction into the customs territory of Montenegro of narcotic drugs and psychotropic substances which are not used for medical and scientific purposes or if supervised by the competent authorities.
- (2) For the purposes of penalties as applicable to customs offences, the customs debt shall be deemed to have been incurred if, under the law, import or export duty or the existence of a customs debt provides the basis for determining penalties.

Several debtors

Article 62

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

General rules for calculating the amount of import or export duty

Article 63

- (1) The amount of import or export duty shall be determined based on rules for calculation of duty, which were applicable to the goods concerned at the time at which the customs debt in respect of them was incurred.
- (2) If it is not possible to determine precisely the time at which the customs debt is incurred, it shall be deemed that the customs debt is incurred at the time that the customs authority concludes that the goods are in a procedure causing a customs debt to be incurred.
- (3) If the information available to the customs authority enables it to establish that the customs debt had been incurred prior to the time referred in paragraph 2 of this Article, the customs debt shall be deemed to have been incurred at the earliest time at which

it is possible to establish existence of the customs debt based on the information available.

Special rules for calculating the amount of import duty

Article 64

- (1) If costs for storage or usual forms of handling have been incurred within the customs territory of Montenegro in respect of goods placed under a customs procedure or in temporary storage, such costs or the increase in value shall not be taken into account for the calculation of the amount of import duty if proof of those costs is provided by the declarant.
- (2) The customs value, quantity, nature and origin of foreign goods placed under a customs procedure or in temporary storage shall be taken into account for the calculation of the amount of import duty.
- (3) If the tariff classification of goods placed under a customs procedure changes as a result of usual forms of handling referred to in Article 153 of this Law within the customs territory of Montenegro, the original tariff classification for the goods placed under the procedure shall be applied at the request of the declarant.
- (4) If a customs debt is incurred for processed products resulting from the inward processing procedure, the amount of import duty corresponding to such debt shall, at the request of the declarant, be determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward processing procedure at the time of acceptance of the declaration relating to those goods.
- (5) For the purpose of application of tariff measures referred to in Article 36 paragraph 3 item 8 of this Law, the customs authority shall apply the original tariff classification referred to in paragraphs 3 and 4 of this Article, without a request of the declarant were the following conditions are fulfilled:
 - a) products resulting from the inward processing are directly or indirectly imported by the authorisation holder during one year after their re-export;
 - b) the goods would be, at the time of acceptance of the declaration for placing of goods in the inward processing procedure, subject to agricultural or trade policy measures or import or export protective measures, if it had been released for free circulation at that time.
- (6) If a customs debt is incurred for processed products resulting from the outward processing procedure or replacement products as referred to in Article 183 paragraph 1 of this Law, the amount of import duty shall be calculated based on the cost of the processing operation undertaken outside the customs territory of Montenegro.
- (7) If a customs debt is incurred pursuant to provisions of Articles 57 or 60 of this Law, provided that the failure which led to the incurrance of a customs debt did not constitute an attempt at deception, the customs debtor is entitled to favourable tariff treatment of goods, relief of or exemption in whole or in part from paying import or export duty.
- (8) Detailed conditions referred to in paragraphs 4 and 5 of this Article shall be prescribed by the Government.

Place where the customs debt is incurred

Article 65

- (1) A customs debt shall be incurred at the place where the customs declaration or the re-export declaration is lodged.

- (2) Notwithstanding paragraph 1 of this Article, the place where a customs debt is incurred shall be the place where the events from which it arises occur.
- (3) If it is not possible to determine the place referred to in paragraph 2 of this Article, it shall be deemed that the customs debt was incurred at the place where the customs authority concludes that the goods are in circumstances in which a customs debt is incurred.
- (4) If the goods have been placed under a customs procedure which has not been discharged or when a temporary storage did not end properly, and the place where the customs debt is incurred cannot be determined within a specific time-limit pursuant to the provisions of paragraphs 2 or 3 of this Article, the customs debt shall be incurred at the place where the goods were either placed under the procedure concerned or were introduced into the customs territory of Montenegro under that procedure or were in temporary storage.
- (5) If the information available to the customs authority enables it to establish that the customs debt may have been incurred in several places, the customs debt shall be deemed to have been incurred at the place where it was first incurred.

VII. GUARANTEE FOR A POTENTIAL OR EXISTING CUSTOMS DEBT PAYMENT

General provisions

Article 66

- (1) If the customs authorities require a guarantee for payment of a customs debt which have been incurred or which may be incurred to be provided, that guarantee shall cover the amount of import or export duty and the other charges due in connection with the import and export of the goods.
- (2) The guarantee referred to in paragraph 1 of this Article shall be provided by the debtor or the person who may become the debtor or by the third person if the customs authority permits the guarantee for payment of the customs debt to be provided by a person from whom it is not required.
- (3) The customs authority shall require only one guarantee to be provided in respect of specific goods or a specific declaration.
- (4) The guarantee provided for a specific declaration shall apply to the amount of import or export duty corresponding to the customs debt and other charges in respect of all goods covered by or released against that declaration, whether or not that declaration is correct.
- (5) If the guarantee has not been released, the customs authority may use it, within the limits of the secured amount, for the recovery of amounts of import or export duty and other charges payable following post-release control of those goods.
- (6) Upon application by the person referred to in paragraph 2 of this Article, the customs authority may, in accordance with Article 72 paragraphs 1, 2 and 3 of this Law, authorise the provision of a comprehensive guarantee to cover the amount of import or export duty corresponding to the customs debt in respect of two or more operations, declarations or customs procedures.
- (7) The customs authority shall control the use of guarantee referred to in paragraph 1 of this Article.
- (8) No provision of guarantee shall be required from state authorities for settlement of customs debt.
- (9) The guarantee shall not be required for:

- 1) goods carried by a fixed transport installation;
 - 2) goods placed under the temporary admission procedure if:
 - customs declarations may be lodged verbally;
 - it is a procedure of temporary admission of containers, which is imported empty and which is clearly marked, so that these markings cannot be replaced or destroyed, only if the re-export of this container, applying commercial practice, will not lead to violation of regulations;
 - it is a procedure of temporary admission of materials for disaster relief;
 - it is a procedure of temporary admission of equipment for radio and TV broadcasting and vehicles, specially equipped for these purposes, if they are imported by foreign media for the preparation or broadcasting of shows in the customs area.
 - 3) goods placed under Montenegro transit procedure using the simplification referred to in Article 158 paragraph 5 item 5 of this Law and carried by sea or air between ports or between airports;
 - 4) customs debt that is less than EUR 500.
- (10) The manner of provision and performing control over guarantee and other releases from providing guarantee for the goods placed under the procedure of temporary admission shall be prescribed by the Government.

Compulsory guarantee

Article 67

- (1) If it is compulsory for a guarantee to be provided, the customs authority shall fix the amount of such guarantee at a level equal to the precise amount of import or export duty corresponding to the customs debt and of other charges payable on export or import, if that amount can be established with certainty at the time when the guarantee is required.
- (2) If it is not possible to establish the precise amount, the guarantee shall be fixed at the maximum amount, as estimated by the customs authority, of import or export duty corresponding to the customs debt and of other charges payable on export or import, which have been or may be incurred.
- (3) If a comprehensive guarantee is provided for the amount of import or export duty corresponding to customs debts and other charges payable on export or import which vary in amount over time, the amount of such guarantee shall be set at a level enabling the amount of import or export duty corresponding to customs debts and other charges payable on export or import to be covered at all times.

Optional guarantee

Article 68

- (1) If the provision of a guarantee is optional, such guarantee shall in any case be required by the customs authority if it considers that the amount of import or export duty corresponding to a customs debt and other charges payable on export or import are not certain to be paid within the prescribed period.
- (2) The amount of guarantee referred to in paragraph 1 of this Article may not exceed the amount determined pursuant to Article 67 of this Law.

Types of guarantees

Article 69

- (1) A guarantee may be provided in one of the following forms:
 - 1) by a cash deposit or by any other means of payment recognised by the customs authorities as being equivalent to a cash deposit;
 - 2) by an undertaking given by a guarantor;
 - 3) by another form of guarantee which provides equivalent assurance that the amount of import or export duty corresponding to the customs debt and other charges payable on export or import will be paid.
- (2) A guarantee in the form of a cash deposit or any other equivalent means of payment shall be given in accordance with the law.
- (3) The customs authority shall not charge an interest on guarantee provided in the form referred to in paragraph 2 of this Article.
- (4) Guarantee referred to in paragraph 1 item 3 of this Article shall be prescribed by the Government.

Choice of guarantee

Article 70

- (1) The customs authority may refuse to accept the form of guarantee chosen if it is incompatible with the proper functioning of the customs procedure it was provided for.
- (2) The customs authority may require that the form of guarantee chosen be maintained for a specific period.

Guarantor

Article 71

- (1) The guarantor referred to in Article 69 paragraph 1 item 2 of this Law shall be a third person established in the customs territory of Montenegro.
- (2) The customs authority may refuse to approve the guarantor or the type of guarantee proposed if it assesses that it does not ensure timely settlement of the customs debt unless the guarantor is a credit institution, financial institution or insurance company which obtained a licence to perform those activities from the competent authorities.
- (3) The guarantor shall undertake in writing to pay the secured amount of import or export duty corresponding to a customs debt and other charges payable on export or import.
- (4) The customs authority may refuse to approve the guarantor or the type of guarantee proposed if it assesses that it does not ensure timely payment of the amount of import or export duty corresponding to the customs debt and other charges payable on export or import.
- (5) A detailed manner of releasing and revocation of the obligation undertaken by the guarantor and of the rules related to the guarantor shall be prescribed by the Government.

Comprehensive guarantee

Article 72

- (1) The authorisation referred to in Article 66 paragraph 6 of this Law shall be granted only to persons who satisfy all of the following conditions:
 - 1) they are established in the customs territory of Montenegro;
 - 2) they fulfil the criteria laid down in Article 26 paragraph 1 item 1 of this Law;

- 3) they are regular users of the customs procedures involved or operators of temporary storage facilities or they fulfil the criteria laid down in Article 26 paragraph 1 item 4 of this Law.
- (2) If a comprehensive guarantee is to be provided for customs debts and other charges payable on export or import which may be incurred:
 - 1) an economic operator may be authorised to use a comprehensive guarantee with a reduced amount or to have a guarantee waiver, provided that he fulfils the criteria laid down in Article 26 paragraph 1 items 2 and 3 of this Law;
 - 2) an authorised economic operator for customs simplification shall, upon application, be authorised to use a comprehensive guarantee with a reduced amount.
- (3) The comprehensive guarantee instrument shall be deposited by the customs debtor with the customs authority, which determines the amount of guaranty, in accordance with the following criteria:
 - reputation, reliability and financial stability of the debtor,
 - scope of business operations of the debtor,
 - the possibility of unhindered control of operations, and
 - compliance with customs and tax regulations by the debtor.
- (4) The comprehensive guarantee security with the reduced amount referred to in paragraph 2 of this Article shall have the same effect as the provided guarantee.
- (5) Detailed conditions for issuing an authorisation for the use of comprehensive guarantee referred to in paragraph 2 of this Article, and the manner of determining the amount of guarantee shall be prescribed by the Government.

Temporary prohibitions relating to the use of comprehensive guarantees

Article 73

- (1) In the context of special procedures or temporary storage, the use of the comprehensive guarantee may be temporarily prohibited as follows:
 - 1) the comprehensive guarantee for a reduced amount or a guarantee waiver referred to in Article 72 paragraph 2 of this Law;
 - 2) the comprehensive guarantee referred to in Article 72 of this Law, in respect of goods which have been identified as being subject to large-scale fraud.
- (2) By way of exception of paragraph 1 of this Article, recourse to the comprehensive guarantee with a reduced amount or a guarantee waiver or recourse to the comprehensive guarantee referred to in Article 72 of this Law, may be authorised for a person providing the following proof:
 - 1) that no customs debt has arisen in respect of the goods in question in the course of operations which that person has undertaken in the two years preceding the prohibition referred to in paragraph 1 of this Article;
 - 2) that the customs debts which have arisen in the two years preceding the prohibition referred to in paragraph 1 of this Article were fully paid by the debtor or the guarantor within the prescribed time-limit.
- (3) To obtain authorisation to use a temporarily prohibited comprehensive guarantee, the person referred to in paragraph 2 of this Article must also fulfil the criteria laid down in Article 26 items 2 and 3 of the present Law.
- (4) Detailed cases referred to in paragraph 1 of this Article relating to prohibition of use of comprehensive guarantee shall be prescribed by the Government.

Additional or replacement guarantee

Article 74

If the customs authority establishes that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure, payment within the prescribed period of the amount of import or export duty corresponding to the customs debt and other charges payable on import or export, the customs authority shall require the person referred to in Article 66 paragraph 2 of this Law to provide an additional guarantee or to replace the original guarantee with a new guarantee, according to their choice.

Release of the guarantee instrument

Article 75

- (1) The customs authority shall release the guarantee instrument immediately when the customs debt and liability for other charges payable on import or export is extinguished or can no longer arise.
- (2) If the customs debt and liability for other charges payable on import or export has been extinguished in part, or may arise only in respect of part of the amount which has been secured, a corresponding part of the guarantee shall be released accordingly at the request of the person that provided the guarantee, unless it was the amount due to which the release of the part of the guarantee is not justified.
- (3) The manner of releasing the guarantee instrument referred to in paragraphs 1 and 2 of this Article shall be prescribed by the Government.

VIII. RECOVERY, PAYMENT, REPAYMENT AND REMISSION OF THE AMOUNT OF IMPORT OR EXPORT DUTY

Section A

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

Determination of the amount of import or export duty

Article 76

- (1) The amount of import or export duty 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 65 of this Law, after provision of necessary information for determination of those duties.
- (2) The customs authority may accept the amount of import or export duty payable determined by the declarant.
- (3) If the amount of import or export duty payable does not result in a whole number, that amount may be rounded to the nearest upper or lower integer.

Notification of the customs debt

Article 77

- (1) The customs debt shall be notified to the debtor at the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 65 of this Law.
- (2) By way of exception of paragraph 1 of this Article, the notification shall not be made to the debtor in the following cases, if:

- 1) a provisional commercial policy measure taking the form of a duty has been imposed, pending a final determination of the amount of that duty;
 - 2) the amount of import or export duty payable exceeds that determined based on a decision made in accordance with Article 22 of this Law;
 - 3) the original decision not to notify the customs debt to the debtor or to notify it to them with an amount of import or export duty at a figure less than the amount of import or export duty payable was taken on the basis of general provisions invalidated at a later date by a court decision;
 - 4) the customs authority is exempted under the law from notification of the customs debt.
- (3) If the amount of import or export duty payable is equal to the amount entered in the declaration, it shall be deemed that the debtor was notified at the time of release of the goods by the customs authority.
 - (4) By way of exception of paragraph 3 of this Article, the customs debt shall be notified to the debtor by the customs authority when it is in a position to determine the amount of import or export duty payable.
 - (5) If the notification of the customs debt would prejudice the conducting a criminal investigation, or initiating or conducting a criminal procedure, the customs authority may defer that notification until such time as it no longer prejudices the conducting the criminal investigation, or initiating or conducting the criminal procedure.
 - (6) Provided that payment has been guaranteed, the customs debt corresponding to the total amount of import or export duty relating to all the goods released to one person during a period fixed by the customs authority may be notified at the end of that period, which shall not exceed 31 days.
 - (7) Detailed cases referred to in paragraph 2 of this Article shall be prescribed by the Government.

Limitation of the customs debt

Article 78

- (1) The customs authority shall not notify the customs debt to the debtor after the expiry of a period of three years from the date on which the customs debt was incurred.
- (2) If the customs debt is incurred as the result of an act which, at the time it was committed, was liable to give rise to misdemeanour or criminal court proceedings, the three-year period laid down in paragraph 1 of this Article shall be extended to a period of 10 years.
- (3) The periods laid down in paragraphs 1 and 2 of this Article shall be suspended if:
 - 1) an appeal is lodged in accordance with Article 27 of this Law, namely from the date on which the appeal is lodged and shall last for the duration of the appeal proceedings; or
 - 2) the customs authority communicates to the debtor, in accordance with Article 16 paragraph 11 of this Law, the grounds on which it intends to notify the customs debt to them, and it shall be suspended from the date of that communication until the end of the period within which the debtor is given the opportunity to express their point of view.
- (4) If a customs debt is reinstated pursuant to Article 88 paragraph 9 of this Law, the periods laid down in paragraphs 1 and 2 of this Article shall be considered as suspended from the date on which the application for repayment or remission was

submitted in accordance with Article 93 of this Law, until the date on which the decision on the repayment or remission was taken.

Entry in the accounts

Article 79

- (1) The customs authority responsible for the place where the customs debt is incurred shall enter in their accounts the amount of import or export duty payable.
- (2) The provision of paragraph 1 of this Article shall not apply in cases referred to in Article 77 paragraphs 1 and 2 of the present Law.
- (3) The customs authority need not enter in the accounts amounts of import or export duty which, pursuant to Article 78 of this Law, corresponds to a customs debt which it could no longer notify to the debtor.
- (4) The entry in the accounts of the amounts of import or export duty shall differ depending on whether the amount will be paid, in view of the circumstances in which the customs debt was incurred.
- (5) The detailed manner of entry in the accounts of the amounts of import or export duty shall be prescribed by the Ministry.

Time of entry in the accounts

Article 80

- (1) If a customs debt is incurred as a result of the acceptance of the declaration for placing of goods under a customs procedure, other than temporary admission with partial relief from import duty, or of any other act having the same legal effect as the acceptance of the declaration, the customs authority shall enter the amount of import or export duty payable in the accounts without delay, and at the latest within 14 days of date the goods are released.
- (2) If the payment of the customs debt has been guaranteed, the total amount of import or export duty relating to all the goods released to one person during a period fixed by the customs authorities, which may not exceed 31 days, may be covered by a single entry in the accounts at the end of that period.
- (3) The entry in the accounts referred to in paragraph 2 of this Article shall take place without delay and at the latest within 14 days of the expiry of the period approved.
- (4) If goods may be released subject to conditions which govern the determination of the amount of import or export duty payable or its collection, entry in the accounts shall take place without delay and at the latest within 14 days of the day on which the amount of import or export duty payable is determined or the obligation to pay those duties duty is fixed.
- (5) If the customs debt relates to a provisional commercial policy measure taking the form of a duty, the amount of import or export duty payable shall be entered in the accounts within two months of the date of publication of the special regulation.
- (6) By way of exception of paragraphs 1 and 2 of this Article, the amount of import or export duty payable shall be entered in the accounts on the day on which the customs authority determines the specific amount and takes a decision, and within 14 days of the date at the latest.
- (7) The provision under paragraph 5 of this Article shall apply with regard to the amount of import or export duty to be recovered or which remains to be recovered if the amount of import or export duty payable has not been entered in the accounts in accordance

with paragraphs 1 to 6 of this Article, or has been determined and entered in the accounts at a level lower than the amount payable.

- (8) The time limits for entry in the accounts laid down in paragraphs 1 to 5 of this Article shall not apply in unforeseeable circumstances or in cases of force majeure.
- (9) The entry in the accounts may be deferred in the case referred to in Article 77 paragraph 4 of this Law, until such time as the notification of the customs debt no longer prejudices conducting of a criminal investigation, or initiating or conducting of a criminal procedure.
- (10) The amount of the custom duty that will not be subsequently entered in the accounts shall be prescribed by the Government.

Section B

PAYMENT OF THE AMOUNT OF IMPORT OR EXPORT DUTY

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

Article 81

- (1) The debtor shall pay the amount of import or export duty, corresponding to a customs debt notified to them within the period of eight days of the date of the notification receipt.
- (2) In the case of aggregation of entries in the accounts under the conditions laid down in Article 80 paragraphs 1 to 3 of this Law, the time limit for payment shall be determined pursuant to Article 83 of this Law.
- (3) The customs authority may extend the period referred to in paragraph 2 of this Article upon application by the debtor if the amount of import or export duty payable has been determined in the course of post-release control referred to in Article 32 of this Law, while the extension shall not exceed the time necessary for the debtor to take the appropriate acts to discharge their obligation.
- (4) The time limit for payment of the amount of import or export duty corresponding to a customs debt shall be suspended if:
 - 1) an application for remission of duty is made in accordance with Article 93 of this Law;
 - 2) the goods are to be confiscated, destroyed or abandoned to the state;
 - 3) the customs debt was incurred pursuant to the provision of Article 57 of this Law and there are several debtors.
- (5) Detailed conditions and manner referred to in paragraph 4 of this Article shall be prescribed by the Government.

Payment

Article 82

- (1) Payment shall be made in cash or by any other means with similar discharging effect, including by adjustment of a credit balance, in accordance with regulations governing the manner of payment.
- (2) Payment may be made by a third person instead of the debtor.
- (3) The debtor may pay all or part of the amount of import or export duty without awaiting expiry of the period he has been granted for payment.

Deferment of payment

Article 83

- (1) The customs authority shall, upon application by the person and upon provision of a guarantee, authorise deferment of payment of the duty payable in any of the following ways:
 - 1) separately in respect of each amount of import or export duty entered in the accounts in accordance with Article 80 paragraphs 1 to 3 or 7 of this Law, and the time limit for payment shall be counted from the day following that on which the customs debt is notified to the debtor.
 - 2) globally in respect of all amounts of import or export duty entered in the accounts in accordance with the Article 80 paragraphs 1 to 3 of this Law, during a period not exceeding 31 days from the day on which the aggregation period ends, while the period shall be reduced by the number of days corresponding to half the number of days covered by the aggregation period.
 - 3) globally in respect of all amounts of import or export duty forming a single entry in accordance with Article 80 paragraphs 4 and 5 of this Law, the period shall be counted from the day following the end of the period fixed for release of the goods in question, while it shall be reduced by the number of days corresponding to half the number of days covered by the period concerned.
- (2) In deciding on application for deferred payment of the amount of import or export duty, the customs authority shall verify whether the debtor fulfils the following conditions:
 - that they are reliable and financially stable,
 - that they are regularly discharging customs obligation,
 - that they keep accounting records that guarantees unhindered control;
 - that they did not commit a customs or tax offence in the last three years.
- (3) The detailed conditions for authorising deferred payment in accordance with the provisions of this Article shall be prescribed by the Government.

The period for which payment is deferred

Article 84

- (1) The period for which payment is deferred of Article 84 of this Law shall be 30 days.
- (2) If the number of days in the periods referred to in Article 83 paragraph 1 items 2 and 3 is an odd number, the number of days to be deducted from the 30-day period pursuant to those paragraphs shall be equal to half the next lowest even number.
- (3) If the periods referred to Article 83 paragraph 1 items 2 and 3 are weeks, the customs authority may authorise that the amount of import or export duty in respect of which payment has been deferred is to be paid on the Friday of the fourth week following the week in question at the latest.
- (4) If periods for deferred payment are months, the customs authority may authorise that the amount of import or export duty in respect of which payment has been deferred is to be paid by the 16th day of the month following the month in question.

Payment facilities

Article 85

- (1) The customs authority may grant the debtor payment facilities other than deferred payment if a guarantee is provided.

- (2) If facilities are granted pursuant to provision under paragraph 1 of this Article on the amount of import or export duty the default interest shall be charged on the amount of debt in accordance with the law governing the tax procedure.
- (3) The customs authority may refrain from requiring a guarantee or from charging the default interest if it is established, based on a documented assessment of the situation of the debtor, that this would create serious economic difficulties for them.
- (4) The customs authority shall refrain from charging interest if the amount for recovery action is less than EUR 10.

Enforcement of payment

Article 86

- (1) If the amount of import or export duty payable has not been paid within the prescribed period, the customs authority shall secure payment of that amount by means available to it under the law.
- (2) The customs debt may not be collected upon expiry of the period of three years of the day it has been incurred.
- (3) The statute of limitations shall be terminated by any official action of the customs authority aimed at determining or collecting the debt, with which the debtor is aware, as well as by any action taken to establish misdemeanour liability.
- (4) After taking the actions referred to in paragraph 3 of this Article, the statute of limitations shall begin to run again.
- (5) The right to collect the debt shall expire after the expiration of ten years from the day the customs debt was incurred.

Interest on arrears

Article 87

- (1) Interest on arrears shall be charged on the amount of import or export duty from the date of expiry of the prescribed period until the date of payment.
- (2) The calculation of interest referred to in paragraph 1 of this Article shall be made in accordance with the law governing the tax procedure.
- (3) If the customs debt is incurred on the basis of Articles 57 or 60 of this Law, or if the notification of the customs debt results from a post-release control, interest on arrears shall be charged over the amount of import or export duty, from the date on which the customs debt was incurred until the date of the debt notification.
- (4) The customs authority may refrain from charging interest on arrears where it is established, based on a documented assessment of the situation of the debtor, that to charge it would create serious economic difficulties.
- (5) The interest on arrears shall not be charged if the amount for recovery action is less than EUR 10.

Section C

REPAYMENT AND REMISSION OF CUSTOMS DEBT

General provisions

Article 88

- (1) The amount of import or export duty shall be repaid or remitted on the following grounds:

- 1) overcharged amount of import or export duty;
 - 2) defective goods or goods not complying with the terms of the contract;
 - 3) error by the competent authorities;
 - 4) equity.
- (2) If an amount of import or export duty has been paid and the corresponding customs declaration is invalidated in accordance with Article 127 of this Law, that amount shall be repaid.
 - (3) The customs authority shall repay or remit the amount of import or export duty referred to in paragraph 1 of this Article if it is EUR 10 or more, except where the person requests the repayment or remission of a lower amount.
 - (4) If the customs authority determines, within the time-limits referred to in Article 93 paragraphs 1 and 2 of this Law, that the amount of import or export duties may be repaid or remitted in accordance with the provisions of Articles 89, 91 or 92 of this Law, the amount shall be repaid or remitted ex officio.
 - (5) Repayment or remission shall not be granted when the situation which led to the notification of the customs debt results from deception by the debtor.
 - (6) No interest shall be paid on the amount of the repayment by the customs authority.
 - (7) Interest shall be paid if the decision granting the repayment is not implemented within three months of the date on which that decision was taken, unless the failure to meet the deadline was outside the control of the customs authority.
 - (8) In the cases referred to in paragraph 7 of this Article, the interest shall be paid from the day of expiry of the three-months period until the day of repayment, and the interest rate shall be established in accordance with Article 85 of this Law.
 - (9) If the customs authority has granted the repayment or remission in error, the original customs debt shall be reinstated insofar as it is not time-barred of Article 78 of this Law.
 - (10) In the cases referred to in paragraph 9 of this Article, the interest paid in accordance with paragraph 7 of this Article shall be reimbursed to the customs authority.
 - (11) A detailed procedure for repayment and remission of customs debt referred to in paragraphs 1 and 2 of this Article shall be prescribed by the Government.

Overcharged amounts of import or export duty

Article 89

- (1) An amount of import or export duty shall be repaid or remitted insofar as the amount of the customs debt initially notified to the debtor exceeds the amount payable, or the customs debt was notified to the debtor contrary to Article 77 paragraph 2 items 3 or 4 of this Law.
- (2) If the application for repayment or remission is based on the existence, at the time when the declaration for release for free circulation was accepted, of a reduced or zero rate of import duty on the goods under a tariff quota, a tariff ceiling or other favourable tariff measures, repayment or remission shall be granted provided that, at the time of lodging the application accompanied by the necessary documents, either of the following conditions are fulfilled:
 - 1) if the total volume of a tariff quota has not been exhausted;
 - 2) in cases where the rate of duty normally due has not been re-established.

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

Article 90

- (1) An amount of import duty shall be repaid or remitted if the notification of the customs debt relates to goods which have been rejected by the importer because, at the time of release, they were defective or did not comply with the terms of the contract based on which they were imported.
- (2) Defective goods shall be deemed to include goods damaged before their release.
- (3) Repayment or remission shall not be granted if:
 - 1) the goods, before being released for free circulation, were placed under a special procedure for testing, unless it is established that the fact that the goods were defective or did not comply with the terms of the contract referred to in paragraph 1 of this Article could not normally have been detected in the course of such tests;
 - 2) the defective nature of the goods was taken into consideration in drawing up the terms of the contract referred to in paragraph 1 of this Article, in particular the price, before the goods were placed under a customs procedure involving the incurrance of a customs debt; or
 - 3) the goods are sold by the applicant after he has ascertained that they are defective or do not comply with the terms of the contract referred to in paragraph 1 of this Article.
- (4) By way of exception of paragraph 3 of this Article, repayment or remission shall be granted provided the goods have not been used, except for such initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract and provided they are taken out of the customs territory of Montenegro.
- (5) Instead of being taken out of the customs territory of Montenegro, and upon application by the person concerned, the customs authority shall authorise that the goods be placed under the inward processing procedure, including for destruction, or the external transit, the customs warehousing or the free zone procedure.

Error by the competent authorities

Article 91

- (1) An amount of import or export duty shall be repaid or remitted where, as a result of an error on the part of the competent authorities, the amount of the customs debt initially notified was lower than the amount payable, provided the following conditions are met:
 - 1) the debtor could not reasonably have detected that error; and
 - 2) the debtor was acting in good faith.
- (2) If the conditions laid down in Article 89 paragraph 2 of this Law are not fulfilled, repayment or remission shall be granted where failure to apply the reduced or zero rate of duty was as a result of an error on the part of the customs authority and if the customs declaration for release for free circulation contained all the particulars and was accompanied by all the documents necessary for application of the reduced or zero rate of duty.
- (3) If the preferential treatment of the goods is granted on the basis of a system of administrative cooperation involving the competent authorities of a country and territory, 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 in accordance with paragraph 1 item 1 of this Article.
- (4) The issue of an incorrect certificate referred to in paragraph 3 of this Article shall not constitute an error where the certificate is based on an incorrect account of the facts

provided by the exporter, except where it is evident that the issuing authorities were aware or should have been aware that the goods did not satisfy the conditions laid down for entitlement to the preferential treatment.

- (5) The debtor shall be acting in good faith if he can demonstrate that, during the period of the trading operations concerned, he has taken due care to ensure that all the conditions for the preferential treatment have been fulfilled, unless there are grounds for doubt concerning the proper application of the preferential arrangements by the beneficiary country or territory.

Equity

Article 92

- (1) An amount of import or export duty shall be repaid or remitted in the interest of equity where a customs debt is incurred under special circumstances in which no deception or obvious negligence may be attributed to the debtor.
- (2) The special circumstances referred to in paragraph 1 of this Article shall exist where it is clear that the debtor is in an exceptional situation as compared with other persons engaged in the same business, and that, in the absence of such circumstances, he would not have suffered disadvantage by the collection of the amount of import or export duty.
- (3) The detailed manner of determining special circumstances shall be prescribed by the Government.

Procedure for repayment and remission

Article 93

- (1) Applications for repayment or remission in accordance with Article 88 of this Law shall be submitted to the customs authority within the following time limits:
- 1) in the case of overcharged amounts of import or export duty, error by the competent authorities or equity, within three years of the date of notification of the customs debt;
 - 2) in the case of defective goods or goods not complying with the terms of the contract referred to in Article 90 paragraph 1, within one year of the date of notification of the customs debt;
 - 3) in the case of invalidation of a customs declaration, within the time limit specified in the provisions applicable to invalidation.
- (2) The period specified in paragraph 1 items 1 and 2 of this Article shall be extended where the applicant provides evidence that he was prevented from submitting an application within the prescribed period as a result of unforeseeable circumstances or force majeure.
- (3) If the customs authority is not in a position, based on the grounds adduced, to grant repayment or remission of an amount of import or export duty, the customs authority shall ex officio consider other cases referred to in Article 88 of this Law.
- (4) If the debtor has lodged an appeal against the notification of the customs debt in accordance with the provision of Article 27 of this Law, the period specified in paragraph 1 of this Law shall be suspended, from the date on which the appeal is lodged, for the duration of the appeal proceedings.

IX. EXTINGUISHMENT OF A CUSTOMS DEBT

Extinguishment

Article 94

- (1) A customs debt on import or export shall be extinguished in any of the following ways:
 - 1) if the debtor can no longer be notified of the customs debt, in accordance with the provision of Article 78 of this Law;
 - 2) by payment of the amount of import or export duty;
 - 3) by remission of the amount of import or export duty in accordance with paragraph 5 of this Article;
 - 4) if the customs declaration is invalidated in respect of goods declared for a customs procedure entailing the obligation to pay import or export duty;
 - 5) if goods liable to import or export duty are confiscated or seized and simultaneously or subsequently confiscated;
 - 6) if goods liable to import or export duty are destroyed under customs supervision or giving it to the State;
 - 7) if the disappearance of the goods or the non-fulfilment of obligations arising from this Law results from the total destruction or irretrievable loss of those goods as a result of the actual nature of the goods or unforeseeable circumstances or force majeure, or as a consequence of instruction by the customs authorities;
 - 8) in the event of the judicially established insolvency and liquidation of the debtor;
 - 9) if the customs debt was incurred pursuant to provisions of Article 57 or 60 of this Law and if the following conditions are fulfilled:
 - a) the failure which led to the incurrence of a customs debt had no significant effect on the correct operation of the customs procedure concerned and did not constitute an attempt at deception;
 - b) all of the formalities necessary to regularise the situation of the goods are subsequently carried out;
 - 10) if goods released for free circulation duty-free, or at a reduced rate of import duty by virtue of their end-use, have been exported with the permission of the customs authority;
 - 11) if it was incurred pursuant to Article 56 of this Law and where the formalities carried out in order to enable the preferential tariff treatment to be granted are cancelled;
 - 12) if the customs debt was incurred pursuant to Article 57 of this Law and evidence is provided to the satisfaction of the customs authority that the goods have not been used or consumed and have been taken out of the customs territory of Montenegro.
- (2) In the cases referred to in paragraphs 1 item 5 of this Article, the customs debt shall, for the purposes of penalties applicable to customs offences, be deemed not to have been extinguished if import or export duty or the existence of a customs debt provide the basis for determining penalties.
- (3) Goods referred to in paragraph 1 item 7 of this Article shall be considered as irretrievably lost when they have been rendered unusable by any person.
- (4) If, in accordance with the provision under paragraph 1 item 7 of this Article, a customs debt is extinguished in respect of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use, any scrap or waste resulting from their destruction and which have no value or have small economic value and cannot be used without further processing shall be deemed foreign goods.
- (5) If the person fails to show that the real loss exceeds that calculated by applying the standard rate for the goods in question, the rules pertaining to standard rates for irretrievable loss due to the nature of goods shall apply.

- (6) If several persons are liable for payment of the amount of import or export duty corresponding to the customs debt and remission is granted, the customs debt shall be extinguished only in respect of the person or persons to whom the remission is granted.
- (7) In the case referred to in paragraph 1 item 11 of this Article, the customs debt shall not be extinguished in respect of any person or persons who attempted deception.
- (8) If the customs debt was incurred pursuant to Article 57 of this Law, it shall be extinguished with regard to the person whose behaviour did not involve any attempt at deception and who contributed to the fight against fraud.
- (9) Detailed cases referred to in paragraph 1 item 8 indent a) of this Article, which provide that the failures have no significant effect on the correct operation of the customs procedure concerned, shall be prescribed by the Government.

X. ENTRY SUMMARY DECLARATION

Lodging of an entry summary declaration

Article 95

- (1) Goods brought into the customs territory of Montenegro shall be covered by an entry summary declaration.
- (2) By way of exception of paragraph 1 of this Article, the entry summary declaration shall not be lodged:
 - 1) for means of transport and the goods carried thereon only passing through the territorial waters or the airspace of the customs territory of Montenegro without a stop within that territory; and
 - 2) for goods where duly justified by the type of goods or where required by international agreements.
- (3) The entry summary declaration shall be lodged at the organisational unit of the customs authority where entry checks are performed based on risk analysis (hereinafter referred to as "the customs office of first entry"), before the goods are brought into the customs territory of Montenegro.
- (4) Customs authority may allow the entry summary declaration to be lodged at another customs office, provided that the latter immediately communicates or makes available electronically the necessary particulars to the customs office of first entry.
- (5) The entry summary declaration shall be lodged by the carrier and may be lodged also by one of the following persons:
 - 1) the importer or consignee of goods or other person in whose name or on whose behalf the carrier acts;
 - 2) a person who is able to present the goods in question or have them presented at the customs office of entry.
- (6) The entry summary declaration shall contain the particulars necessary for risk analysis for security and safety purposes.
- (7) By way of exception of paragraph 5 of this Article, particulars referred to in paragraph 6 of this Article may be required to be provided by other persons.
- (8) Customs authority may accept that information systems used by ports, carriers and other economic operators are used for the lodging of an entry summary declaration provided such systems contain the necessary particulars for such declaration and those particulars are available within a specific time-limit, before the goods are brought into the customs territory of Montenegro.

- (9) The customs authority may accept that, instead of the lodging of the entry summary declaration, economic operators lodge a notification and grant access to the particulars necessary for an entry summary declaration in its computer system.
- (10) The manner of lodging of an entry summary declaration and types of goods for which the lodging of an entry summary declaration is not required shall be prescribed by the Government.

Risk analysis

Article 96

- (1) The customs office referred to in Article 95 paragraph 3 of this Law shall ensure that a risk analysis is carried out, primarily for security and safety purposes, on the basis of the entry summary declaration referred to in Article 95 paragraph 1 of this Law or particulars referred to in Article 95 paragraph 9 of this Law and shall take the necessary measures based on the results of the risk analysis referred to in Article 30 of this Law.
- (2) The detailed manner of carrying out the risk analysis in accordance with paragraph 1 of this Article shall be prescribed by the Government.

Amendment and invalidation of an entry summary declaration

Article 97

- (1) The customs authority may, upon application, permit the applicant to amend one or more particulars of the entry summary declaration after it has been lodged.
- (2) No amendment referred to in paragraph 1 of this Article shall be possible after any of the following:
 - 1) the customs authority has informed the person who lodged the entry summary declaration that it intends to examine the goods;
 - 2) the customs authority has established that the particulars of the entry summary declaration are incorrect;
 - 3) the goods have already been presented to customs.
- (3) If the goods for which an entry summary declaration has been lodged are not brought into the customs territory of Montenegro, the customs authority shall invalidate that declaration in the following cases:
 - 1) upon application by the declarant; or;
 - 2) after 200 days since that declaration was lodged.
- (4) A detailed manner of amending and invalidating an entry summary declaration referred to in paragraphs 1 to 3 of this Article shall be prescribed by the Government.

Declaration lodged instead of an entry summary declaration

Article 98

- (1) The customs authority referred to in Article 95 paragraph 3 of this Law may waive the lodging of an entry summary declaration in respect of goods for which, prior to the expiry of the time limit for lodging that declaration, a customs declaration, containing at least the particulars necessary for the entry summary declaration, is lodged.
- (2) The declaration referred to in paragraph 1 of this Article shall have the status of an entry summary declaration until such time as that declaration is accepted.
- (3) The customs authority referred to in Article 95 paragraph 3 of this Law may waive the lodging of an entry summary declaration in respect of goods for which, prior to the expiry of the time-limit for lodging that declaration, a temporary storage declaration,

containing at least the particulars necessary for the entry summary declaration, is lodged, and until such time as the goods declared are presented to the customs authority in accordance with the provision of Article 104 of this Law, the temporary storage declaration shall have the status of an entry summary declaration.

XI. ARRIVAL OF GOODS

Section A

ENTRY OF GOODS INTO THE CUSTOMS TERRITORY OF MONTENEGRO

Notification of arrival of a sea-going vessel or of an aircraft

Article 99

- (1) Goods that are brought into the customs area or taken out of the customs area must be reported to the border customs office, that is, to another competent customs office.
- (2) The operator of a sea-going vessel or of an aircraft entering the customs territory of Montenegro shall notify the arrival to the customs office of first entry upon arrival of the vessel or of the aircraft.
- (3) If information on arrival of a sea-going vessel or of an aircraft is available to the customs authority it may waive the notification referred to in paragraph 1 of this Article.
- (4) Customs authority may accept that port or airport systems or other relevant information systems be used to notify the arrival of the means of transport referred to in paragraph 3 of this Article.
- (5) The detailed manner of notification on arrival of a sea-going vessel or of an aircraft entering the customs territory of Montenegro shall be prescribed by the Government.

Customs supervision

Article 100

- (1) Goods brought into the customs territory of Montenegro shall, from the time of their entry, be subject to customs supervision and may be subject to customs controls.
- (2) Goods referred to in paragraph 1 of this Article may be subject to such prohibitions and restrictions as are justified on grounds of public order or public security, the protection of the health and life of humans, animals or plants, the protection of the environment, the protection of national treasures possessing artistic, historic or archaeological value and the protection of industrial or commercial property, controls on drug precursors, prohibitions and restrictions in respect of goods infringing certain intellectual property rights and cash, as well as to the implementation of fishery conservation and management measures and of commercial policy measures.
- (3) Goods referred to in paragraph 1 of this Article shall remain under customs supervision for as long as is necessary to determine their customs status and shall not be removed from customs supervision without the permission of the customs authority.
- (4) Domestic goods shall not be subject to customs supervision once their customs status is established.
- (5) Foreign goods shall remain under customs supervision until their customs status is changed, or they are taken out of the customs territory of Montenegro or destroyed.
- (6) The holder of goods under customs supervision may, with the permission of the customs authority, examine the goods or take samples, in particular in order to determine their tariff classification, customs value or customs status.

Conveyance of goods to the appropriate place

Article 101

- (1) The person who brings goods into the customs territory of Montenegro shall convey them without delay, by the route and manner specified by the customs authority, to the competent customs authority, or to a place designated or approved by those authorities, or into a free zone.
- (2) The person referred to in paragraph 1 of this Article may bring goods into that free zone directly:
 - by sea or air; or
 - by land, without passing through another part of the customs territory of Montenegro, where the free zone adjoins the land frontier between Montenegro and another country.
- (3) A person who assumes responsibility for the carriage of goods after they have been brought into the customs territory of Montenegro shall become responsible for compliance with the obligations laid down in paragraphs 1 and 2 of this Article.
- (4) Goods which, although still outside the customs territory of Montenegro, may be subject to customs controls as a result of an agreement concluded with the other country or territory outside the customs territory of Montenegro, shall be treated as goods brought into the customs territory of Montenegro.
- (5) Transport of goods within frontier zones or in pipelines and wires as well as traffic of negligible economic importance (letters, postcards and printed matter and their electronic equivalents held on other media) or of goods carried by travellers, provided that customs supervision and customs control are conducted unhindered, shall be carried out pursuant to special rules and provisions under 1 and 2 of this Article.
- (6) Provision under paragraph 1 of this Article shall not apply to means of transport and goods carried thereon only passing through the territorial waters or the airspace of the customs territory of Montenegro without a stop within that territory.
- (7) The detailed manner of transporting goods referred to in paragraph 5 of this Article shall be prescribed by the Government.

Goods that have temporarily left the customs territory of Montenegro by sea or air

Article 102

- (1) Provisions under Articles 95 to 99 of this Law shall not apply in cases where:
 - foreign goods are brought into the customs territory of Montenegro after having temporarily left that territory by sea or by air and having been carried by direct route without a stop outside the customs territory.
 - domestic goods the customs status of which needs to be proven pursuant to the provision of Article 114 paragraph 2 of this Law are brought into the customs territory of Montenegro after having temporarily left that territory by sea or by air and having been carried by direct route without a stop outside the customs territory.
- (2) Provisions under 95 to 98 and Articles 95 to 98 and Article 104 and 105 of this Law shall not apply in cases where domestic goods which move without alteration of their customs status in accordance with Article 116 paragraph 2 of this Law are brought into the customs territory of Montenegro after having temporarily left that territory by sea or air and having been carried by direct route without a stop outside the customs territory.

Conveyance under special circumstances

Article 103

- (1) If, due to unforeseeable circumstances or force majeure, the obligation laid down in Article 101 paragraph 1 of this Law cannot be complied with, the person bringing goods into the customs territory of Montenegro or a person acting on that person's behalf shall inform the customs authority of the situation without delay.
- (2) If the unforeseeable circumstances or force majeure do not result in total loss of the goods, the customs authority shall also be informed of their precise location.
- (3) If, by reason of unforeseeable circumstances or force majeure, a vessel or aircraft referred to in Article 101 of this Law is forced to put into port or to land temporarily in the customs territory of Montenegro and the obligation laid down in Article 101 paragraph 1 of this Law cannot be complied with, the commander of the vessel or aircraft, or any other person acting on that person's behalf, shall inform the customs authority of the situation without delay.
- (4) The customs authorities shall determine the measures to be taken in order to permit customs supervision of the goods referred to in paragraph 1 of this Article, or of the vessel or aircraft and any goods thereon in accordance with paragraph 2 of this Article, and to ensure, where appropriate, that they are subsequently conveyed to a competent customs authority or other place designated or approved by that authority.

Section B

PRESENTATION, UNLOADING, AND EXAMINATION OF GOODS

Presentation of goods to the customs authority

Article 104

- (1) Goods brought into the customs territory of Montenegro shall be presented to the customs authority immediately upon their arrival by one of the following persons:
 - 1) the person who brought the goods into the customs territory of Montenegro;
 - 2) the person in whose name or on whose behalf the person who brought the goods into that territory acts;
 - 3) the person who assumed responsibility for carriage of the goods after they were brought into the customs territory of Montenegro.
- (2) Goods brought into the customs territory of Montenegro:
 - by sea or air and which remain on board the same means of transport, shall be presented to customs at the port or airport where they are unloaded or transhipped;
 - which are unloaded and reloaded onto the same means of transport during its voyage in order to enable the unloading or loading of other goods, shall not be presented to customs at that port or airport.
- (3) Presentation of the goods may be effected also by one of the following persons:
 - 1) a person who immediately places the goods under a customs procedure;
 - 2) the holder of an authorisation for the operation of storage facilities or a person who carries out an activity in a free zone.
- (4) The person presenting the goods shall submit information on the entry summary declaration or, in the cases referred to in Article 98, the declaration or temporary storage declaration which has been lodged in respect of the goods, except where the obligation to lodge an entry summary declaration is waived.

- (5) If foreign goods presented to customs are not covered by an entry summary declaration, a person referred to in Article 95 paragraph 5 of this Law shall immediately lodge that declaration or temporary storage declaration.
- (6) Transport of goods within frontier zones or in pipelines and wires as well as traffic of negligible economic importance (letters, postcards and printed matter and their electronic equivalents held on other media) or of goods carried by travellers, provided that customs supervision and customs control are conducted unhindered, shall be carried out pursuant to special rules and provisions under paragraph 1 of this Article.
- (7) Goods presented shall not be removed from the place where they have been presented without the permission of the customs authority.
- (8) A detailed manner of presentation of goods referred to in paragraph 1 of this Article shall be prescribed by the Government.

Unloading and examination of goods

Article 105

- (1) Goods shall be unloaded or transhipped from the means of transport carrying them solely with the authorisation of the customs authority in a place designated or approved by that authority.
- (2) Authorisation referred to in paragraph 1 of this Article shall not be required in the event of an imminent danger necessitating the immediate unloading of all or part of the goods, on which the customs authority shall be informed without delay.
- (3) The customs authority may at any time require goods to be unloaded and unpacked for the purpose of examining them, taking samples or examining the means of transport carrying them.

Goods moved under transit procedure

Article 106

- (1) If goods already under a transit procedure are brought into the customs territory of Montenegro, the provisions of Article 101 paragraphs 2 to 6, Articles 104 and 105, and Articles 107 to 112 of this Law shall not apply. 107 to 112 of this Law.
- (2) Provisions of Article 105 and Articles 107 to 112 of this Law shall apply to foreign goods moved under a transit procedure, once such goods have been presented to the customs authority for the purpose of completing the transit procedure (hereinafter referred to as "the customs office of destination") in the customs territory of Montenegro in accordance with the rules governing the transit procedure.

Section C

TEMPORARY STORAGE OF GOODS

Goods in temporary storage

Article 107

Foreign goods shall be in temporary storage from the moment they are presented to customs authority.

Temporary storage declaration

Article 108

- (1) Foreign goods presented to customs authority shall be covered by a temporary storage declaration containing the particulars necessary for the application of the provisions governing temporary storage.
- (2) Documents related to goods in temporary storage shall be provided to the customs authority where necessary for customs controls.
- (3) The temporary storage declaration shall be lodged by the persons referred to in Article 104 paragraphs 1 or 3 of this Law at the latest at the time of the presentation of the goods to customs authority.
- (4) The temporary storage declaration shall include a reference to all entry summary declarations lodged for the goods presented to customs, except where they have already been in temporary storage or have been placed under a customs procedure and have not left the customs territory of Montenegro.
- (5) Customs authority may accept that the temporary storage declaration takes one of the following forms:
 - 1) a reference to any entry summary declaration lodged for the goods concerned, supplemented by the particulars of a temporary storage declaration;
 - 2) a manifest or another transport document, provided that it contains the particulars of a temporary storage declaration, including a reference to any entry summary declaration for the those goods.
- (6) The customs authority may accept that information systems used by ports, carriers and other economic operators are used for the lodging of a temporary storage declaration, if such systems contain the necessary particulars for that declaration and those particulars are available in accordance with paragraph 3 of this Article.
- (7) Articles 132 to 136 of this Law shall apply to the temporary storage declaration of goods.
- (8) The temporary storage declaration may be used also for the purpose of the following:
 - 1) the notification of aircraft arrival referred to in Article 99 of this Law; or
 - 2) the presentation of the goods to the customs authority referred to in Article 104 of this Law.
- (9) A temporary storage declaration shall not be required where, at the latest at the time of the presentation of the goods to customs, the customs status of goods as domestic goods is determined in accordance with Articles 114 to 116 of this Law.
- (10) The temporary storage declaration shall be kept by, or be accessible to, the customs authority for the purpose of verifying that the goods to which the declaration relates are subsequently placed under a customs procedure or re-exported in accordance with Article 112 of this Law.
- (11) If foreign goods moved under a transit procedure are presented to the customs authority of destination within the customs territory of Montenegro, the particulars for the transit operation concerned shall be deemed to be the temporary storage declaration, provided they meet the requirements for the purposes, for which the temporary storage declaration shall be lodged.
- (12) The holder of the goods may lodge a temporary storage declaration after the end of the transit procedure.
- (13) The manner of lodging of the temporary storage declaration referred to in this Article shall be prescribed by the Government.

Amendment and invalidation of a temporary storage declaration

Article 109

- (1) The declarant may, upon application, be permitted to amend one or more particulars of the temporary storage declaration after it has been lodged and the amendments to the declaration may not be applicable to goods other than those which it originally covered.
- (2) Amendment referred to in paragraph 1 of this Article shall not be possible after any of the following:
 - 1) the customs authority has informed the person who lodged the declaration it intends to examine the goods;
 - 2) the customs authority has established that particulars of the declaration are incorrect.
- (3) If the goods for which a temporary storage declaration has been lodged are not presented to customs authority, the customs authority shall invalidate that declaration in the following cases:
 - 1) upon application by the declarant; or;
 - 2) after 30 days since the declaration was lodged.
- (4) The detailed manner of amending and invalidating a temporary storage declaration shall be prescribed by the Government.

Conditions and responsibilities for the temporary storage of goods

Article 110

- (1) Goods in temporary storage shall be stored only in temporary storage facilities in accordance with Article 111 of this Law or, where justified, in other places designated or approved by the customs authority.
- (2) Goods in temporary storage shall be subject only to such forms of handling as are designed to ensure their preservation in an unaltered state without modifying their appearance or technical characteristics.
- (3) The holder of the authorisation referred to in Article 111 of this Article or the person storing the goods in the cases where the goods are stored in other places designated or approved by the customs authority, shall be responsible for the following:
 - 1) ensuring that goods in temporary storage are not removed from customs supervision;
 - 2) fulfilling the obligations arising from the storage of goods in temporary storage.
- (4) If goods cannot be maintained in temporary storage, the customs authority shall without delay take all measures to resolve the situation of the goods in accordance with Articles 139, 140 and 141 of this Law.
- (5) The detailed manner of approving other places for temporary storage of goods referred to in paragraph 1 of this Article shall be prescribed by the Government.

Authorisation for the operation of temporary storage facilities

Article 111

- (1) An authorisation from the customs authority shall be required for the operation of temporary storage facilities.
- (2) (1) The authorisation shall not be required where the operator of the temporary storage facility is the customs authority.

- (3) The conditions under which the operation of temporary storage facilities is permitted shall be set out in the authorisation.
- (4) The authorisation referred to in paragraph 1 of this Article shall be granted only to persons who satisfy the following conditions:
 - 1) they are established in the customs territory of Montenegro;
 - 2) they ensure the proper conduct of the operations; except for an authorised economic operator for customs simplifications which shall fulfil that condition insofar as the operation of temporary storage facilities is taken into account in the authorisation referred to in Article 25 paragraph 3 item 1 of this Law;
 - 3) they provide a guarantee in accordance with Article 66 of this Law.
- (5) If a comprehensive guarantee is provided, compliance with the obligations attached to that guarantee shall be monitored by appropriate audit.
- (6) The authorisation referred to in paragraph 1 of this Article shall be granted only where the customs authority is able to exercise customs supervision without having to introduce administrative arrangements which are disproportionate to the economic needs.
- (7) The holder of the authorisation shall keep appropriate records in a manner approved by the customs authority.
- (8) The records shall contain the information and the particulars, which enable the customs authority to supervise the operation of the temporary storage facilities, in particular with regard to the identification of the goods stored, their customs status and their movements.
- (9) An authorised economic operator for customs simplifications shall be deemed to comply with the obligation referred to in paragraphs 6 and 7 of this Article, insofar as their records are appropriate for the purpose of the operation of temporary storage.
- (10) The customs authority may authorise the holder of the authorisation to move goods in temporary storage between different temporary storage facilities under the condition that such movements would not increase the risk of fraud, as follows:
 - 1) where such movement takes place under the responsibility of one customs office;
 - 2) where such movement is covered by only one authorisation, issued to an authorised economic operator for customs simplifications.
- (11) The customs authority may, where an economic need exists and customs supervision will not be adversely affected, authorise the storage of domestic goods in a temporary storage facility. Those goods shall not be regarded as goods in temporary storage.
- (12) Detailed conditions for issue of authorisations for the operation of temporary storage facilities and movement of goods under temporary storage shall be prescribed by the Government.

Duration of temporary storage

Article 112

Foreign goods in temporary storage shall be placed under a customs procedure or re-exported within 90 days of the date it was placed in temporary storage.

Choice of a customs procedure

Article 113

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

XII. CUSTOMS STATUS OF GOODS

Customs status of domestic goods

Article 114

- (1) Goods in the customs territory of Montenegro shall be presumed to have the customs status of Union goods, unless it is established that they are not domestic goods.
- (2) By way of exception of paragraph 1 of this Article the customs status of domestic goods shall need to be proven for:
 - 1) goods brought into the customs territory and which is under customs supervision for the purpose of determining their customs status;
 - 2) goods in temporary storage;
 - 3) goods placed under any customs procedure, except goods placed under internal transit, outward processing or end-use procedure;
 - 4) products of sea fishing caught by fishing vessels registered in Montenegro, outside the customs territory in waters other than the territorial waters of another country, which are introduced into the customs territory;
 - 5) products obtained from the products referred to in item 4 of this paragraph on a vessel or factory ship registered in Montenegro, during production in which it was possible to use other products brought into the customs territory;
 - 6) products of sea fishing and other products taken out or caught by vessels flying the flag of another country in the customs territory.
- (3) Goods wholly obtained in the customs territory of Montenegro do not have the customs status of domestic goods if they are obtained from or placed under the external transit procedure, a storage procedure, the temporary admission procedure or the inward processing procedure.
- (4) Detailed cases referred to in paragraphs 2 and 3 of this Article shall be prescribed by the Government.

Loss of customs status of domestic goods

Article 115

Domestic goods shall become foreign goods in the following cases:

- 1) if they are taken out of the customs territory of Montenegro, insofar as the rules on internal transit do not apply;
- 2) where they have been placed under the external transit procedure, a storage procedure or the inward processing procedure;
- 3) where they have been placed under the end-use procedure and are either subsequently abandoned to the State, or are destroyed and waste remains;
- 4) where the declaration for release for free circulation is invalidated after release of the goods.

Domestic goods temporarily leaving the customs territory of Montenegro

Article 116

- (1) In the cases referred to in Article 156 paragraph 2 items 2 to 5 of this Law, goods shall keep their customs status as domestic goods only if that status is established in accordance with this Law.
- (2) By way of exception of paragraph 1 of this Article, domestic goods may move, without being subject to a customs procedure, from one point to another within the customs territory of Montenegro and temporarily out of that territory without alteration of their customs status.
- (3) A detailed manner of movement of goods referred to in paragraph 2 of this Article shall be prescribed by the Government.

XIII. PLACING GOODS UNDER A CUSTOMS PROCEDURE

Section A

GENERAL PROVISIONS

Declaration of goods and customs supervision of domestic goods

Article 117

- (1) Goods intended to be placed under a customs procedure, except for the free zone procedure, shall be covered by a declaration for the particular procedure.
- (2) A declaration may be lodged using means other than those referred to in Article 8 paragraph 8 of this Law.
- (3) Domestic goods declared for export, internal transit or outward processing shall be subject to customs supervision from the time of acceptance of the declaration referred to in paragraph 1 of this Article until such time as they are taken out of the customs territory of Montenegro or are abandoned to the State or destroyed or the customs declaration is invalidated.
- (4) A detailed manner of placing goods under the customs procedure referred to in paragraph 2 of this Article shall be prescribed by the Government.

Competent customs authority

Article 118

- (1) Which customs authority shall be responsible for placing the goods under a customs procedure shall be determined by the place goods were presented, unless this Law provides otherwise.
- (2) By way of exception of paragraph 1 of this Article, the place of the custom procedure of goods concerned or carrying of the customs clearance shall be determined by the Customs Administration director, subject to specificity of goods under the customs procedure.

Section B

STANDARD DECLARATIONS

Content of a standard declaration

Article 119

- (1) Standard declaration shall contain the particulars necessary for application of the customs procedure for which the goods are declared.

- (2) The content and manner of lodging of the customs declaration referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

Supporting documents

Article 120

- (2) The supporting documents required for the application of the customs procedure for which the goods are declared shall be in the declarant's possession and at the disposal of the customs authority at the time when the customs declaration is lodged.
- (2) Supporting documents shall be provided to the customs authority if necessary for performing customs controls.

Section C

SIMPLIFICATIONS

Simplified declaration

Article 121

- (1) The customs authority may accept placing goods under a customs procedure based on a simplified declaration which does not contain some of the particulars referred to in Article 119 of this Law or without some of the supporting documents.
- (2) The regular use of a simplified declaration referred to in paragraph 1 of this Article shall be authorised by the customs authority.
- (3) A detailed manner of lodging the simplified declaration shall be prescribed by the Government.

Supplementary declaration

Article 122

- (1) In the case of using a simplified declaration pursuant to Article 121 of this Law or of an entry in the declarant's records pursuant to Article 130 of this Law, the declarant shall lodge a supplementary declaration containing the particulars necessary for the customs procedure concerned with the competent customs authority.
- (2) In the case of using a simplified declaration pursuant to Article 121 of this Law, the necessary supporting documents shall be in the declarant's possession and at the disposal of the customs authority within a specific time limit.
- (3) The supplementary declaration may be of a general, periodic or recapitulative nature.
- (2) The obligation to submit a supplementary declaration can be waived if the goods are placed in customs storage and in other prescribed cases.
- (5) The customs authority may waive the requirement to lodge a supplementary declaration where the following conditions apply:
- 1) the simplified declaration concerns goods the value and quantity of which is below the statistical threshold;
 - 2) the simplified declaration already contains all the information needed for the customs procedure concerned; and
 - 3) the simplified declaration is not made by entry in the declarant's records.
- (6) The simplified declaration referred to in Article 121 of this Law or the entry in the declarant's records referred to in Article 130 of this Law, and the supplementary declaration shall constitute a single instrument to which regulations applicable on the

date on which the simplified declaration is accepted in accordance with Article 125 of this Law and on the date on which the goods are entered in the declarant's records shall apply.

- (7) The place where the supplementary declaration is to be lodged shall be deemed to be the place where the customs declaration has been lodged, in accordance with Article 65 of this Law.
- (8) A detailed manner of lodging of supplementary declaration shall be prescribed by the Government.

Section Č

PROVISIONS APPLYING TO ALL CUSTOMS DECLARATIONS

Lodging a customs declaration

Article 123

- (1) A declaration may be lodged by a person who is able to provide the information which is required for the application the customs procedure in respect of which the goods are declared and which is also able to present the goods or to have them presented to the customs authority.
- (2) If acceptance of a customs declaration imposes particular obligations on a specific person, that declaration shall be lodged by that person or their representative.
- (3) The declarant shall be established in the customs territory of Montenegro.
- (4) By way of exception from paragraph 3 of this Article, the declarant shall not be required to be established in the customs territory of Montenegro if:
 - 1) they lodge a declaration for transit or temporary admission;
 - 2) they occasionally lodge a declaration, including for end-use or inward processing, provided that the customs authority considers this to be justified;
 - 3) they are established in a country or territory which is adjacent to the customs territory of Montenegro, and who present the goods to which the customs declaration refers at a competent customs authority of Montenegro at the border with that country or territory, provided that the country or territory in which the person is established grants reciprocal benefits to persons established in the customs territory of Montenegro.
- (5) The customs declaration referred to in paragraph 1 of this Article shall be authenticated.

Lodging a customs declaration prior to the presentation of the goods

Article 124

- (1) A declaration may be lodged prior to the expected presentation of the goods to customs.
- (2) If the goods are not presented within 30 days of lodging of the customs declaration, the customs declaration shall be deemed not to have been lodged.
- (3) A detailed manner of lodging of the declaration prior to the presentation of the goods shall be prescribed by the Government.

Acceptance of a declaration

Article 125

- (1) A declaration which was lodged in accordance with the provisions of Articles 117 to 131 of this Law shall be accepted by the customs authority immediately, provided that the goods to which they refer have been presented to customs.
- (2) In the implementation of the customs procedure for which the goods are declared, the regulations relating to the day of acceptance of the declaration shall be applied, unless otherwise prescribed.
- (3) A detailed manner of accepting the declaration referred to in paragraph 1 of this Article shall be prescribed by the Government.

Amendment of a declaration

Article 126

- (1) The declarant may, upon application, with the permission of the customs authority, amend one or more of the particulars of the customs declaration after that declaration has been accepted, while the amendment of declaration may not be applicable to goods other than those which it originally covered by the declaration.
- (2) No amendment of a declaration shall be permitted where it is applied for after the customs authority:
 - 1) has informed the declarant that it intends to examine the goods;
 - 2) has established that the particulars the amendment of which is applied for are incorrect;
 - 3) has released the goods.
- (3) By way of exception of paragraph 1 of this Article, upon application by the declarant, within three years of the date of acceptance of the declaration, the amendment of the declaration may be permitted after release of the goods in order for the declarant to comply with their obligations relating to the placing of the goods under the customs procedure concerned.
- (4) A detailed manner of amending the declaration after release of goods in accordance with paragraph 3 of this Article shall be prescribed by the Government.

Invalidation of a declaration

Article 127

- (1) The customs authority shall, upon application by the declarant, invalidate a declaration already accepted in the following cases:
 - 1) if the declarant provides evidence that the goods are immediately to be placed under another customs procedure; or
 - 2) if the declarant provides evidence 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.
- (1) If the customs authority has informed the declarant of its intention to examine the goods, an application for invalidation of the customs declaration shall not be accepted before the examination has taken place.
- (2) The customs declaration shall not be invalidated after the goods have been released to the declarant, unless the customs authority subsequently should establish irregularities in respect to the customs procedure.
- (3) A detailed manner of invalidating the declaration after release of goods shall be prescribed by the Government.

Section Ć

OTHER SIMPLIFICATIONS

Simplification of declaration for goods falling under different tariff subheadings

Article 128

- (1) If a consignment made up of goods falling within different tariff subheadings is imported or exported, and dealing with each of those goods in accordance with its tariff subheading for the purpose of drawing-up the customs declaration would entail a burden of work and expense disproportionate to the import or export duty chargeable, the customs authority may, upon application by the declarant, agree that import or export duty be charged on the whole consignment on the basis of the tariff subheading of the goods which are subject to the highest rate of duty.
- (2) The customs authority shall refuse the use of the simplification referred to in paragraph 1 of this Article to goods subject to prohibitions or restrictions or excise duty where the correct classification is necessary to apply that measure.
- (3) A detailed manner of determining the tariff subheadings for goods for which the charging of duty referred to in paragraph 1 of this Article is stipulated shall be prescribed by the Government.

Centralised clearance

Article 129

- (1) The customs authority may, upon application, authorise a person to lodge a customs declaration at a customs office responsible for the place where such person is established, while the goods shall be presented at another customs office.
- (2) The applicant for the authorisation referred to in paragraph 1 of this Article shall be an authorised economic operator for customs simplifications.
- (3) The customs office at which the customs declaration is lodged shall:
 - 1) supervise the placing of the goods under the customs procedure concerned;
 - 2) carry out the customs controls for the verification of the declaration, referred to in Article 132 items 1 and 2 of this Law;
 - 3) where justified, request that the customs office at which the goods are presented carry out the customs controls for the verification of the customs declaration referred to Article 132 items 3 and 4 of this Law; and
 - 4) carry out the customs formalities for the recovery of the amount of import or export duty corresponding to the customs debt.
- (4) In lodging a declaration and presenting the goods the information necessary for the verification of the declaration and for the release of the goods shall be exchanged.
- (5) The customs office at which the goods are presented shall, without prejudice to its own controls pertaining to goods brought into or taken out of the customs territory of Montenegro, carry out the customs controls referred to in paragraph 3 item 3 of this Article and provide the customs office at which the declaration is lodged with the results of these controls.
- (6) The customs office at which the declaration is lodged shall release the goods in accordance with Articles 137 and 138 of this Law, taking into account:
 - 1) the results of its own controls for the verification of the declaration;

- 2) the results of the controls carried out by the customs office at which the goods are presented for the verification of the declaration and the controls pertaining to goods brought into or taken out of the customs territory of Montenegro.
- (7) A detailed manner of carrying out the customs simplification referred to in paragraph 1 of this Article shall be prescribed by the Government.

Entry in the declarant's records

Article 130

- (1) The customs authority may, upon application, authorise a person to lodge a declaration, including a simplified declaration, in the form of an entry in the declarant's records, provided that the particulars of that declaration are at the disposal of the customs authority in the declarant's electronic system at the time when the customs declaration in the form of an entry in the declarant's records is lodged.
- (2) The declaration shall be deemed to have been accepted at the moment of entry in the records.
- (3) The customs authority may, upon application, waive the obligation for the goods to be presented, while the goods shall be deemed to have been released at the moment of entry in the declarant's records.
- (4) The waiving of obligation for the goods to be presented referred to in paragraph 3 of this Article may be granted if the following conditions are fulfilled:
 - 1) the declarant is an authorised economic operator for customs simplifications;
 - 2) the nature and flow of the goods concerned so warrant and are known by the customs authority;
 - 3) the supervising customs office has access to all the information it considers necessary to enable it to exercise its right to examine the goods should the need arise;
 - 4) at the time of the entry into the records, the goods are no longer subject to prohibitions or restrictions, except where otherwise provided in the authorisation.
- (5) By way of exception of paragraph 4 of this Article, the supervising customs authority may, in specific situations, request that the goods be presented.
- (6) Detailed cases referred to in paragraph 4 of this Article and a manner of entry in the declarant's records and issue of authorisation referred to in paragraph 1 of this Article shall be prescribed by the Government.

Self-assessment

Article 131

- (1) Customs authority may, upon application, authorise a person to carry out certain customs formalities which are to be carried out by the customs authority, to determine the amount of import and export duty payable, and to perform certain controls under customs supervision.
- (2) The applicant for the authorisation referred to in paragraph 1 of this Article shall be an authorised economic operator for customs simplifications.
- (3) A detailed manner of carrying out the customs formalities and controls performed by the holder of the notification referred to in paragraph 1 of this Article shall be prescribed by the Government.

XIV. VERIFICATION AND RELEASE OF GOODS

Section A

VERIFICATION

Verification of a declaration

Article 132

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

- 1) examine the declaration and the supporting documents;
- 2) require the declarant to provide other documents;
- 3) examine the goods;
- 4) take samples for analysis or for detailed examination of the goods.

Examination and sampling of goods

Article 133

- (1) Transport of the goods to the places where they are to be examined and where samples are to be taken, and the handling of goods necessitated by such examination or taking of samples, shall be carried out by the declarant or other person under the responsibility of declarant, and the costs incurred shall be borne by the declarant.
- (2) The declarant shall have the right to be present or represented when the goods are examined and when samples are taken, and if the customs authority has reasonable grounds for so doing, it may require the declarant to be present or represented when the goods are examined or samples are taken or to provide it with the assistance necessary to facilitate such examination or taking of samples.
- (3) The customs authority shall not be liable for payment of any compensation in respect of samples taken but shall bear the costs of their analysis or examination, provided that samples are taken in accordance with the law.

Partial examination and sampling of goods

Article 134

- (1) If only part of the goods covered by a declaration is examined, or samples are taken, the results of the partial examination, or of the analysis or examination of the samples, shall apply to the goods covered by the that declaration.
- (2) The declarant may request a further examination or sampling of the goods if he considers that the results of the partial examination, or of the analysis or examination of the samples taken, are not valid as regards the remainder of the goods declared, and the request shall be granted provided that the goods have not been released or, if they have been released, that the declarant proves that they have not been altered in any way.
- (3) For the purposes of paragraph 1, If a declaration covers goods falling under two or more items, the particulars relating to goods falling under each item shall be deemed to constitute a separate declaration.
- (4) A detailed manner of verification and sample taking referred to in paragraph 1 of this Article and Articles 132 and 133 shall be prescribed by the Government.

Results of the verification

Article 135

- (1) If the customs authority has determined the facts based on verifying the declaration, those facts shall be the bases for performing the customs formalities in accordance with the law.
- (2) If the customs authority has not verified the declaration, the particulars the declarant has stated in the declaration shall be the bases for performing the customs formalities in accordance with the law.

Identification measures

Article 136

- (1) The customs authority or an economic operator shall take the measures necessary to identify the goods in accordance with the law.
- (2) The economic operator referred to in paragraph 1 of this Article shall take the measures necessary to identify the goods if it was authorised to do so by the customs authority.
- (3) The customs authority or the economic operator holding authorisation shall remove or destroy means of identification affixed to the goods, packaging or means of transport.
- (4) By way of exception of paragraph 3 of this Article, in case of unforeseeable circumstances or force majeure, the economic operator may remove or destroy means of identification without authorisation of the customs authority to ensure the protection of the goods or the means of transport.

Section B

RELEASE

Release of the goods

Article 137

- (1) If the conditions for placing the goods under the customs procedure concerned are fulfilled and provided that no restriction has been applied and the goods are not subject to prohibitions referred to in Article 61 of this Law, the customs authority shall release the goods as soon as the particulars in the customs declaration have been verified or are accepted without verification.
- (2) The paragraph 1 of this Article shall also apply where verification referred to in Article 132 of this Article cannot be completed within a reasonable period of time and the goods are no longer required to be present for verification purposes.
- (3) The goods covered by the same declaration shall be released at the same time.
- (4) For the purposes of application of paragraph 3 of this Article, if a declaration covers goods falling under two or more items the particulars relating to goods falling under each item shall constitute a separate declaration.

Release of goods dependent upon payment of the amount of import or export duty corresponding to the customs debt or provision of a guarantee

Article 138

- (1) If the placing of goods under a customs procedure gives rise to a customs debt, the release of the goods shall be conditional upon the payment of the amount of import or export duty corresponding to the customs debt or the provision of a guarantee to cover that debt.

- (2) The provision under paragraph 1 of this Article shall not apply to temporary admission with partial relief from import duty.
- (3) If the customs authority requires the provision of a guarantee for payment of the customs debt that could arise, the goods shall not be released for the customs procedure in question until such guarantee is provided.
- (4) By way of exception of paragraphs 2 and 3 of this Article, the release of the goods shall not be conditional upon the provision of a guarantee in respect of goods which are the subject of a drawing request on a tariff quota if the tariff quota is not deemed critical.
- (5) If a simplification referred to in Articles 121, 130 and 131 is used and a comprehensive guarantee is provided, release of the goods shall not be conditional upon a monitoring of the guarantee by the customs authority.
- (6) Detailed cases referred to in paragraph 4 of this Article shall be prescribed by the Government.

XV. DISPOSAL OF GOODS

Destruction of goods

Article 139

- (1) If the customs authority requires the goods which have been presented to be destroyed, it shall inform the holder of the goods accordingly.
- (2) The costs of the destruction of goods referred to in paragraph 1 of this Article shall be borne by the holder of the goods.
- (3) A detailed manner of the destruction of goods shall be prescribed by the Government.

Measures to be taken by the customs authority

Article 140

- (1) The customs authority shall take any necessary measures, including confiscation and sale, or destruction, to dispose of goods in the following cases:
 - 1) if foreign goods have been introduced into the customs territory of Montenegro or have been withheld from customs supervision without authorisation;
 - 2) if the goods cannot be released for any of the following reasons:
 - ~ it has not been possible to undertake examination of the goods within the period prescribed by the customs authority, due to declarant's failure to act in accordance with the law,
 - ~ the documents which must be provided before the goods can be placed under, or released for, the customs procedure requested have not been provided,
 - ~ payments or a guarantee which should have been made or provided in respect of import or export duty, as the case may be, have not been made or provided within the prescribed period,
 - ~ the goods are subject to prohibitions or restrictions;
 - 3) if the goods have not been removed within a reasonable period after their release;
 - 4) if after their release, the goods are found not to have fulfilled the conditions for that release; or
 - 5) if goods are abandoned to the State in accordance with Article 141 of this Law.
- (2) Foreign goods which have been abandoned to the State, seized or confiscated shall be deemed to be placed under the customs warehousing procedure and shall be

entered in the records by the customs warehousing operator or, by the customs authority if it is its keeper.

- (3) If goods to be destroyed, abandoned to the State, seized or confiscated are already subject to a declaration, the records shall include a reference to the number of the declaration and the customs authority shall invalidate that declaration.
- (4) The costs of the measures referred to in paragraph 1:
 - 1) item 1 of this Article shall be borne by a person who was required to fulfil the obligations concerned or who withheld the goods from customs supervision;
 - 2) items 2 and 3 of this Article shall be borne by the declarant;
 - 3) item 4 of this Article shall be borne by the person who is required to comply with the conditions governing the release of the goods;
 - 4) item 5 of this Article shall be borne by the person who abandons the goods to the State.
- (5) A detailed manner of selling goods referred to in paragraph 1 of this Article shall be prescribed by the Government.

Abandonment

Article 141

- (1) Foreign goods and domestic goods placed under the end-use procedure may with prior permission of the customs authority be abandoned to the State by the holder of the procedure or, where applicable, the holder of the goods.
- (2) A detailed manner of abandonment of goods to the State referred to in paragraph 1 of this Article shall be prescribed by the Government.

XVI. RELEASE OF GOODS FOR FREE CIRCULATION

Scope and effect

Article 142

- (1) Foreign goods intended to be put on Montenegro market or intended for private use or consumption within the customs territory of Montenegro shall be placed under release for free circulation and shall entail the following:
 - 1) the collection of any import duty due;
 - 2) the collection, as appropriate, of other charges, as provided for by the law;
 - 3) the application of commercial policy measures and prohibitions and restrictions insofar as they do not have to be applied before release of goods for free circulation; and
 - 4) completion of the other formalities laid down in respect of the import of the goods.
- (2) Release for free circulation shall confer on foreign goods the customs status of domestic goods.

Commercial policy measures

Article 143

- (1) If processed products obtained under inward processing are released for free circulation and the calculation of the amount of import duty is made in accordance with Article 64 paragraph 4 of this Law, the commercial policy measures to be applied shall be those applicable to the release for free circulation of the goods which were placed under inward processing procedure.

- (2) The provision under paragraph 1 of this Article shall not apply to waste and scrap.
- (3) If processed products obtained under inward processing are released for free circulation and the calculation of the amount of import duty is made in accordance with Article 63 paragraph 1 of this Law, the commercial policy measures applicable to those goods shall be applied only where the goods which were placed under inward processing are subject to such measures.
- (4) If commercial policy measures on release for free circulation were established by special regulations, such measures shall not apply to processed products released for free circulation following outward processing if:
 - 1) the processed products retain their domestic origin within the meaning of Article 38 of this Law;
 - 2) the outward processing involves repair, including the standard exchange system referred to in Article 183 of this Law; or
 - 3) the outward processing follows further processing operations in accordance with Article 179 of this Law.

XVII. RELIEF FROM PAYMENT OF IMPORT DUTY

Section A

RETURNED GOODS

Scope and effect

Article 144

- (1) Foreign goods which, having originally been exported as domestic goods from the customs territory of the Union, are returned to that territory within a period of three years and declared for release for free circulation shall, upon application by the person concerned, be granted relief from payment of import duty.
- (2) The provision under paragraph 1 of this Article shall apply even where the returned goods represent only a part of the goods previously exported from the customs territory of Montenegro.
- (3) The three-year period referred to in paragraph 1 of this Article may be extended in the event of special circumstances.
- (4) Where, prior to their export from the customs territory of Montenegro, the returned goods had been released for free circulation duty-free or at a reduced rate of import duty because of a particular end-use, relief from payment of duty under paragraph 1 of this Article shall be granted only if they are to be released for free circulation for the same end-use.
- (5) If the end-use for which the goods are to be released for free circulation is no longer the same, the amount of import duty shall be reduced by any amount collected on the goods when they were first released for free circulation, and if that amount exceed that levied on the release for free circulation of the returned goods, no repayment of excess duty shall be granted.
- (6) If domestic goods have lost their customs status as domestic goods pursuant to Article 115 of this Law and are subsequently released for free circulation, the provisions of paragraphs 1 to 5 of this Article shall apply.
- (7) The relief from payment of import duty shall be granted only if goods are returned in the state in which they were exported.

- (8) Relief from import duty shall not be granted to goods which have benefited from measures laid down under the agricultural policy involving their export out of the customs territory of Montenegro.
- (9) The relief from payment of import duty shall be supported by evidence establishing that the conditions for the relief are fulfilled.
- (10) A detailed manner of relief from payment of import duty referred to in this Article shall be prescribed by the Government.

Goods previously placed under the inward processing procedure

Article 145

- (1) The provision of Article 114 of this Law shall apply to processed products which were originally re-exported from the customs territory of Montenegro subsequent to an inward processing procedure.
- (2) Upon application by the declarant and provided the declarant submits the necessary evidence, the amount of import duty on the goods covered by paragraph 1 of this Article shall be determined in accordance with Article 64 paragraph 4 of this law, and the date of acceptance of the re-export declaration shall be regarded as the date of release for free circulation.
- (3) The relief from payment of import duty provided for in Article 144 of this Article shall not be granted for processed products which were exported in accordance with Article 154 paragraph 4 item 3 of this Law, except if goods will be placed under the inward processing procedure.

Section B

SEA-FISHING AND PRODUCTS TAKEN FROM THE SEA

Products of sea-fishing and other products taken from the sea

Article 146

- (1) Import duty shall not be paid for the following products when they are released for free circulation:
 - 1) products of sea-fishing and other products taken from the territorial sea of other countries outside the customs territory of Montenegro by vessels solely registered or recorded in Montenegro and flying the flag of Montenegro;
 - 2) obtained from products referred to in item 1 of this Article on board factory-ships fulfilling the conditions laid down in that item.
- (2) For the relief from payment of import duty, evidence that the conditions laid down in paragraph 1 of this Article are fulfilled shall be provided to the customs authority.
- (3) A detailed procedure of relief from payment of import duty referred to in paragraph 2 of this Article shall be prescribed by the Government.

XVIII. SPECIAL PROCEDURES – GENERAL PROVISIONS

Scope

Article 147

Goods may be placed under any of the following special procedures:

- 1) transit, which shall comprise external and internal transit;
- 2) storage, which shall comprise customs warehousing and free zones;

- 3) specific use, which shall comprise temporary admission and end-use;
- 4) processing, which shall comprise inward and outward processing.

Authorisation

Article 148

- (1) An authorisation from the customs authority shall be required for the following:
 - 1) the inward or outward processing procedure, the temporary admission procedure or the end-use procedure;
 - 2) the operation of the customs warehousing facilities, except where the storage facility operator is the customs authority itself.
- (2) The conditions under which the use of one or more of the procedures referred to in paragraph 1 item 1 of this Article or the operation of customs storage facilities is permitted shall be set out in the authorisation.
- (3) The customs authority shall grant an authorisation with retroactive effect, where the following conditions are fulfilled:
 - 1) there is a proven economic need;
 - 2) the application is not intended for abuse;
 - 3) the applicant has proven based on accounts or records that:
 - all the requirements of the procedure are met,
 - where appropriate, the goods can be identified for the period involved,
 - the control of the procedure is allowed;
 - 4) all the formalities necessary to regularise the status of the goods can be carried out, including, where necessary, the invalidation of the declarations concerned;
 - 5) no authorisation with retroactive effect has been granted to the applicant after expiry of three years of the date on which the application was accepted;
 - 6) an examination of the economic conditions is not required, except where an application concerns renewal of an authorisation for the same kind of operation and goods;
 - 7) the application does not concern the operation of storage facilities for the customs warehousing; and
 - 8) if an application concerns renewal of an authorisation for the same kind of operation and goods, the application is submitted within three years of the date of issue of the original authorisation.
- (4) The customs authority may grant an authorisation with retroactive effect also if the goods which were placed under a customs procedure are no longer available at the time when the application for such authorisation was accepted.
- (5) Except where otherwise provided, the authorisation referred to in paragraph 1 of this Article shall be granted only to persons who satisfy all of the following conditions:
 - 1) they are established in the customs territory of Montenegro;
 - 2) they provide the necessary evidence of the proper conduct of the operations; an authorised economic operator for customs simplifications shall be deemed to fulfil this condition, insofar as the activity pertaining to the special procedure concerned is taken into account in the authorisation referred to in Article 25 paragraph 3 item 1 of this Law;
 - 3) if a customs debt or other charges may be incurred for goods placed under a special procedure, they provide a guarantee in accordance with Article 66 of this Law;

- 4) in the case of the temporary admission or inward processing procedure, they use the goods or arrange for their use or they carry out processing operations on the goods or arrange for them to be carried out, in that order.
- (6) Except where otherwise provided and in addition to paragraph 3, the authorisation referred to in paragraph 1 of this Article shall be granted only if:
- 1) the customs authority is able to exercise customs supervision without having to introduce administrative arrangements disproportionate to the economic needs;
 - 2) the essential interests of domestic producers would not be adversely affected by an authorisation for a processing procedure (economic conditions), except where evidence to the contrary exists or where the economic conditions are deemed to be fulfilled.
- (7) If evidence exist that the essential interests of domestic producers may be adversely affected, an examination of the economic conditions shall take place in the manner prescribed by the Government.
- (8) A manner of issue of the authorisation referred to in paragraph 1 of this Article shall be prescribed by the Government.

Records

Article 149

- (1) Except for the transit procedure, the holder of the authorisation, the holder of the procedure, and all persons carrying on an activity involving the storage, working or processing of goods, or the sale or purchase of goods in free zones, shall keep appropriate records in a form approved by the customs authority.
- (2) The records referred to in paragraph 1 of this Article shall contain the information which enable the customs authority to supervise the customs procedure under which the goods have been placed, in particular with regard to identification of the goods placed under that procedure, their customs status and their movements.
- (3) An authorised economic operator for customs simplifications shall be deemed to comply with the obligation laid down in paragraphs 1 and 2 of this Article insofar as their records are appropriate for the purpose of the special procedure under which the goods have been placed.

Discharge of a special procedure

Article 150

- (1) A special procedure referred to in Article 147 of this Law shall be discharged when the goods placed under the procedure, or the processed products, which are placed under a subsequent customs procedure, have been taken out of the customs territory of Montenegro, or have been destroyed with no waste remaining, or are abandoned to the State in accordance with Article 141 of this Law, except for transit procedure.
- (2) The transit procedure shall be discharged by the customs authority when it is in a position to establish, based on a comparison of the data available to the customs authority of departure and those available to the customs authority of destination, that the procedure has ended correctly.
- (3) The customs authority shall take all the measures necessary to regularise the situation of the goods in respect of which a procedure has not been discharged under the conditions prescribed.
- (4) A detailed manner of discharging the special procedure shall be prescribed by the Government.

Transfer of rights and obligations

Article 151

- (1) The rights and obligations of the holder of a procedure with regard to goods which have been placed under a special procedure other than transit procedure may be fully or partially transferred to another person who fulfils the conditions laid down for the procedure concerned.
- (2) A detailed manner of transfer of rights and obligations of the holder of the procedure referred to in paragraph 1 of this Article shall be prescribed by the Government.

Movement of goods

Article 152

- (1) Goods placed under a special procedure other than transit procedure or in a free zone may be moved between different places in the customs territory of Montenegro.
- (2) A detailed manner of movement of goods referred to in paragraph 1 of this Article shall be prescribed by the Government.

Usual forms of handling

Article 153

- (1) Goods placed under customs warehousing or a processing procedure or in a free zone may undergo usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale.
- (2) Handling referred to in paragraph 1 of this Article shall not change the ten-digit tariff code of the customs tariff that goods concerned is classified with.
- (3) A detailed manner of determination of handling referred to in paragraph 1 of this Article shall be prescribed by the Government.

Equivalent goods

Article 154

- (1) Equivalent goods shall consist of domestic goods, which are stored, used or processed instead of the goods placed under a special procedure.
- (2) Under the outward processing procedure, equivalent goods shall consist in foreign goods, which are processed instead of domestic goods placed under the outward processing procedure.
- (3) Equivalent goods shall have the same tariff code, the same commercial quality, and the same technical characteristics as the goods which they are replacing.
- (4) Provided that the proper conduct of the procedure, in particular as regards customs supervision, is ensured, the customs authority shall, upon application, authorise the following:
 - 1) the use of equivalent goods under customs warehousing, free zones, end-use and a processing procedure;
 - 2) the use of equivalent goods under the temporary admission procedure;
 - 3) in the case of the inward processing procedure, the export of processed products obtained from equivalent goods before the import of the goods they are replacing;
 - 4) in the case of the outward processing procedure, the import of processed products obtained from equivalent goods before the export of the goods they are replacing.

- (5) An authorised economic operator for customs simplifications shall be deemed to fulfil the condition that the proper conduct of the procedure is ensured, insofar as the activity pertaining to the use of equivalent goods for the procedure concerned is in accordance with Article 25 paragraph 3 item 1 of this Law.
- (6) The use of equivalent goods shall not be authorised in the following cases:
- 1) if only usual forms of handling as defined in Article 153 of this Law are carried out under the inward processing procedure;
 - 2) if a prohibition of drawback of, or exemption from, import duty applies to non-originating goods used in the manufacture of processed products under the inward processing procedure, for which a proof of origin is issued or made out in the framework of a preferential arrangement between Montenegro and certain countries or territories outside the customs territory of Montenegro or groups of such countries or territories;
 - 3) if it would lead to an unjustified import duty advantage or if provided for by the law.
- (7) In the case referred to in paragraph 4 item 3 of this Article, and where the processed products would be liable to export duty if they were not being exported in the context of the inward processing procedure, the holder of the authorisation shall provide a guarantee to ensure payment of the export duty should the foreign goods not be imported within the period referred to in Article 178 paragraph 5 of this Law.
- (8) A detailed manner of determination of equivalent goods referred to in paragraph 4 item 2 of this Article shall be prescribed by the Government.

XIX. TRANSIT

Section A

EXTERNAL AND INTERNAL TRANSIT

External transit

Article 155

- (1) Under the external transit procedure, foreign goods may be moved from one point to another within the customs territory of Montenegro without being subject to any of the following:
- 1) import duty;
 - 2) other charges levied on import;
 - 3) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of Montenegro.
- (2) Movement of goods referred to in paragraph 1 of this Article shall take place in one of the following ways:
- 1) under the external national transit procedure;
 - 2) in accordance with the TIR Convention, provided that:
 - (a) it began or is to end outside the customs territory of Montenegro,
 - (b) it is effected between two points in the customs territory of Montenegro through the territory of a country or territory outside the customs territory of Montenegro;
 - 3) in accordance with the ATA Convention/Istanbul Convention, in the part related to transit;

- 4) under cover of form 302 provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on June 19, 1951;
 - 5) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations.
- (3) Manner of movement of domestic goods to a foreign transit procedure shall be prescribed by the Government.

Internal transit

Article 156

- (1) Under the internal transit procedure, domestic goods may be moved from one point to another within the customs territory of Montenegro, and pass through a country or territory outside that customs territory, without any change in their customs status.
- (2) The movement referred to in paragraph 1 of this Article shall take place in one of the following ways:
 - 1) under the internal national transit procedure - provided that such a possibility is provided for in an international agreement;
 - 2) in accordance with the TIR Convention;
 - 3) in accordance with the ATA Convention/Istanbul Convention, in the part related to transit;
 - 4) under cover of form 302 provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on June 19, 1951;
 - 5) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts;
- (3) A detailed manner of movement of goods in the internal transit shall be prescribed by the Government.

Authorised consignee for TIR purposes

Article 157

- (1) The customs authority may, upon application, authorise a person, referred to as an 'authorised consignee' to receive goods moved in accordance with the TIR Convention at an authorised place, so that the procedure is terminated in accordance with point (d) of Article 1 of the TIR Convention.
- (2) A detailed manner of issue of authorisation referred to in paragraph 1 of this Article shall be prescribed by the Government.

Section B

NATIONAL TRANSIT PROCEDURE

Obligations of the holder of national transit procedure and of the carrier and recipient of goods

Article 158

- (1) The holder of national transit procedure shall be the person lodging the declaration or that on behalf of which the declaration is lodged.

- (2) The holder of national transit procedure shall be responsible for the following:
 - 1) presentation of the goods intact and the required information at the customs authority of destination within the prescribed time-limit and in compliance with the measures taken by the customs authority to ensure their identification;
 - 2) observance of the customs provisions relating to the procedure;
 - 3) unless otherwise provided for in the customs regulations, provision of a guarantee in order to ensure payment of the amount of import or export duty corresponding to any customs debt or other charges, which may be incurred in respect of the goods.
- (3) The obligation of the holder of the procedure shall be met and the transit procedure shall end when the goods placed under the procedure and the required information is available at the customs office of destination in accordance with the law.
- (4) A carrier or recipient of goods who accepts goods knowing that they are moving under national transit procedure shall also be responsible for presentation of the goods intact at the customs office of destination within the prescribed time-limit and in compliance with the measures taken by the customs authority to ensure their identification.
- (5) Upon application of the person concerned, the customs authority may authorise any of the following simplifications regarding the placing of goods under the national transit procedure or the end of that procedure:
 - 1) the status of authorised consignor, allowing the holder of the authorisation to place goods under Montenegro transit procedure without presenting them to customs office;
 - 2) the status of authorised consignee, allowing the holder of the authorisation to receive goods moved under national transit procedure at an authorised place, to end the procedure in accordance with paragraph 2 of this Article;
 - 3) the use of seals of a special type, where sealing is required to ensure the identification of the goods placed under national transit procedure;
 - 4) the use of a customs declaration with reduced data requirements to place goods under national transit procedure;
 - 5) the use of an electronic transport document as declaration to place goods under Montenegro transit procedure, provided it contains the particulars of such declaration and those particulars are available to the customs authority at departure and at destination to allow the customs supervision of the goods and the discharge of the procedure.
- (6) A detailed procedure for placing goods in the national transit procedure shall be prescribed by the Government.

Goods passing through a country or territory outside the customs territory of Montenegro under the external national transit procedure

Article 159

- (1) The external national transit procedure shall apply to goods passing through a country or a territory outside the customs territory of Montenegro if one of the following conditions is fulfilled:
 - 1) provision is made to that effect under an international agreement;
 - 2) carriage through that country or territory is effected under cover of a single transport document drawn up in the customs territory of Montenegro.

- (2) In the case referred to in paragraph 1 item 2 of this Article, the external national transit procedure shall be suspended while the goods are outside the customs territory of Montenegro.

XX. STORAGE OF GOODS

Section A

COMMON PROVISIONS

Scope

Article 160

- (1) Under a storage procedure, foreign goods may be stored in the customs territory of Montenegro without being subject to:
- 1) payment of import duty;
 - 2) other charges levied on import;
 - 3) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of Montenegro.
- (2) Domestic goods may be placed under the customs warehousing or free zone procedure in accordance with special regulations, or in order to exercise the right established by a decision granting repayment or remission of import duty.
- (3) The customs authority may, where an economic need exists and customs supervision will not be adversely affected, authorise the storage of domestic goods in a storage facility for customs warehousing and those goods shall not be regarded as being under the customs warehousing procedure.
- (4) A detailed manner of placing goods in the customs warehousing or free-zone procedure shall be prescribed by the Government.

Duration of a storage procedure

Article 161

- (1) There shall be no limit to the length of time goods may remain under a storage procedure.
- (2) The customs authorities may set a time-limit by which a storage procedure must be discharged in particular where the type and nature of the goods may, in the case of long-term storage, pose a threat to human, animal or plant health or to the environment.

Section B

CUSTOMS WAREHOUSING

Storage of goods in customs warehouse

Article 162

- (1) Under the customs warehousing procedure foreign goods may be stored in premises or any other location authorised for that procedure by the customs authority and under customs supervision (customs warehouses).
- (2) Customs warehouse may be a public customs warehouse available for use by any person for the warehousing of goods, or a private customs warehouse for the storage of goods by the holder of an authorisation for customs warehousing.

- (3) Goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse and such removal shall, except in case of force majeure, be authorised in advance by the customs authority.

Processing

Article 163

- (1) The customs authority may, where an economic need exists and customs supervision is not adversely affected, authorise the processing of goods under the inward processing or end-use procedure to take place in a customs warehouse, subject to the conditions provided for by those procedures.
- (2) The goods referred to in paragraph 1 of this Article shall not be regarded as goods under the customs warehousing procedure.

Responsibilities of the holder of the authorisation or procedure

Article 164

- (1) The holder of the authorisation and the holder of the procedure shall be responsible for the following:
- 1) ensuring that goods under the customs warehousing procedure are not removed from customs supervision; and
 - 2) fulfilling the obligations arising from the storage of goods covered by the customs warehousing procedure.
- (2) By way of exception from paragraph 1, where the authorisation concerns a public customs warehouse, it may provide that the responsibilities referred to in paragraph 1 items 1 or 2 of this Article devolve exclusively upon the holder of the procedure.
- (3) The holder of the procedure shall be responsible for fulfilling the obligations arising from the customs warehousing procedure.

Section C

FREE ZONES

Designation of free zones

Article 165

- (1) For each free zone, the area defining the entry and exit points shall be determined.
- (2) Free zones shall be enclosed.
- (3) The perimeter and the entry and exit points of free zones shall be subject to customs supervision.
- (4) Persons, goods and means of transport entering or leaving free zones may be subject to customs controls.
- (5) The parts of the customs territory of Montenegro as free zones shall be determined by the Government.

Buildings and activities in free zones

Article 166

- (1) The construction of any building in a free zone shall require the prior approval of the customs authority.

- (2) Any economic activity in a free zone shall be carried out under the conditions prescribed by the law.
- (3) The customs authority shall be notified in advance on carrying out the economic activities in a free zone.
- (4) The customs authority may impose prohibitions or restrictions on the activities referred to in paragraph 2 of this Article, having regard to the nature of the goods, or the requirements of customs supervision, or security and safety requirements.
- (5) The customs authority may prohibit persons who do not provide the necessary assurance of compliance with the customs provisions from carrying on an activity in a free zone.

Presentation of goods and placing under the procedure

Article 167

- (1) Goods brought into a free zone shall be presented to customs authority and undergo the prescribed customs formalities in the following cases:
 - 1) if they are brought into the free zone directly from outside the customs territory of Montenegro;
 - 2) if they have been placed under a customs procedure which is ended or discharged when they are placed under the free zone procedure;
 - 3) if they are placed under the free zone procedure in order to benefit from a decision granting repayment or remission of import duty;
 - 4) if those formalities are provided for in accordance with the law.
- (2) Goods which are not brought into a free zone accordance with paragraph 1 of this Article shall not be presented to customs authority.
- (3) Goods brought into a free zone are deemed to be placed under the free zone procedure:
 - 1) at the moment of their entry into a free zone, unless they have already been placed under another customs procedure; or
 - 2) at the moment when a transit procedure is ended, unless they are immediately placed under a subsequent customs procedure.

Domestic goods in free zones

Article 168

- (1) Domestic goods may be entered, stored, moved, used, processed, or consumed in a free zone. In such cases the goods shall not be regarded as being under the free zone procedure.
- (2) Upon application by the person concerned, the customs authority shall establish the customs status as domestic goods in the case of:
 - 1) domestic goods which entered a free zone;
 - 2) domestic goods which have undergone processing operations within a free zone;
 - 3) goods released for free circulation within a free zone.

Foreign goods in free zones

Article 169

- (1) Foreign goods may, while they remain in a free zone, be released for free circulation or be placed under the inward processing, temporary admission or end-use procedure, in accordance with this Law.
- (2) In cases referred to in paragraph 1 of this Article the goods shall not be regarded as being under the free zone procedure.
- (3) Provision under paragraph 1 of this Article shall also apply to the use or consumption of goods of which the release for free circulation or temporary admission would not entail application of import duty or measures laid down under the agricultural or commercial policies.
- (4) In the case of the use or consumption referred to in paragraph 3 of this Article, no customs declaration for the release for free circulation or temporary admission procedure shall be required.
- (5) By way of exception of paragraph 4 of this Article, the declaration for free circulation shall be required if the goods are subject to a tariff quota or ceiling.

Taking goods out of a free zone

Article 170

- (1) Goods in a free zone may be exported or re-exported from the customs territory of Montenegro, or brought into another part of the customs territory of Montenegro.
- (2) Provisions of Articles 100 to 112 of this Article shall apply to goods taken out of a free zone into other parts of the customs territory of Montenegro.

Customs status of goods

Article 171

- (1) If goods are taken out of a free zone into another part of the customs territory of Montenegro or placed under a customs procedure, they shall be regarded as foreign goods unless the customs authority has determined their customs status as domestic goods.
- (2) For the purposes of applying export duty and export licences or export control measures laid down under the agricultural or commercial policies, the goods referred to in paragraph 1 of this Article shall be regarded as domestic goods, unless it is established that they do not have the customs status of domestic goods.

XXI. SPECIFIC USE

Section A

TEMPORARY ADMISSION

Scope

Article 172

- (1) Under the temporary admission procedure foreign goods intended for re-export may be subject to specific use in the customs territory of Montenegro, with total or partial relief from import duty, and without being subject to the following:
 - 1) other charges payable On import in accordance with the law;
 - 2) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of Montenegro.

- (2) The temporary admission procedure may only be used provided that the following conditions are met:
- 1) the goods shall not undergo any change, except normal depreciation due to the use made of them;
 - 2) it is possible to ensure that the goods placed under the procedure can be identified, except where, in view of the nature of the goods or of the intended use, the absence of identification measures shall not give rise to any abuse of the procedure or, in the case referred to in Article 154 of this Law, where compliance with the conditions laid down in respect of equivalent goods can be verified;
 - 3) the holder of the procedure is established outside the customs territory of Montenegro, except where otherwise provided;
 - 4) the requirements for total or partial duty relief laid down in the law are met.
- (3) Detailed cases referred to in paragraph 1 of this Article and conditions referred to in paragraph 2 of this Article shall be prescribed by the Government.

Period during which goods may remain under the temporary admission procedure

Article 173

- (1) The customs authority shall determine the period within which goods placed under the temporary admission procedure must be re-exported or placed under a subsequent customs procedure, and such period shall be long enough for the objective of authorised use to be achieved.
- (2) Except where otherwise provided, The maximum period during which goods may remain under the temporary admission procedure for the same purpose and under the responsibility of the same authorisation holder shall be 24 months, even where the procedure was discharged by placing the goods under another special procedure and subsequently placing them under the temporary admission procedure again.
- (3) If, in exceptional circumstances, the authorised use cannot be achieved within the period referred to in paragraphs 1 and 2 of this Article, the customs authority may grant an extension, of reasonable duration of that period, upon justified application by the holder of the authorisation.
- (4) The overall period during which goods may remain under the temporary admission procedure shall not exceed 10 years, except in the case of an unforeseeable event.

Amount of import duty in case of temporary admission with partial relief from import duty

Article 174

- (1) The amount of import duty in respect of goods placed under the temporary admission procedure with partial relief from import duty shall be set at 3% of the amount of import duty which would have been payable on those goods had they been released for free circulation on the date on which they were placed under the temporary admission procedure.
- (2) The amount referred to in paragraph 1 of this Article shall be payable for every month or fraction of a month during which the goods have been placed under the temporary admission procedure with partial relief from import duty.
- (3) The amount of import duty payable shall not exceed the amount which would have been payable if the goods in question had been released for free circulation on the date on which they were placed under the temporary admission procedure.

Section B

END-USE

End-use of goods procedure

Article 175

- (1) Under the end-use procedure, goods may be released for free circulation under a duty exemption or at a reduced rate of duty on account of their specific use.
- (2) If the goods are at a production stage which would allow economically the prescribed end-use only, the customs authority may establish in the authorisation the conditions under which the goods shall be deemed to have been used for the purposes laid down for applying the duty payment exemption or reduced rate of duty.
- (3) If goods are suitable for repeated use and the customs authority considers it appropriate in order to avoid abuse, customs supervision shall continue for a period not exceeding two years after the date of their first use for the purposes laid down for applying the duty payment exemption or reduced rate of duty.
- (4) Customs supervision under the end-use procedure shall end if the goods:
 - 1) have been used for the purposes laid down for the application of the duty payment exemption or reduced rate of duty;
 - 2) have been taken out of the customs territory of Montenegro, destroyed or abandoned to the State;
 - 3) have been used for purposes other than those laid down for the application of the duty payment exemption or reduced duty rate and the applicable import duty has been paid.
- (5) If the customs authority so requires, a rate of yield referred to in Article 176 of this Law shall also apply to the end-use procedure.
- (6) Waste and scrap which result from the working or processing of goods according to the prescribed end-use and losses due to natural wastage shall be considered as goods assigned to the prescribed end-use.
- (7) Waste and scrap resulting from the destruction of goods placed under the end-use procedure shall be deemed to be placed under the customs warehousing procedure.

XXII. PROCESSING

Section A

GENERAL PROVISIONS

Rate of yield

Article 176

- (1) The customs authority shall set the rate of yield or average rate of yield of the processing operation or where appropriate, the method of determining such rate, except where a rate of yield has been prescribed by the law.
- (2) The rate of yield or average rate of yield shall be determined based on the actual circumstances in which processing operations are, or are to be, carried out, and it may be adjusted, where appropriate.

Section B

INWARD PROCESSING

Scope

Article 177

- (1) Under the inward processing procedure foreign goods may be used in the customs territory of Montenegro in one or more processing operations without such goods being subject to the following:
 - 1) payment of import duty;
 - 2) other charges payable on import in accordance with the law;
 - 3) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of Montenegro.
- (2) The inward processing procedure may be used only if the goods placed under the procedure can be identified in the processed products, without prejudice to the use of production accessories, except in of repair and destruction of those goods.
- (3) In the case referred to in Article 154 of this Law, the inward processing procedure may be used if the conditions laid down in respect of equivalent goods have been met.
- (4) In addition to cases referred to in paragraphs 1 and 2 of this Article, the inward processing procedure may also be used for the following goods:
 - 1) goods intended to undergo operations to ensure their compliance with technical requirements for their release for free circulation;
 - 2) goods which shall be handled in accordance with Article 153 of this Law.

Period for discharge the inward processing procedure

Article 178

- (1) The customs authority shall specify the period within which the inward processing procedure is to be discharged, in accordance with Article 150 of this Law.
- (2) The period referred to in paragraph 1 of this Article shall run from the date on which the foreign goods are placed under the procedure and shall take account of the time required to carry out the processing operations and to discharge the procedure.
- (3) The customs authority may grant a reasonable extension of the period specified pursuant to paragraph 1, of this Article, upon justified application by the holder of the authorisation.
- (4) The authorisation may specify that a period, which commences in the course of a month, quarter, or semester shall end on the last day of a subsequent month, quarter or semester respectively.
- (5) In the case of prior export in accordance with Article 154 paragraph 4 item 3 of this Law, the authorisation shall specify the period within which the foreign goods shall be declared for the inward processing procedure, taking account of the time required for procurement and transport to the customs territory of Montenegro.
- (6) The period referred to in paragraph 5 of this Article shall be set in months and shall not exceed six months and it shall run from the date of acceptance of the export declaration relating to the processed products obtained from the equivalent goods.
- (7) At the request of the holder of the authorisation, the period of six months referred to in paragraph 6 of this Article may be extended, even after its expiry, provided that the total period does not exceed 12 months.

Temporary re-export of goods for further processing

Article 179

Upon application of the person concerned, the customs authority may authorise some or all of the goods placed under the inward processing procedure, or the processed products, to be temporarily re-exported for the purpose of further processing outside the customs territory of Montenegro, in accordance with the conditions laid down for the outward processing procedure.

Section C

OUTWARD PROCESSING

Scope

Article 180

- (1) Under the outward processing procedure domestic goods may be temporarily exported from the customs territory of Montenegro in order to undergo processing operations.
- (2) The products resulting from the outward processing procedure may be released for free circulation with total or partial relief from payment of import duty upon application by the holder of the authorisation or another person established in the customs territory of Montenegro provided that that person has obtained the consent of the holder of the authorisation and the conditions of the authorisation are fulfilled.
- (3) Outward processing shall not be allowed for any of the following domestic goods:
 - 1) goods the export of which gives rise to repayment or remission of import duty;
 - 2) goods which, prior to export, were released for free circulation under a duty payment exemption or at a reduced rate of duty by virtue of their end-use, for as long as the purposes of such end-use have not been fulfilled, unless those goods have to undergo repair operations;
 - 3) goods the export of which gives rise to the granting of export refunds;
 - 4) goods in respect of which an entitlement for subsidies is acquired under the common agricultural policy by virtue of the export of those goods.
- (4) The customs authority shall specify the period within which goods temporarily exported must be re-imported into the customs territory of Montenegro in the form of processed products, and released for free circulation, in order to be able to benefit from total or partial relief from payment of import duty, and the customs authority may grant an extension of that period, upon justified application by the holder of the authorisation.

Goods repaired free of charge

Article 181

- (1) If the outward processing procedure has been authorised for the purpose of repairing goods which have been temporarily exported, those goods may be released for free circulation with the total relief from payment of import duty, if it is established to the satisfaction of the customs authorities that goods have been repaired free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing or material defect.
- (2) The provision under paragraph 1 of this Article shall not apply if the manufacturing or material defect was established at the time when the goods in question were first released for free circulation.

Goods repaired or altered in the context of international agreements

Article 182

- (1) Total relief from import duty shall be granted to processed products resulting from goods placed under the outward processing procedure where it is established to the satisfaction of the customs authority that:
 - (a) those goods have been repaired or altered in a country or territory with which Montenegro has concluded an international agreement; and
 - (b) the conditions for the relief from import duty laid down in an international agreement are fulfilled.
- (2) The provision under paragraph 1 of this Article shall not apply to processed products resulting from equivalent goods as referred to in Article 154 of this Law and to replacement products as referred to in Articles 183 and 184 of the present Law.

Standard exchange system

Article 183

- (1) Under the outward processing procedure, the use of the standard exchange system, which allows that an imported product (hereinafter referred to as "the replacement product") may replace a processed product, shall be allowed.
- (2) The customs authority shall, upon application authorise the standard exchange system to be used where the processing operations involves the repair of domestic goods other than those subject to measures laid down under the common agricultural policy or to the specific arrangements applicable to certain goods resulting from the processing of agricultural products.
- (3) Replacement products shall have the same tariff code, the same quality and the same technical characteristics as the defective goods had the latter undergone repair.
- (4) If the defective goods have been used before export, the replacement products must also have been used, unless the replacement product has been supplied free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a material or manufacturing defect.
- (5) Provisions of Articles 180 and 182 which apply to the processed products shall apply to the replacement products.

Prior import of replacement products

Article 184

- (1) The customs authority shall, under the prescribed conditions, upon application by the person concerned, authorise replacement products to be imported before the defective goods are exported.
- (2) In the event of prior import referred to in paragraph 1 of this Article, a guarantee shall be provided, covering the amount of the import duty that would be payable should the defective goods not be exported in accordance with paragraph 3 of this Article.
- (3) The defective goods shall be exported within a period of two months from the date of acceptance by the customs authority of the declaration for the release for free circulation of the replacement products.
- (4) If the defective goods cannot be exported within the period referred to in paragraph 3 of this Article, the customs authority may grant a reasonable extension of that period, upon justified application by the holder of the authorisation.

XXIII. FORMALITIES PRIOR TO TAKING GOODS OUT OF THE CUSTOMS TERRITORY OF MONTENEGRO

Lodging a pre-departure declaration

Article 185

- (1) Goods to be taken out of the customs territory of Montenegro shall be covered by a pre-departure declaration to be lodged at the competent customs office within a specific time-limit before the goods are taken out of the customs territory.
- (2) By way of exception of paragraph 1 of this Article, a pre-departure declaration shall not be lodged:
 - 1) for means of transport and the goods carried thereon only passing through the airspace of the customs territory of Montenegro without a stop within that territory; or
 - 2) in other specific cases, where duly justified by the type of goods or traffic or where required by international agreements.
- (3) The pre-departure declaration shall take the form of one of the following:
 - 1) a declaration, where the goods to be taken out of the customs territory of Montenegro are placed under a customs procedure for which such declaration is required;
 - 2) a re-export declaration, in accordance with Article 189 of this Law;
 - 3) an exit summary declaration, in accordance with Article 190 of this Law.
- (4) The pre-departure declaration shall contain the particulars necessary for risk analysis for security and safety purposes.
- (5) A detailed manner of lodging the pre-departure declaration shall be prescribed by the Government

Risk analysis

Article 186

- (1) The customs authority to which the pre-departure declaration referred to in Article 185 of this Law is lodged shall ensure that a risk analysis is carried out based on that declaration.
- (2) The risk analysis referred to in paragraph 1 of this Article shall be carried out for security and safety purposes and the customs authority shall take the necessary measures based on the results of that analyses.
- (3) A detailed manner of carrying out the risk analysis referred to in paragraph 1 of this Article shall be prescribed by the Government.

XXIV. FORMALITIES ON EXIT OF GOODS

Customs supervision and formalities on exit of goods from the customs territory of Montenegro

Article 187

- (1) Goods to be taken out of the customs territory of Montenegro shall be subject to customs supervision and may be subject to customs controls.
- (2) For goods referred to in paragraph 1 of this Article, the customs authorities may determine the route to be used, and the time-limit for taking goods out of the customs territory of Montenegro.
- (3) Goods to be taken out of the customs territory of Montenegro shall be presented to customs on exit by one of the following persons:

- 1) the person who takes the goods out of the customs territory of Montenegro;
 - 2) the person in whose name or on whose behalf the person who takes the goods out of the customs territory of Montenegro acts;
 - 3) the person who assumes responsibility for the carriage of the goods prior to their exit from the customs territory of Montenegro.
- (4) Goods to be taken out of the customs territory of Montenegro may be subject to the following:
- 1) the repayment or remission of import duty;
 - 2) the payment of export refunds;
 - 3) the collection of export duty;
 - 4) the formalities required with regard to other charges payable on export in accordance with the law;
 - 5) as the case may be, the goods in question may be subject to prohibitions and restrictions justified on grounds of public morality, public policy or public security, the protection of the health and life of humans, animals or plants, the protection of the environment, the protection of national treasures possessing artistic, historic or archaeological value and the protection of industrial or commercial property, including controls against drug precursors, goods infringing certain intellectual property rights and cash, as well as based on the implementation of fishery conservation and management measures and of commercial policy measures.
- (5) Release of goods for exit shall be granted by the customs authority on condition that the goods will be taken out of the customs territory of Montenegro in the same condition as when:
- 1) the declaration or re-export declaration was accepted; or
 - 2) the exit summary declaration was lodged.
- (6) A detailed manner of carrying out the customs supervision and formalities on exit of goods from the customs territory of Montenegro shall be prescribed by the Government.

XXV. EXPORT AND RE-EXPORT

Export of goods

Article 188

- (1) Domestic goods to be taken out of the customs territory of Montenegro shall be placed under the export procedure.
- (2) Paragraph 1 of this Article shall not apply to the following domestic goods:
 - 1) placed under the outward processing procedure;
 - 2) taken out of the customs territory of Montenegro after having been placed under the end-use procedure;
 - 3) goods delivered, value added tax or excise duty exempted, as aircraft or ship supplies, regardless of the destination of the aircraft or ship, for which a proof of such supply is required;
 - 4) goods placed under the internal transit procedure;
 - 5) goods moved temporarily out of the customs territory of Montenegro in accordance with Article 116 of this Law.
- (3) The provision concerning the export customs declaration shall apply in the cases referred to in paragraph 2 items 1, 2 and 3 of this Law.

Re-export of foreign goods

Article 189

- (1) Foreign goods to be taken out of the customs territory of Montenegro shall be subject to a re-export declaration to be lodged at the competent customs office.
- (2) Articles 117 to 138 of this Law shall apply to the re-export declaration.
- (3) The provision under paragraph 1 of this Article shall not apply to the following goods:
 - 1) goods placed under the external transit procedure which only pass through the customs territory of Montenegro;
 - 2) goods trans-shipped within, or directly re-exported from, a free zone;
 - 3) goods in temporary storage which are directly re-exported from a temporary storage facility.

XXVI. EXIT SUMMARY DECLARATION

Lodging an exit summary declaration

Article 190

- (1) If goods are to be taken out of the customs territory of Montenegro and a declaration or a re-export declaration is not lodged as pre-departure declaration, an exit summary declaration shall be lodged at the customs authority of exit.
- (2) Customs authority may allow the exit summary declaration to be lodged at another customs office, provided that customs office immediately communicates or makes available electronically the necessary particulars to the customs authority of exit.
- (3) The exit summary declaration shall be lodged by the carrier, or:
 - 1) the exporter or consignor or other person in whose name or on whose behalf the carrier acts;
 - 2) any person who is able to present the goods or have them presented at the customs authority of exit.
- (4) Customs authority may accept that information systems used by ports, carriers and other economic operators are used for the lodging of an exit summary declaration, provided such systems contain the necessary particulars for such declaration and those particulars are available within a specific time-limit, before the goods are taken out of the customs territory of Montenegro.
- (5) Customs authority may accept, instead of the lodging of the exit summary declaration, the lodging of a notification and access to the particulars of the exit summary declaration in the economic operator's computer system.
- (6) A detailed manner of lodging of an exit summary declaration shall be prescribed by the Government.

Amendment and invalidation of the exit summary declaration

Article 191

- (1) The declarant may, upon application, be permitted to amend one or more particulars of the exit summary declaration after it has been lodged.
- (2) The amendments referred to in paragraph 1 of this Article shall not be possible after the customs authority has:
 - 1) informed the person who lodged the exit summary declaration that it intends to examine the goods;

- 2) established that one or more particulars of the exit summary declaration are inaccurate or incomplete;
 - 3) already granted the release of the goods.
- (3) If the goods for which a exit summary declaration has been lodged are not taken out of the customs territory of Montenegro, the customs authority shall invalidate that declaration in the following cases:
- 1) upon application by the declarant; or;
 - 2) after 150 days have elapsed since the notification was lodged.
- (4) A detailed manner of amendment and invalidation of the exit summary declaration shall be prescribed by the Government.

XXVII. NOTIFICATION ON RE-EXPORT

Lodging a re-export notification

Article 192

- (1) If foreign goods referred to in Article 189 paragraph 3 items 2 and 3 of this Law are taken out of the customs territory of Montenegro and the obligation to lodge an exit summary declaration for those goods is waived, a re-export notification shall be lodged.
- (2) The re-export notification shall be lodged at the customs office of exit of the goods by the person responsible for the presentation of goods on exit in accordance with Article 187 paragraph 2 of this Law.
- (3) The re-export notification shall contain the particulars necessary to discharge the free zone procedure or to end the temporary storage.
- (4) Customs authority may accept that information systems used by ports, carriers and other economic operators are used for the lodging of a re-export notification, provided such systems contain the necessary particulars for such notification and those particulars are available, before the goods are taken out of the customs territory of Montenegro.
- (5) Customs authority may accept, instead of the lodging of the re-export notification, that the economic operator lodges a notification and enables access to the particulars of the re-export notification exit summary declaration in the economic operator's computer system.
- (6) A detailed manner of lodging of the re-export notification in accordance with this Article shall be prescribed by the Government.

Amendment and invalidation of the re-export notification

Article 193

- (1) The declarant may, upon application, be permitted to amend one or more particulars of the re-export notification after it has been lodged.
- (2) The amendments referred to in paragraph 1 of this Article shall not be possible after the customs authority has:
 - 1) informed the person who lodged the re-export notification that it intends to examine the goods;
 - 2) established that one or more particulars of the re-export notification are inaccurate or incomplete;
 - 3) already granted the release of the goods for exit.

- (3) If the goods for which a re-export notification has been lodged are not taken out of the customs territory of Montenegro, the customs authority shall invalidate that notification in the following cases:
- 1) upon application by the declarant; or;
 - 2) after 150 days have elapsed since the notification was lodged.
- (4) A detailed manner of amendment and invalidation of the re-export notification shall be prescribed by the Government.

XXVIII. RELIEF FROM PAYMENT OF EXPORT DUTY

Relief from payment of export duty for domestic goods temporarily exported

Article 194

Domestic goods which are temporarily exported from the customs territory of Montenegro shall benefit from export duty relief, conditional upon their re-import.

XIX. CUSTOMS PRIVILEGES

Exemptions from payment of import duties

Article 195

- (1) The following shall be exempt from payment of import duties:
- 1) goods for which an international agreement binding Montenegro provides for exemption from payment of customs duties;
 - 2) goods of a non-commercial nature in the prescribed type, value and quantity, that passengers bring with them from abroad;
 - 3) consignments of insignificant value;
 - 4) items inherited abroad by domestic and foreign citizens permanently residing in Montenegro;
 - 5) equipment, school materials and household items that are used to equip the student room and belong to students who come to study in Montenegro and are intended for their personal use during their studies;
 - 6) household items and gifts imported by persons on the occasion of marriage when moving to Montenegro;
 - 7) goods contained in consignments sent free of charge by natural persons from abroad to natural persons in Montenegro, provided that these consignments are not of a commercial nature and correspond to the prescribed type, quantity and value;
 - 8) means of production and other equipment imported into Montenegro for the purpose of performing an activity by persons who have been performing that activity for at least 12 months in the country in which they previously resided;
 - 9) agricultural products, fruits of field farming, livestock raising, forestry, fish farming and beekeeping obtained on farms owned by agricultural producers from Montenegro in the border zone of the neighbouring country and offspring and other products obtained from livestock on these estates due to field work, grazing or wintering;
 - 10) seeds, artificial fertilisers and products for cultivation of land and crops intended for use on farms in the border zone of Montenegro owned by agricultural producers from a neighbouring country;

- 11) household items imported by natural persons who have previously resided in another country for at least 12 months during relocation to Montenegro, provided that they are owned by those persons and used for at least six months before relocation, and the import of these items may be done within 12 months from the date of relocation, which may be extended due to special circumstances;
- 12) educational, scientific and cultural material, as well as scientific instruments and apparatus;
- 13) goods that are directly used for performing museum, archive, restoration, literary, art, music-performing and film activities, based on the opinion of the competent ministry;
- 14) therapeutic substances of human origin and reagents for determining blood groups and tissue types;
- 15) instruments and apparatus for medical research, diagnostics or treatment;
- 16) reference substances for quality control of medical devices;
- 17) pharmaceutical products used at international sports events;
- 18) goods that satisfy basic human needs, such as: food, medicine, clothing, footwear, bedding, hygiene supplies, etc., which are imported in order to be distributed free of charge to vulnerable persons and victims of natural and other disasters by registered humanitarian and charitable organizations and institutions, as well as equipment sent free of charge from abroad to those organizations and institutions for the purpose of meeting their operational needs and achieving their humanitarian goals. Exemption from payment of customs duties does not apply to alcohol and alcoholic beverages, tobacco products and motor vehicles, except for ambulance vehicles;
- 19) items specially designed and adapted for personal use, education, cultural, social, professional and other rehabilitation of persons with disabilities, where they are imported by persons with disabilities directly for their personal needs or by institutions or organisations registered for providing assistance and rehabilitation of those persons;
- 20) decorations and recognitions received within the framework of international events and gifts received within the framework of international relations;
- 21) items imported for the purpose of trade promotion - samples of goods of negligible value, printed and advertising material and products used or consumed at fairs or similar events;
- 22) goods imported for the purposes of examination, analysis or testing for determining and verifying their composition, quality or technical characteristics, and for the purposes of information or industrial or commercial research;
- 23) trademarks, brands, patents, models, designs and accompanying documentation, as well as forms for the recognition of inventions, patents, innovations, etc., which are submitted to the competent authorities for the protection of copyright and industrial property rights;
- 24) documents intended for informing tourists;
- 25) various documents, papers, forms, printed materials, brochures, records and letter-post items;
- 26) auxiliary materials for stacking and protection of goods during transport;
- 27) litter, fodder and other food of any kind for the needs of animal transport;
- 28) fuel and lubricant contained in tanks of road motor vehicles and special containers;

- 29) materials for the construction, maintenance or decoration of monuments or cemeteries of war victims;
 - 30) coffins with deceased persons, urns with ashes of deceased persons, flowers, wreaths and other common decorative funeral items;
 - 31) fire prevention and extinguishing equipment;
 - 32) goods used for the rehabilitation, maintenance and restoration of protected cultural monuments, based on the opinion of the competent authority;
 - 33) laboratory animals and biological or chemical substances for research;
 - 34) goods given in the form of a donation to cultural institutions and other non-profit legal entities in culture, independent artists or artists for the performance of their activities, based on the opinion of the competent ministry;
 - 35) goods imported by scientists, writers and artists as their own works from abroad;
 - 36) goods imported as an interest of a foreign investor in accordance with a special law;
 - 37) equipment which is not produced in Montenegro imported by state authorities for the performance of their activities;
 - 38) cars imported for the purpose of personal use by persons with disabilities who have 100% long-term physical or sensory impairment or at least 80% long-term impairment of the function of the locomotor system;
 - 39) donations intended for public institutions in the field of health and social protection and education.
- (2) The goods referred to in paragraph 1 of this Article released for free circulation with exemption from payment of customs duties shall be under customs supervision, thus, unless the purpose and manner of use of the goods or items necessitate their giving to another person to use it, they may not be sold or disposed of on another basis, give to another person for use, pledge, rent, use for other purposes or hand over as security for other obligations, without prior notification to the competent customs office and payment of customs duties, as follows:
- a) for goods referred to in paragraph 1 items 6, 8 and 11 of this Article, until the expiration of the period of 12 months from the date when they were released for free circulation;
 - b) for other goods referred to in paragraph 1 of this Article, except for items referred to in item 4 of the same paragraph, until the expiration of three years from the date of release for free circulation, unless a special time-limit is established by international agreement or other regulations.
- (3) Any handling of goods or items in the manner referred to in paragraph 2 of this Article shall entail payment of customs duties at the rate applicable on the day of such handling, based on the type of goods and customs value determined or accepted by the customs office on that day.
- (4) Detailed conditions and procedure for exercising the right to exemption from payment of import duties shall be prescribed by the Government.

XXX. MEASURES TO PROTECT INTELLECTUAL PROPERTY RIGHTS AT THE BORDER

Acting of the customs authority at the request of the holder of intellectual property rights and ex officio

Article 196

- (1) The holder of intellectual property rights shall lodge an application for protection of intellectual property rights with the customs authority.
- (2) No fee shall be paid for the lodging of this application.
- (3) The holder of intellectual property rights shall submit to the customs authority data on original goods, producers and distributors of those goods, as well as data that may help the customs authority to identify consignments suspected of infringing intellectual property rights.
- (4) The customs authority, upon application of the holder of intellectual property rights, shall suspend the release of goods or seize them, in case of suspicion that the entry or exit of goods under a customs procedure violates intellectual property rights.
- (5) The customs authority shall notify the suspension of the release of goods or seizure of goods referred to in paragraph 3 of this Article to the right holder, at their request, providing information on the manner and place of storage of those goods and estimated storage costs.
- (6) The customs authority may, ex officio, suspend the release of goods or seize them in case of suspicion that the entry or exit of goods under the customs procedure infringes intellectual property rights.
- (7) Detailed conditions and manner of implementation of customs measures for goods referred to in paragraphs 4 and 6 of this Article shall be prescribed by the Government.

Compensation and costs

Article 197

- (1) The customs authority shall not compensate the holder of the intellectual property right, if it has not found the goods suspected of infringing the intellectual property rights and if the goods have been released or appropriate measures have not been taken to seize the goods.
- (2) The customs authority shall not be liable to the holder of the goods or the declarant for compensation for damage caused by the suspension of the release or seizure of goods in accordance with the provisions of Article 196 of this Law.
- (3) The person referred to in Article 196, paragraph 1 of this Law shall pay compensation to the holder of the goods or the declarant for the damage caused by the suspension of release or seizure of goods, if the unjustified suspension of release or seizure of goods occurred at the request of that person.
- (4) The holder of intellectual property rights shall bear the costs of the customs authority or other persons acting on behalf of the customs authority from the moment of suspension of release or seizure of goods, including storage and handling of goods and taking certain measures such as destruction of goods.
- (5) The costs referred to in paragraph 4 of this Article shall be determined depending on the time of storage, type of goods, quantity, and weight of goods or type of service, or storage conditions and nature of those goods.

The Customs Administration database related to the protection of intellectual property rights

Article 198

- (1) The Customs Administration shall maintain an electronic database on the following:
 - 1) decisions approving application, including the application and its annexes;

- 2) decisions on the extension of the period during which the customs authority must take measures or decisions on revocation or amendment of the decision approving the application;
 - 3) suspension of the decision approving the application.
- (2) If the release of goods is suspended or the goods are seized, data on the quantity and type of goods, value, intellectual property rights, customs procedures, countries of origin, departure and destination, transport routes and means shall be entered into the database referred to in paragraph 1 of this Article.
 - (3) Database, in addition to the data from paragraphs 1 and 2 of this Article, shall also contain the following:
 - 1) name and surname of the applicant;
 - 2) address and country of the applicant;
 - 3) name and surname of the legal representative of the applicant;
 - 4) address and state of the legal representative of the applicant;
 - 5) name and surname of the representative for technical issues of the applicant;
 - 6) address and country of the representative for technical issues of the applicant.
 - (4) The data referred to in paragraph 3 of this Article shall be kept for a maximum of six months from the day when the relevant decision approving the application was revoked or the period in which the customs authorities must take measures has expired.
 - (5) By way of exception of paragraph 4 of this Article, if the holder of the authorisation has initiated proceedings to determine whether the intellectual property right has been infringed, notifying that to the customs authority, personal data shall be kept for six months after these proceedings have finally established whether intellectual property rights were infringed.

XXXI. PROVISIONS REGARDING THE DUTY FREE SHOPS, MEANS OF TRANSPORTATION, SALE OF CUSTOMS GOODS AND ASSIGNMENT OF FOREIGN GOODS

Duty free shops

Article 199

- (1) Duty free shops may be opened at airports and ports open to international traffic.
- (2) In duty free shops, goods shall be sold to passengers leaving the customs territory of Montenegro, after customs control, without payment of import duty.
- (3) The supply of duty free shops with goods shall be performed from the warehouse referred to in Article 162 of this Law.
- (4) The authorisation for the opening of duty free shops, at the request of an economic operator established in Montenegro that regularly fulfils customs and tax obligations, shall be issued by the Ministry.
- (5) The holder of the authorisation referred to in paragraph 4 of this Article shall keep records for all goods that are in a duty free shop.
- (6) The Government shall prescribe the detailed manner and conditions for the opening of duty free shops, the manner of implementing measures of customs supervision over goods placed in duty free shops and the manner of keeping records on those goods.

Supply of means of transport in international traffic

Article 200

- (1) An aircraft or a vessel whose final destination is outside the customs territory of Montenegro may, under customs supervision, take supply of goods on which no import duty is paid, as follows:
 - 1) food or other necessary products in proportion to the number of passengers, crew members and the duration of the flight or voyages and
 - 2) products necessary for the operation and maintenance of aircraft or vessels in quantities necessary for the operation and maintenance of aircraft during flight or vessels during voyage.
- (2) The goods referred to in paragraph 1, item 1 of this Article may be sold to passengers in an aircraft or vessel.
- (3) Goods referred to in paragraph 1 of this Article may be brought into an aircraft or vessel entering the customs territory of Montenegro without payment of customs duty, provided that they remain in the aircraft or vessel, and if such goods are unloaded, they must be presented to the customs authority.
- (4) The goods referred to in paragraph 1 of this Article shall be delivered to the aircraft, or vessel from a special warehouse to which the provisions on customs warehouses shall apply.
- (5) A detailed manner of conducting the customs procedure for goods used for the supply of means of transport in international traffic shall be prescribed by the Ministry.

Sale of customs goods, prescribing conditions and manner of sale

Article 201

Sale of goods abandoned to the State or confiscated in accordance with Article 208 paragraphs 1 and 2 of this Law, shall be carried out by public sale.

- (2) The sale of goods seized in accordance with Article 208 paragraph 3 of this Law shall be carried out after the final decision has become enforceable in the procedure in which the protective measure of confiscation of goods was pronounced.
- (3) The customs authority shall sell only those goods for which it has been previously determined that their import is not prohibited and that the goods meet the phytosanitary, veterinary and market conditions.
- (4) By way of exception of paragraph 1 of this Article, the customs authority may immediately sell perishable goods, live animals, oil, and oil derivatives, seized in accordance with Article 208, paragraph 3 of this Law, without public sale.
- (5) Detailed conditions and manner of sale of customs goods shall be prescribed by the Government.

Assignment of foreign goods without payment of equivalent, destruction of foreign goods

Article 202

- (1) Foreign goods abandoned to the State or permanently seized, and which could not be sold in the customs territory of Montenegro, may be assigned by the Government, without payment of equivalent, to state bodies, cultural and scientific institutions, humanitarian organisations and other beneficiaries of humanitarian aid.
- (2) Import duty shall not be paid on the goods referred to in paragraph 1 of this Article, if the person to whom the goods were assigned, in case of import of such goods, would be exempted from paying import duties, in accordance with this Law.

- (3) Goods that cannot be sold or used due to health, veterinary, phytosanitary, safety or other reasons shall be destroyed under customs supervision, in accordance with the law.
- (4) Tobacco products that have not been marked in the prescribed manner, as well as goods that have been determined to infringe the intellectual property right shall also be considered a goods referred to in paragraph 3 of this Article.
- (5) The costs of destruction of goods shall be borne by the owner or importer of the goods, and if they are unknown or inaccessible, the costs of destruction shall be borne by the customs authority.

XXXII. CUSTOMS INFRINGEMENTS

Infringements and penalties

Article 203

- (1) A pecuniary fine from €5,000 up to €40,000 shall be imposed on a legal entity for an infringement if it:
 - 1) fails to declare in the prescribed manner the goods it brings into or takes out of the customs territory of Montenegro (Article 12 paragraph 1, Articles 95, 98, 185, 188 paragraph 3 and Article 190);
 - 2) fails to notify the arrival of a seagoing vessel or aircraft to the customs office of first entry (Article 99);
 - 3) brings goods from a free zone or free warehouse into another part of the customs territory contrary to this Law (Articles 104, paragraph 1 and Article 167 paragraph 1);
 - 4) brings goods from a free zone to another part of customs territory contrary to this law (Articles 170 paragraph 2);
- (2) For the infringement referred to in paragraph 1 of this Article, the responsible person in the legal entity and the natural person shall also be fined from €500 to €4,000.
- (3) For the infringement referred to in paragraph 1 of this Article, an entrepreneur shall be fined from €5,000 to €12,000.
- (4) For the infringement referred to in paragraph 1 of this Article, a natural person shall be fined from €500 to €4,000.
- (5) The persons referred to in paragraphs 1, 2 and 3 of this Article shall also be punished for the attempted infringement referred to in paragraph 1 of this Article.
- (6) For the infringement referred to in paragraph 1, item 1 of this Article, the authorised customs officer shall impose a fine on a natural person with an infringement order in the amount of €200, provided that the value of the goods subject to the infringement does not exceed €1,000.

Article 204

- (1) A pecuniary fine from €3,000 up to €40,000 shall be imposed on a legal person for an infringement if it:
 - 1) lodges with the customs authority a customs declaration with incorrect information or in any other way misleads the customs authority, achieves or attempts to achieve the payment of duties in a smaller amount, preferential tariff treatment, exemption from import duties, relief in payment of import and other charges, payment in a reduced amount, repayment or remission of a customs debt or any other benefit (Article 12, paragraph 1 and 2);

- 2) fails to lodge an appropriate declaration for all goods over which a customs procedure is to be carried out (Article 17 paragraph 2);
 - 3) removes goods from customs supervision (Article 100 paragraph 3);
 - 4) fails to convey the goods within the time limit, by the route and in the manner determined by the customs office (Article 101);
 - 6) fails to immediately inform the competent customs office that, due to unforeseen circumstances or force majeure, it cannot fulfil the obligations referred to in Article 101 of this Law and/or fails to immediately notify the nearest customs office of the place where the goods are located (Article 103 paragraphs 1 and 2);
 - 6) the presented goods are removed from the place where they were presented without the permission of the customs authority (Article 104, paragraph 7);
 - 7) unloads or tranship goods without the approval of the customs office or carries out the approved unloading or transhipment of goods in places that are not intended or approved for that purpose (Article 105, paragraph 1);
 - 8) fails to notify the customs office in time of the unloading of the goods or part of the goods in case of imminent danger requiring urgent unloading or transhipment of the goods (Article 105, paragraph 2);
 - 9) place the goods in temporary storage in places and under conditions that are in conflict with those approved by the customs office or carry out procedures on the goods that change its appearance or technical characteristics (Article 110, paragraphs 1 and 2);
 - 10) does not lodge a declaration for goods which will be the subject of the customs procedure (Article 117, paragraph 1);
 - 11) without authorisation removes or destroys the means of identification placed on goods, packaging and means transport (Article 136, paragraph 3);
 - 12) fails to meet the conditions determined by the authorisation for the use of the special procedure (Article 148, paragraph 2);
 - 13) fails to discharge the transit procedure and fails to present the goods intact to the customs office of destination or fails to present the goods within the prescribed period, or does not observe other measures to ensure the identity of goods taken by the customs office (Article 158, paragraphs 2, 3 and 4);
 - 14) fails to proceed in line with the approval of the Customs Authority during procedure of customs warehousing (Article 162, paragraph 1)
 - 15) fails to observe the obligations undertaken as the holder of the authorisation referred to in Article 149 or the customs warehousing procedure (Article 164, paragraph 1);
- (2) For the infringement referred to in paragraph 1 of this Article, the responsible person in the legal entity and the natural person shall also be fined from €500 to €4,000.
 - (3) For the infringement referred to in paragraph 1 of this Article, an entrepreneur shall be fined from €3,000 to €12,000.
 - (4) For the infringement referred to in paragraph 1 of this Article, a natural person shall be fined from €500 to €4,000.

Article 205

- (1) A pecuniary fine from €3,000 to €30,000 shall be imposed on a legal entity for a infringement if it:
 - 1) when submitting an application for request for authorisation of a customs procedure, either directly or indirectly, submits to the customs authority documents

- containing incorrect information and provided that such action implies or may imply the use of a customs privileges or rights that do not belong to them by law (Article 12 paragraph 2, Article 16 paragraph 1 and Article 148);
- 2) fails to keep the documents for the prescribed period (Article 33);
 - 3) prepares false records on the origin of goods and/or documents that contain incorrect information that leads to improper determination of the preferential origin of goods covered by that document (Article 41);
 - 4) for the purposes of examination of goods and means of transport by which they are conveyed, fails to unload or unpack goods after the customs authority has requested it (Article 105 paragraphs 1 and 3);
 - 5) fails to keep appropriate records in a manner approved by the customs authority (Article 111 paragraph 7).
 - 6) fails to carry out the customs formalities necessary to determine the customs procedure for the goods or fails to re-export the goods within the prescribed period (Article 112);
 - 7) fails to submit or to have supporting documents for the goods he declares or fails to make them available to the customs authority during the control or makes it without the approval of the customs authority (Article 120);
 - 8) fails to meet the obligations it must fulfil when applying the approval for the use of the simplified declaration and lodging the supplementary declaration (Articles 121 and 122);
 - 9) refuses to attend the examination of goods or fails to provide conditions for examination of goods (Article 133 paragraph 2);
 - 10) fails to keep prescribed records of goods placed in the customs procedure in manner prescribed by the customs authority (Article 149);
 - 11) in applying for an authorisation for the use of equivalent goods, acts contrary to Article 154, paragraph 4 of this Law;
 - 12) prevents the implementation of customs control measures in the free zone (Article 165, paragraph 3);
 - 13) brings in or take out goods from the free zone outside the place of entry and exit (Article 165, paragraph 4);
 - 14) constructs any type of a facility in a free zone without previously obtaining approval by the customs authority (Article 166, paragraph 1);
 - 15) performs economic activity in a free zone, without previously informing the customs authority thereof regardless of prohibition or limitation established by the customs authority (Article 166, paragraphs 3, 4 and 5);
 - 16) fails to comply with the conditions related to temporary admission with full exemption from customs duties and does not re-export temporarily admitted products within the time limit set by the customs office or misses the deadline within which a new customs procedure must be applied for (Articles 172 and 173); the adequacy and effectiveness of the risk management policy and of the arrangements, processes and techniques referred to in Articles 172 and 173;
 - 17) performs or organizes inward processing of goods without the approval of the customs office or fails to provide identification of the goods used in the inward processing procedure or does not terminate procedure of inward processing in determined period (Articles 177 and 178);
 - 18) undertakes outward processing of goods without the approval of the customs office, or does not re-import the goods that they temporarily exported in the outward

processing procedure within the period determined by the customs office or fails to lodge the export declaration (Article 180);

- 19) imports replacement products before the defective goods are exported without the approval of the customs office, or does not export the defective goods within the prescribed period (Article 184 paragraphs 1 and 3);
 - 20) handles goods contrary to Article 195 paragraphs 2 and 3 of this Law;
 - 21) handles goods placed in a duty free shop contrary to Article 199 paragraphs 2, 3 and 5 of this Law.
 - 22) fails to comply with the provisions related to the supply of aircraft and vessels (Article 200);
- (2) For the infringement referred to in paragraph 1 of this Article, the responsible person in the legal entity and the natural person shall also be fined from €250 to €4,000.
 - (3) For the infringement referred to in paragraph 1 of this Article, an entrepreneur shall be fined from €3,000 to €10,000.
 - (4) For the infringement referred to in paragraph 1 of this Article, a natural person shall be fined from €250 to €4,000.

Article 206

- (1) For the purposes of this Law, the subject of a customs infringement is the goods with which the infringement was committed, means of transport and other means by which the goods were transferred or in which they were hidden.
- (2) Where the basis for determining the amount of the fine is the value of the subject of the infringement or the amount of the denied customs duty, the value shall be determined based on the provisions of this Law.

Article 207

Legal entity, responsible person in a legal entity, entrepreneur or natural person who has been found in possession of goods, or who buys, sells, hands over to another, receives as a gift, conceals, receives for safekeeping or transport, or receives on any other basis goods for which he knows or could have known according to the circumstances of the case that they are goods which are the subject of an infringements of Articles 203, 204 and 205 of this Law, shall be imposed, as if they have only committed an infringement, with the same fine prescribed for the perpetrator of the infringement.

Protective measures

Article 208

- (1) For the infringement referred to in Article 203 and Article 204 paragraph 1, item 5 and 6 of this Law, in addition to the penalty, a protective measure of confiscation of the item shall be imposed.
- (2) For the infringement referred to in Article 204 paragraph 1 of this Law, in addition to the penalty, a protective measure of confiscation of the items may be imposed.
- (3) The object of the customs infringement, for which the protective measure referred to in paragraph 1 of this Article is prescribed, shall be temporarily seized and placed under customs supervision until the end of the infringement procedure.
- (4) The object of the customs infringement, for which no protective measure of confiscation of the object has been prescribed, and which has not been cleared through customs, shall be seized until the end of the customs procedure.

- (5) The customs office may sell the seized perishable goods immediately, if there is no possibility for a decision on the infringement to be made within 24 hours.
- (6) The provisions of this Article shall also apply to persons referred to in Article 207 of this Law.

Article 209

- (1) The means of transport, carrying or other means by which the goods which are the subject of the infringement referred to in Article 203 of this Law have been transferred or hidden, shall be confiscated if the value of those goods exceeds one third of the value of the transport, carrying or other means.
- (2) The means of transport, carrying, or other means referred to in paragraph 1 of this Article, in which a special space for hiding goods has been installed, and which has been used for the transport of goods subject to the infringement, shall be confiscated regardless of the value of the goods.

Article 210

The owner of goods placed under customs supervision, in terms of Article 208 of this Law, is entitled to compensation at the expense of the budget of Montenegro, if it is determined in the conducted infringement procedure that there was no customs infringement.

Article 211

- (1) The customs office may, in justified cases, and at application of the person concerned, return the subject of the infringement to the person who committed the infringement for which the measure of confiscation of the infringement object is prescribed, provided that they pay the value of the infringement object, customs and other duties.
- (2) Goods of non-commercial nature and/or end-use goods shall be considered justified cases referred to in paragraph 1 of this Article.

Article 212

The customs office that imposed and collected the mandatory fine may allow the value of the goods to be paid in instalments with a repayment period not exceeding 12 months.

Article 213

Misdemeanour proceedings for customs infringements may not be initiated if three years have elapsed from the day the infringement was committed.

XXXIII. TRANSITIONAL AND FINAL PROVISIONS

Initiated proceedings

Article 214

Proceedings initiated before the date of application of this Law shall be terminated in accordance with the regulations in force until the date of application of this Law.

Initiated misdemeanour proceedings

Article 215

- (1) All misdemeanour proceedings initiated before the application of this Law has started shall be terminated in accordance with the provisions of this Law, if this is more favourable for the perpetrator of the infringement.

- (2) All misdemeanour proceedings initiated before the application of this Law has started, for acts that are not prescribed by this Law as a infringement, shall be suspended.

Time-limit for establishment of electronic systems

Article 216

- (1) The electronic data-processing systems referred to in Article 8 paragraph 1 of this Law will be established by December 31, 2025.
- (2) Until the establishment of the electronic data-processing system referred to in paragraph 1 of this Article, the means for data exchange and storage other means for electronic exchange of data.
- (3) The manner of exchange and keeping of data referred to in paragraph 2 of this Article shall be prescribed by the Government.

Time-limit for adoption of secondary legislation

Article 217

- (1) Secondary legislation for the implementation of this Law shall be adopted within one year from the day this Law enters into force.
- (2) Until the adoption of secondary legislation referred to in paragraph 1 of this Article, secondary legislation adopted on the basis of the Customs Law (Official Gazette of Republic of Montenegro, No. 07/02, 38/02, 72/02, 21/03, 31 / 03, 29/05, 66/06, Official Gazette of Montenegro, No. 21/08, 01/11, 39/11, 40/11, 28/12, 62/13, 71/17), shall apply if not contrary to this Law.

Repeal

Article 218

- (1) On the day this Law enters into force, the Customs Law (Official Gazette of the Republic of Montenegro, No. No. 07/02, 38/02, 72/02, 21/03, 31 / 03, 29/05, 66/06, Official Gazette of Montenegro, No. 21/08, 01/11, 39/11, 40/11, 28/12, 62/13, 71/17 shall be repealed.
- (2) The provisions of Article 200 of this law shall cease to be valid on the day of Montenegro's accession to the European Union.

Entry into force

Article 219

This Law shall enter into force on the eighth day from the data of its publication in the Official Gazette of Montenegro, and shall be applied after six months from the date of entry into force of this law.

Number: 29/22-2/4

EPA 489 XXVII

Podgorica, 30th July 2022

The Parliament of Montenegro of 27th Convocation

The Speaker

Danijela Đurović, handwritten signature